

North Northamptonshire Council

Attendance Code of Conduct

Rationale

1. The purpose of this Code of Conduct is to ensure that the associated powers are applied consistently and fairly across the Local Authority area and that suitable arrangements are in place for the administration of Penalty Notices.
2. Regular and punctual attendance at school or an alternative provision is both, a legal requirement and essential for children and young people to maximise their educational opportunities. Penalty Notices offer a swift intervention which North Northamptonshire Council (NNC) will use to deal with issues of unauthorised absence before they become entrenched.
3. An offence occurs if a parent or carer fails to secure a child's attendance at school or alternative provision at which they are a registered pupil, and that absence is not authorised by the school or alternative provision.
4. In addition, a Penalty Notice can be used to help ensure parents fulfil their responsibilities to ensure their child is not out in a public place without reasonable justification during the first five days of every exclusion from school.

Authorisation

1. The primary responsibility for the issuing of Penalty Notices rests with the Local Authority. The Educational Inclusion & Partnership Team (EIPT) of NNC will therefore issue Penalty Notices in North Northamptonshire. This ensures consistency and will prevent conflict with other enforcement sanctions.
2. Although professionals other than those within the Local Authority (e.g., Head Teachers, the Police etc.) are accredited persons within the legislation, able to issue Penalty Notices, there is no requirement for them to do so. In North Northamptonshire it has been agreed that the Police will not issue Penalty Notices. If a Head Teacher feels it is appropriate for a Penalty Notice to be issued, they must refer to the EIPT.

This will avoid a Penalty Notice being issued when the EIPT is instigating legal intervention proceedings for irregular school attendance or where a Penalty Notice is not deemed an appropriate form of intervention, ensuring the EIPT is able to both review previous involvement and monitor future sanctions. This will also enable the LA to satisfy its requirement to submit accurate returns data to the DfE annually.

3. Penalty Notices will be issued by First Class post to satisfy evidential requirements.

A Penalty Notice is an out of court settlement which is intended to change parental behaviour without the need for a criminal prosecution. If repeated Penalty Notices are being considered for the same parent, a further Penalty Notice is unlikely to be the most appropriate tool available. Therefore, from 19 August 2024, a limit of no more than 2 Penalty Notices being issued to the same parent for the same pupil within a 3-year rolling period will apply.

The first Penalty Notice issued to the parent for that pupil will be charged at £160 if paid within 28 days reducing to £80 if paid within 21 days.

Where it is deemed appropriate to issue a second Penalty Notice to the same parent for the same pupil within 3 years of the first notice, the second notice is charged at a flat rate of £160 if paid within 28 days.

A third Penalty Notice must not be issued within a 3 year period. Therefore, in cases where the threshold is met for a third (or subsequent) times within those 3 years, a Penalty Notice cannot be issued and alternative action should be taken instead. This will often include considering prosecution, but may include other tools such as one of the other attendance legal interventions. In these cases, once 3 years has elapsed since the first Penalty Notice was issued to the parent a further Penalty Notice can be issued if appropriate, but in most cases it will not be the most effective tool for changing what may have now become an entrenched pattern of behaviour.

EIPT will act upon requests to issue Penalty Notices from schools, academies, or alternative education providers and Northamptonshire Police, provided that:

1. all relevant information is supplied in the specified manner

2. the circumstances of the pupil's absence meet the requirements of this Code of Conduct
3. the issuing of a Penalty Notice does not conflict with other interventions strategies in place or other enforcement sanctions already in process

Criteria for issuing Penalty Notices

Penalty Notices are issued to parents as defined under Section 576 of the Education Act 1996 in relation to children of compulsory school age. Under the Act the term "parent" includes:

- all natural parents, whether they are married or not
- any person who, although not a natural parent, has parental responsibility for a child or young person
- any person although not a natural parent has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after a child, irrespective of what their relationship is with a child
- they may be issued for children at maintained schools, academies, free schools and alternative provision providers in North Northamptonshire
- in accordance with the definition of parent, and thereby parental responsibility for non-school attendance, more than one person may be liable for the offence. In such circumstances, separate notices will be issued to each person

Penalty Notices may be issued when:

- There has been an unacceptable level of unauthorised absence from an educational establishment and enforcement is necessary to improve attendance. Unauthorised absence is absence without permission from a Head Teacher or other authorised representative from the school. This includes all unexplained or unjustified absences. The categories of authorised and unauthorised absence are explained in the Guidance to the Education (Pupil Registration) (England) Regulations 2006.
- A minimum of 10 sessions of unauthorised absence in a 10-school week period will usually have occurred. However, a shorter period may be considered appropriate in some circumstances. This may include, but is not limited to, repeated

shorter periods of unauthorised absence, such as taking several term time holidays below threshold, or for repeated absence for birthdays or other family events, regular patterns of unauthorised absence or absence in excess of an authorised period.

In the case of an unauthorised holiday taken during term time, if:

- Parents have not sought permission from the Head Teacher before taking their child out of school for a holiday in term time
- the Head Teacher has refused the request, but the absence occurs anyway
- a pupil has not returned to school by the agreed date with no satisfactory explanation

And; there have been 10 sessions of unauthorised absence in a 10-school week period.

The EIPT will receive enquiries regarding pupils who have moved to another area within the prescribed period via a dedicated cross-border email address. Likewise, the EIPT will conduct checks with other Local Authorities where a pupil has moved to their geographical area using the same mechanism.

When considering legal intervention for a cross-border pupil, for example where a pupil from one geographical area attends an education provision in another, the Local Authority will liaise with the appropriate Officer to determine which Authority will lead on any agreed intervention.

In cases where the previous local authority is not known or the information cannot be, or is not, provided by the previous local authority, it should be assumed that the parent has not previously received a penalty notice and the escalation process started as per a new case.

Each case is considered on an individual basis.

- a pupil is persistently late to school (i.e. arrives after the register has closed)
- under truancy sweeps carried out under Crime and Disorder Act 1998 powers, a minimum of 5 sessions of unauthorised absence may generate a Penalty Notice if these unauthorised absences occur in the 10 school weeks (maximum) after the child was stopped on the truancy sweep

- when an excluded child is present in a public place during school hours on a day which is one of the first 5 school days to which the exclusion relates or, where that exclusion is for a fixed period of 5 days or less, any of the days to which the exclusion relates, under the protocol for Section 103 of the Education and Inspections Act 2006

Alternative action may need to be considered if school attendance offences re-occur, in the light of advice from Legal Services.

Withdrawal of Penalty Notices

Once issued a Penalty Notice can only be withdrawn if one of the following circumstances apply:

- the Penalty Notice has not been issued in accordance with the Code of Conduct
- evidence has been established that the Penalty Notice was issued to the wrong person
- there are material errors in the information leading to the issue of the Penalty Notice
- the period for payment has expired and the Local Authority does not intend to institute legal proceedings for which the Penalty Notice relates

Payment of Penalty Notices

The arrangements for the paying of Penalty Notices will be detailed on the Penalty Notice. Revenue generated from the Penalty Notices will be used to cover the costs of issuing and enforcing notices, or the cost of prosecuting recipients who do not pay.

Non-Payment of Penalty Notices

If the Penalty Notice is not paid in full by the end of the 28-day period, the Local Authority may prosecute for the offence to which the Notice applies.

The prosecution relates to irregular school attendance under Section 444 of the Education Act 1996. Where a prosecution is an appropriate course of action a Caution may be offered by the Local Authority as an alternative method of disposal. There is no statutory right of appeal against the issuing of a Penalty Notice. A record will be kept of all

prosecutions relating to an offence for which a Penalty Notice was issued.

The Local Authority may, where appropriate, seek to utilise alternative intervention to prosecution, such as;

- referral to Social Care, where wider contextual concerns are identified
- referral to wider support services, where such support is likely to be effective, has not been attempted or is deemed necessary
- using a Notice to Improve where support is appropriate but not working or being engaged with, to give a parent/carer a final opportunity to engage in support before they are issued with a Penalty Notice or other legal sanction if it is appropriate in the individual case

In cases where the national threshold is met and support is appropriate, that support should be continued or provided straightaway. In most cases this support is provided at school level and should start early when absence issues are first detected.

In deciding whether support is appropriate or not, the school and local authority (and police, if involved) should consider whether the cause of the absence is something for which support could be provided. If support could be provided, the school and the local authority should then consider what suitable forms of support are currently available in school and where necessary by other services and agencies in the local area. They should then decide whether any or all of those things are appropriate in the individual case and for those that are appropriate, whether they have been provided previously or could be provided or continued now instead of taking legal action.

In determining whether support offered is sufficient, the EIPT will consider the following:

- the school has considered an EHA
- the school has first held attendance meetings, including adequate monitoring periods
- the school has held an Attendance Contract, identifying and addressing concerns raised
- appropriate assessments, or referral for assessment, have been completed

- external support agencies have been consulted
- partners have considered the use of a Notice to Improve

The Notice will be issued by the Local Authority and remain in place for 4 weeks, monitored by the school. Where improvement is shown but is not yet at the required level, a further 2 week monitoring period may be agreed if deemed appropriate, though will not exceed a total of 6 weeks.

A Penalty Notice may be issued before the expiration of the 4 week Notice period where no improvement/engagement is evidenced or where further unauthorised absences occur. The school do not need to wait for the initial period to elapse to refer to the Local Authority.

All Local Authorities also retain the discretion to consider prosecution for matters where previous intervention has proved ineffective.

Legislation

1. Section 23 Anti-Social Behaviour Act 2003 empowers authorised officers of a Local Authority, Head Teachers (and Deputy and Assistant Head Teachers authorised by the Head) and Police Officers (including Community Support Officers) to issue a Penalty Notice in cases of unauthorised absence from school, or alternative provision
2. The Education (Penalty Notices) (England) Regulations 2004 came into force on 27th February 2004
3. The Education (Penalty Notices) (England) Regulations 2004 require the Local Authority, in consultation with the above, to develop a code of conduct for issuing of Penalty Notices. Any person issuing a Penalty Notice must do so within the terms of this code of conduct
4. The Education (Penalty Notices) (England) Regulations 2005 extends the issuing of Penalty Notices to alternative provision
5. The Education (Penalty Notices) (England) (Amendment) Regulations 2012 confirms the increase in the amount of penalty where the offence is alleged to have been wholly or partly committed after 1st September 2012
6. Education (Penalty Notices) (England) (Amendment) Regulations 2013 confirm that the penalty of £60 must be paid within 21 days or after that period increase to £120 to be paid within 28 days

7. School Attendance (Pupil Registration) (England) Regulations 2024.
8. Education (Penalty Notices) (Amendment) (England) Regulations 2024