Achieving for Children (RBWM)

Penalty Notice Code of Conduct

# 1. Legal Basis

For the purposes of this Code of Practice, ‘parent’ includes any person who is not a parent, but has parental responsibility for a child or any person who has care of a child. Parents of a pupil, of compulsory school age, who is registered at a school and who fails to attend school regularly are committing an offence under section 444(1) Education Act 1996.

The Anti-social Behaviour Act 2003 introduced new powers for authorised local education authority officers, (typically education welfare officers), headteachers (and deputy and assistant headteachers authorised by them) and the police, to issue penalty notices to such parents. The Education (Penalty Notices) (England) (Amendment) Regulations 2013, as amended, came into force on 1 September 2013 and enabled parents to discharge potential liability for conviction for the above offence by paying a penalty of up to £160.

Further information regarding statutory duties can be found on page 56 of the DfE’s [Working Together to Improve School Attendance.](https://assets.publishing.service.gov.uk/media/66bf300da44f1c4c23e5bd1b/Working_together_to_improve_school_attendance_-_August_2024.pdf)

# 2. Rationale

Regular and punctual attendance at school is a legal requirement and is essential for pupils to maximise their educational opportunities. Parents and pupils are supported at school and local authority level to overcome barriers to regular attendance through a variety of intervention strategies. Sanctions of any nature are for use only where parental co-operation is either absent or deemed insufficient to resolve the presenting problem. They are used as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

Prosecution is expensive and time-consuming and can be considered too severe for parents who are not persistent offenders. Penalty notices provide a quicker, cheaper and more effective way of sanctioning those parents who are capable of improving their child’s attendance and where a simple sanction will focus them on their responsibilities.

# 3. Circumstances where a penalty notice may be issued

A penalty notice can only be issued in cases of unauthorised absence. The issuing of a penalty notice is considered appropriate in the following circumstances:

* truancy (including pupils caught on truancy sweeps)
* parentally-condoned absences
* unauthorised leave of absence in term-time
* unexplained delayed return from leave of absence
* persistent late arrival at school (after the register has closed)

To ensure consistent delivery of penalty notices, the following criteria will be applied before a penalty notice is issued.

* At least 10 sessions (five school days) must have been lost to unauthorised absence by the pupil during one term.
* Other than in specific circumstances mentioned in below, the parent must have received a Notice to Improve warning of the possibility of a penalty notice being issued and given a clear timeframe of between 3 to 6 school weeks to affect a sustained improvement.
* The deliberate taking of leave of absence in term time without or against school permission (where it can be clearly demonstrated that the parent understood that permission had not or would not be given) and where this has created a period of unauthorised absence in the current term of at least 10 sessions or at least 10 sessions spanning a school holiday.

For the purposes of this Code of Practice unauthorised absence shall be determined in accordance with the provisions of the Education (Pupil Registration) Regulations 2006 as amended.

# 4. Procedure for issuing penalty notices

Only the Education Welfare Service (EWS) will issue penalty notices on behalf of the Achieving for Children (Royal Borough of Windsor and Maidenhead) to avoid the issuing of duplicate notices. School refer penalty notices to their allocated Education Welfare Officer via the [Fixed Penalty Notice Form.](https://forms.gle/mQ8pL1wL81dXA1Wv9) for Term Time Holidays Leave of Absence. For Fixed Penalty Notices following a Notice to Improve letter [the Legal Intervention form](https://forms.gle/UJjAhMKRFR7bpTym6) will be required. This will also ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions.

Before any action is taken, the EWS will first make all reasonable enquiries to determine whether other intervention strategies are in place or other enforcement action is already being processed or contemplated to ensure there is no conflict. Schools maintained by the local authority are to advise the EWS, without delay, of any potential cases for prosecution.

Penalty notices will only be issued by post and never as an on-the-spot action. This is to ensure that all evidential requirements are in place and to meet health and safety requirements for the education welfare officer.

In addition to initiating action on behalf of the local authority, the EWS will consider requests to issue penalty notices from schools, Thames Valley Police and neighbouring local authorities. These requests will be considered providing that:

* all relevant information is supplied on a referral form.
* the circumstances of the pupil’s absence meets all the requirements of this code of practice.
* the issue of a penalty notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed or contemplated.

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

* issue a formal written warning to the parent of the possibility of a penalty notice being issued, unless the exception above applies
* in the same letter, set clear timeframe of between 3 to 6 school weeks within which the pupil must have no unauthorised absence, issue a penalty notice through the post at the end of the i period if the required level of improvement has not been achieved
* advise the requesting body of the action taken

A maximum of two penalty notices will be issued to the same parent in respect of the same child within a 3 year rolling period and any second notice will be charged at the higher rate of £160. If national threshold is met for a third time within those 3 years alternative action should be taken. This could be prosecution or other attendance legal interventions. All reasonable enquiries will be made by the Local Authority to ensure that the maximum of 2 penalty notices within a 3 year period is not breached.

# 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
* the use of the penalty notice did not conform to the terms of this code of practice

Any written representations that the recipient wishes to make will be considered. If the recipient has difficulty with making written representations help will be given.

# 6. Payment of penalty notices

Arrangements for payment will be detailed on the penalty notice. Payment of a penalty notice discharges the parent’s or carer’s 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 of the penalty to be paid is £80 when paid within 21 days of receipt of the notice and £160 when paid within 28 days of receipt.

The local authority retains any revenue from penalty notices to cover the costs of issuing and enforcing notices or the costs of prosecuting recipients who do not pay.

# 7. Non-payment of penalty notices

If the penalty is not paid in full before the expiry date mentioned in the notice, the local authority will institute proceedings against the recipient for the offence to which the notice relates or withdraw the notice in accordance with Clause 5 above.

# 8. Policy and publicity

The issuing of penalty notices as a sanction will be included in the local authority’s attendance documentation.

Schools will be advised that their school attendance policies must include information on the issuing of penalty notices and this will be brought to the attention of all parents and pupils.

The local authority will include information on the use of penalty notices and other attendance enforcement sanctions in promotional and public information material.

# 9. Reporting and review

The EWS will review the use of penalty notices at regular intervals and amend the general enforcement strategy as appropriate.

Reviewed September ‘24