



DURHAM LOCAL AUTHORITY

**PENALTY NOTICES FOR
TRUANCY**

PROTOCOL



Penalty Notices for Truancy Protocol

1. Legal Basis

Section 23 of the Anti-Social Behaviour Act 2003 empowers designated LA Officers, Head Teachers (and Deputy and Assistant Heads authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

The Education (Penalty Notices) (England) Regulations 2004 came into force on 27 February 2004.

The issuing of Penalty Notices must conform with all requirements of the Human Rights Act and all Equal Opportunities legislation.

The LA has the prime responsibility for developing the protocol within which all partners named in the Act will operate.

2. Rationale

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

In law an offence occurs if a parent/carer fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under Section 444, Education Act 1996 or Section 36, the Children's Act 1989 to enforce attendance at school where appropriate.

The School Attendance Enforcement Team delivers this LA responsibility.

Parents and pupils are supported at school and LA level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.

Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

3. Circumstances where a Penalty Notice may be Issued

A Penalty Notice may only be issued in cases of unauthorised absence. The issue of a Penalty Notice may be considered appropriate in any of the following circumstances:

- In cases of overt truancy (including pupils caught on truancy sweeps).

- In cases of parentally-condoned absence, where this can be demonstrated. This may include instances of children stopped on truancy sweeps whilst accompanied by their parents.
- In instances of unauthorised holidays in term-time (i.e. generally over and above the ten days authorised by the Head Teacher in a school year).
- In instances of excessive delayed return from holidays, without prior school agreement.
- In cases of persistent late arrival at school after the register has closed.
- To assist Key Stage 4 pupils to re-engage in the final term.
- In connection with the Attendance Enforcement Procedures.

To ensure consistent and fair delivery of Penalty Notices, the following criteria for their use shall apply:

- The pupil concerned must have lost at least 20 sessions (10 school days) due to unauthorised absence in any period up to a maximum of 12 rolling school weeks (or for unauthorised holiday in term-time, during a school year).
- Each liable parent/carer shall receive a formal warning from the LA of the possibility of a Penalty Notice being issued, and shall be given a maximum of 15 school days to effect an improvement. In the event of a further referral in the same rolling year a Penalty Notice may be issued with immediate effect.
- The preceding paragraph will not apply in cases where a holiday is deliberately taken in term-time without or against school permission, and it can be shown that the parent/carer understood that permission had not or would not be given, and where this holiday has given rise to a period of 20 sessions (10 school days) or more unauthorised absences in a school year.
- Schools and agencies must consider every aspect of a pupil's case, including the involvement of other professionals, before judging whether or not to refer to the LA to issue a Penalty Notice. This must include discussions with the assigned EWO and any other attendance support staff who have knowledge of or involvement with the family.
- If a request to issue a Penalty Notice is received from a school or other relevant agency and it refers to a child in public care then the LA will discuss the request with the Corporate Director of Children and Adults Services prior to deciding, whether to proceed with the request.
- There shall be no restriction on the number of times a parent / parents may be issued with formal warning of a possible Penalty Notice.

- Where families contain more than one poorly-attending pupil, multiple issues may occur, but this should be subject to careful consideration and co-ordination.

4. **Procedure for Issuing Penalty Notices**

The LA will issue Penalty Notices in County Durham.

Penalty Notices will only be issued by post and never as an on the spot action; this is to satisfy that all evidential requirements are in place and to meet Health and Safety requirements.

The LA will receive requests to issue Penalty Notices from schools and other relevant agencies. These requests will be actioned provided that:

- all relevant information is supplied in the specified manner;
- the circumstances of the pupil's absence meets all the requirements of this Protocol;
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed, and is considered an appropriate means of dealing with the original offence of failure to cause child to attend school regularly between certain dates (see paragraphs below).

Guidance contained within the Code for Crown Prosecutors states out of court disposals (such as Fixed Penalty Notices) should only be offered where the disposal is a 'proportionate response' to the seriousness and consequences of the offence. In this case, the offence being that the parent did fail to cause their child to attend regularly at school, by reason of absence' between certain dates.

Where the LA receives a request for the issuing of a Penalty Notice, it is the referrers responsibility to ensure that other possible enforcement measures have been considered in relation to the offence, including an Education Supervision Order, and are thus satisfied that the issuing of a Fixed Penalty Notice is appropriate taking into account the circumstances outlined in part 3 of this guidance. Further guidance can be sought via the School Attendance Enforcement Team on 01325 318410.

The LA will respond to all requests within 10 school days of receipt and where all criteria are met will:

- issue a formal written warning to each parent/carer of the possibility of a Penalty Notice being issued (for first offence only);
- in the same letter set a period of 15 school days within which the pupil must have no unauthorised absence (Head Teachers will have discretion to negotiate an appropriate re-integration package);

- issue a Penalty Notice through the post at the end of the 15 day period if the required level of improvement has not been achieved.

5. **Procedure for Withdrawing Penalty Notices**

Once issued, a Penalty Notice will only be withdrawn in the following circumstances:

- Proof has been established that the Penalty Notice was issued to the wrong person.
- After investigation of the circumstances, school has authorised absences.
- The use of the Penalty Notice did not conform to the terms of this Protocol.

6. Payment of Penalty Notices

Arrangements for payment will be detailed on the Penalty Notice.

Payment of a Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.

The amount payable on issue of a Penalty Notice is £60 if paid within 21 days of receipt of the Notice, rising to £120 if paid after 21 days but within 28 days of receipt of the Notice (a Notice served by post is deemed to have been received on the second day after posting it by first class post).

The LA retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

7. Non-Payment of Penalty Notices

Non-payment of a Penalty Notice will trigger the fast-track prosecution process under the provisions of Section 444, Education Act 1996 or will result in withdrawal of the Notice if it is found the circumstances mentioned in Paragraph 5 apply.

8. Policy and Publicity

Deployment of Penalty Notices as a sanction is included in the relevant LA documentation.

All school Attendance Policies should include information on the deployment of Penalty Notices and this should be brought to the attention of all parents.

To assist with this the LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material.

9. Reporting and Review

The LA will report at regular intervals to Head Teachers, Police and Community Safety Partnerships on the deployment and outcomes of Penalty Notices.

LA reports on attendance matters will include Penalty Notice use.

LA will review Penalty Notice use at regular intervals and amend the general enforcement strategy as appropriate.

Request for Consideration of the Issuing of a Penalty Notice for Truancy

School: No:

Pupil Details:

Name: D/B: Year Group

Gender: Ethnicity:

Address:

..... Tel. No:

Vulnerability status: (For Equality and Diversity Monitoring at least one box must be completed)

- None
- Looked After Child: English as an additional language:
- School Action/School Action Plus/Statement: Free School Meals
- Social Work Involvement: Young Carer:

Parent/Carer Details:

For legal reasons, where there are 2 parents/carers with parental responsibility, full names of **both** must be supplied

(1) Name: (2) Name:

Address:
(if different)

Address:
(if different)

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.....

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Name of Person Referring:

School/Agency:..... Tel No:..... Date:

Reasons for Referral: (please tick as appropriate)

- General poor attendance (**Registration certificate attached**)
 - 20 sessions or more of unauthorised absence in any period up to a maximum 12 rolling school weeks
 - Informed parent of attendance level and that it is a cause for concern
 - Warned parent that enforcement action may ensue if attendance does not improve
- Persistent lateness after registration closed (**Registration certificate attached**)
 - 20 sessions or more of unauthorised/late marks after registration closed in a maximum 12 rolling school week period.
- Unauthorised holiday in term time (**Registration certificate attached**)
 - 20 or more sessions in a school year
 - Information attached re notification to parent that the absence would be unauthorised

- Action to be taken:**
- Warning letter
 - Straight to penalty notice
 - Reason for no warning letter

Send to: Children and Adults Services (For the attention of Pupil Casework)
County Hall
Durham
DH1 5UJ or Fax: (0191) 383 3306

Please note that your referral will be subject to checking by the School Attendance Enforcement Team to ensure enforcement action is not already ongoing / appropriateness

