

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 powers for authorised local authority officers (including 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 2024 came into force on 19 August 2024. These regulations introduced a standardised national framework, ensuring consistent escalation paths and structural fine limits across all local authorities 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 Department for Education's (DfE's) statutory guidance, [working together to improve school attendance](#).

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, focusing them directly on their legal 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 national criteria will be applied before a penalty notice is issued:

- The national threshold: at least ten sessions (equivalent to five school days) must have been lost to unauthorised absence by the pupil within a rolling ten-school-week period. These 10 sessions can be a combination of any patterns of unauthorised absence (for example, consecutive days, separate days or persistent lateness).
- Notice to Improve (NTI): other than in specific circumstances mentioned below (such as unauthorised holidays), the parent must have received a formal Notice to Improve. This warns of the possibility of a penalty notice being issued and gives a clear monitoring window of between three and six school weeks to effect a sustained improvement.
- Unauthorised term-time leave: 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 met the national threshold of at least ten sessions of unauthorised absence. A Notice to Improve is not required for unauthorised term-time leave.

For the purposes of this code of practice, unauthorised absence shall be determined in accordance with the provisions of the Education (Pupil Registration) (England) Regulations 2024.

4. Procedure for issuing penalty notices

Only the Education Welfare Service (EWS) will issue penalty notices on behalf of Achieving for Children (Royal Borough of Windsor and Maidenhead [RBWM]) to avoid the issuing of duplicate notices. Schools must refer penalty notices to their allocated education welfare officer via the fixed penalty notice form for term-time leave of absence. For fixed penalty notices following a notice to improve letter, the formal legal intervention form will be required. This ensures consistent and equitable delivery, retains school-home relationships and allows cohesion with other enforcement sanctions.

Before any action is taken, the EWS will make all reasonable enquiries to determine whether other intervention strategies are in place or if other enforcement action is already being processed to ensure there is no conflict. Schools maintained by the local authority must 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 ensures that all evidential requirements are in place and meets health and safety requirements for all EWS staff.

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 provided that:

- all relevant information is supplied on the official referral form
- the circumstances of the pupil's absence meet 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 aim to respond to all requests within ten school days of receipt. Where all criteria are met, they 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 a clear timeframe of between three and six school weeks, within which the pupil must have no unauthorised absence, issue a penalty notice through the post at the end of the 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 for the same child within a three-year rolling period.

- First notice: charged at £80 if paid within 21 days, rising to £160 if paid within 28 days.
- Second notice: charged at a flat rate of £160 with no early-payment discount available.
- Third offence: if the national threshold is met for a third time within those three years, a third penalty notice cannot be issued. Alternative action must be taken which will typically involve prosecution under Section 444 or other intensive attendance legal interventions.

All reasonable enquiries, including data checks with neighbouring local authorities where a family has recently relocated, will be made by the local authority to ensure that the three-year escalation cap is accurately tracked and maintained.

5. Procedure for withdrawing penalty notices

Once issued, a penalty notice will only be withdrawn in the following limited 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 or statutory guidance

Any written representations that the recipient wishes to make will be considered. If the recipient has difficulty making written representations, appropriate support will be provided.

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 that specific penalty notice.

- First penalty notice: £80 when paid within 21 days of receipt, rising to £160 when paid within 28 days.
- Second penalty notice (within three years): flat rate of £160 when paid within 28 days (no early payment discount).

The local authority retains any revenue from penalty notices to cover the administrative costs of issuing and enforcing notices, or the costs of prosecuting recipients who fail to pay.

7. Non-payment of penalty notices

If the penalty is not paid in full before the 28-day expiry date mentioned in the notice, the local authority will institute legal proceedings against the recipient for the offence under Section 444 of the Education Act 1996 to which the notice relates via the single justice procedure or withdraw the notice in accordance with clause 5 above.

8. Policy and publicity

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

Schools will be advised that their individual school attendance policies must include information on the national threshold framework and the issuing of penalty notices, which must be brought to the attention of all parents and pupils at least annually.

The local authority will include clear 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, analyse localised trends and amend the general enforcement strategy as appropriate to align with national data reporting metrics.

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