

STAFFORDSHIRE COUNTY COUNCIL
Families First Targeted Services**STAFFORDSHIRE LOCAL AUTHORITY**
Code of Conduct for issuing Penalty Notices**Rationale:**

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. In recognition of this, the law makes it an offence for a parent or carer to fail to secure the regular attendance of their child at a school at which the child is a registered pupil, without good reason or the agreement of the school.

Penalty Notices are one of the sanctions available for this offence and offer a means of swift intervention, which can be used to combat attendance problems before they become entrenched.

Parents and children will be supported by their school/alternative provision, the Local Support Teams for Targeted Services and, as appropriate, other Partner Agencies, to overcome barriers to regular attendance, through a range of intervention strategies.

Therefore, Penalty Notices and other sanctions will only be used where parental co-operation with this process is either absent or deemed to be insufficient to resolve the problem. They will be used as a means to support and challenge parents to meet their legal responsibilities and where there is a reasonable expectation that their use will secure improved school attendance.

Legal Framework:

Section 444A of the Education Act 1996 (as inserted by section 23 of the Anti-Behaviour Act 2003) empowers designated Local Authority (LA) officers, head teachers (as well as deputy and assistant head teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

The Education Penalty Notices (England) Regulations 2007

The Education and Inspections Act 2006.

The issuing of Penalty Notices must conform to all requirements of the Human Rights Act 1998 and the Equality Act 2010.

Section 444 of the Education Act 1996 makes it an offence if a parent fails to secure their child's regular attendance at school at which they are registered, if that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under s444 Education Act 1996 or s36 Children Act 1989 to enforce attendance at school where appropriate.

As a result, the Local Authority has responsibility for developing a local code of conduct that will govern how all of the partners named in the Anti-social Behaviour Act 2003, will issue Penalty Notices.

Circumstances where a Penalty Notice may be issued:

- A Penalty Notice can only be issued in cases of unauthorised absence.
- Use of a Penalty Notice or formal warning of a Penalty Notice for unauthorised absence will be restricted to one notice/ warning per parent of a pupil per academic year¹.
- There will be no limit on the times a Penalty Notice for unauthorised leave of absence can be used in an academic year.
- In cases where there is more than one pupil in a family with unauthorised absences, Penalty Notices may be issued for more than one child.
- The presence of an excluded child in a public place at any time during school hours in the first five days of exclusion.

Penalty Notices may be considered appropriate if one of following criteria is met:

- There are at least 20 sessions (10 school days) lost due to unauthorised absence during the current and previous term. These absences do not need to be consecutive.²
- For unauthorised leave of absence, there must be a minimum of 2 sessions of unauthorised leave of absence (due to unauthorised leave in term or time been absent for longer than was agreed) within the total of 10 sessions of unauthorised absence required prior to issuing the penalty notice. These unauthorised absences do not need to be consecutive and should be calculated from the previous rolling calendar year.²

¹ Continued poor attendance in the same academic year can be addressed by other statutory actions available to the Local Authority under the Education Act 1996.

² Once an unauthorised absence has been used as evidence in Court/Penalty Notice it cannot then be used again in another prosecution.

- Persistent late arrival at school, i.e. after the register has closed, in the current and previous term. "Persistent" means at least 20 sessions of late arrival. These late episodes do not need to be consecutive.
- The presence of an excluded child in a public place at any time during school hours in that child's first five days of exclusion. An "excluded child" is one who has been excluded from school for a given period under the Education and Inspections Act 2006.
- A Penalty Notice will not be issued in respect of children in the care of the LA with whom other interventions will be used.

Leave not authorised by the head teacher or in excess of the period determined by the head teacher.

The Local Authority will only issue Penalty Notices requested by a school in response to an unapproved leave of absence (including holiday related) resulting in unauthorised absence where the school has provided the necessary paperwork.

This paperwork should comprise:

- A copy of the newsletter or letter sent to all parents during the current academic year which clearly states that parents may receive a Penalty Notice for an unauthorised holiday in term time. (The LA does not need a hard copy of this newsletter/letter each time a school applies for an unauthorised holiday Penalty Notice, just on the first occasion each academic year.)
- A copy of the leave of absence (Holiday) Request Form submitted by parent, and a copy of the response sent to the parent by school. In the event the leave of absence (holiday) request is being denied the school's response should state the reason why the request is unauthorised and should again advise parent that they may receive a Penalty Notice if they take their child out of school and that the school has referred the matter to the Local Support Team (representing the Local Authority).
- In cases where the unauthorised leave of absence occurs without prior request from the parents, or is due to unauthorised absence beyond what was agreed, the school should include all correspondence sent to the parents to explore the unauthorised absence.
- Relevant pupil Attendance or Registration Certificate signed by the Head teacher / Principal – or their nominated deputy – confirming that non-attendance during the period was unauthorised.
- Completed school unauthorised absence checklist and signed penalty notice request form. (Appendix A).

Excluded Pupils

In the case of an excluded child, a copy of the letter required to be sent to parent(s) pursuant to s.104 of the Education and Inspections Act 2006 warning them to ensure that the child is not permitted to be present in a public place in the first five days of exclusion.

Robust and reliable evidence that the child was in a public place, which includes the date and time and a statement will be required from the witness will be necessary.

Who May Issue a Penalty Notice?

A Penalty Notice may only be issued by:

- Authorised LA staff. In Staffordshire this will be members of the Local Support Teams.
- Head teacher / Principal and school staff authorised by them may request Local Support Teams to issue a Penalty Notice.
- A Police Officer during a truancy sweep under the provision of Crime and Disorder Act 1998 may request a Local Support Team (LST) to write a notice.

Procedure for issuing Penalty Notices:

The designated officers within Targeted Services will be the only individuals permitted to issue Penalty Notices in the Staffordshire area. This will ensure consistent and equitable delivery, avoid duplication of issue and to allow schools to maintain good relationships with parents and ensure that they reinforce other enforcement sanctions.

Penalty Notices will only be issued by post and never as an instant action, e.g. during a Truancy Sweep. This will enable officers to ensure that all evidential requirements are in place, duplication of issue is avoided and limit the health and safety risks associated with delivering such notices by hand.

Where Schools, Police or neighbouring local authorities ask Staffordshire County Council to issue a Penalty Notice, their request will be investigated and actioned by the LST provided that:

- The circumstances of the case meet the criteria specified in this Code of Conduct.
- The pupil is registered at a Staffordshire School;
- All necessary evidence is provided to the LST to establish an offence under Section 444(1) or 444(1A) of the Education Act 1996 has been committed.
- Issuing a Penalty Notice would not conflict with another intervention strategy already in place or another enforcement sanction already being processed; and
- There is an assessment and plan which demonstrates that the use of a Penalty Notice is now the appropriate action to improve the child's school attendance. (Not required in the case of unauthorised leave of absence).

Targeted Services will respond to all requests within 10 school days of receipt or if part of on-going casework, and where satisfied that all of the relevant criteria are met, will:

- Issue an initial warning to the parent (s) of the possibility of Penalty Notice being issued;
- Set a period of 20 school days within which the pupil must have no unauthorised absence and give the parent (s) an opportunity to respond; this information will be included in the formal written warning letter. (Appendix B).
- After due consideration of the facts of the case, only issue a Penalty Notice through the post at the end of the 20 day period, if the required level of improved school attendance has not been achieved.

Where the Penalty Notice is requested from a school in response to a leave of absence (holiday) related unauthorised absence, or is in relation to an offence under section 103 of the Education and Inspections Act 2006, the formal warning letter and 20 day improvement period will not apply.

All Penalty Notices will be entered onto a database maintained by Targeted Services to assure that no duplicate Penalty Notices are issued.

Excluded Pupils

The parent of the excluded pupil must ensure that the pupil is not present in a public place at any time during school hours on a day that he / she is excluded, up to and including the first 5 days or, where that exclusion is for a fixed period of 5 days or less, any of the days to which the exclusion relates.

If the excluded pupil is present in a public place at any time during school hours on a school day specified above the parent commits an offence under section 103 of the Education and Inspections Act 2006 and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Truancy Sweep

A Penalty Notice will only be issued after due consideration when all facts are known and the threshold for serving the notice has been met.

Information is given to anyone stopped on a truancy sweep, pupil and/or parent about the possible support and sanctions used to address non-attendance.

Procedure for withdrawing Penalty Notices:

Once issued a Penalty Notice may be withdrawn if the Targeted Services is satisfied that:

- The Penalty Notice was issued to the wrong person;
- The use of the Penalty Notice did not conform to this Code of Conduct.
- The Penalty Notice was delivered to the wrong address;
- The evidence demonstrates that the Penalty Notice should not have been issued, e.g. medical evidence;
- The exceptional circumstances of the case warrant its withdrawal.

Payment of Penalty Notices:

- Arrangements for payment will be detailed on the Penalty Notice; (Appendix C).
- 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;
- Payment of a Penalty Notice within 21 days is £60 and payment after this time but within 28 days is £120; and
- The County Council retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).
- Payments will not be accepted in part or by instalments.

Non-payment of Penalty Notices:

Non-payment of a Penalty Notice will result in the withdrawal of the Penalty Notice and will trigger the fast-track prosecution process under the provisions of section 444(1), of the Education Act 1996.

Policy and Publicity

- Identifying information about Penalty Notices issued to particular parents or specific children should not be made public;
- Issuing of Penalty Notices as a sanction is included in the Authority's Attendance Policy;
- All school Attendance Policies should include information on the issuing of Penalty Notices and this will be brought to the attention of all parents;
- The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional or public information material.

Reporting & Review:

Targeted Services will:

- report at regular intervals to the head teacher Forum groups (Primary, Secondary, Middle and Special). and Staffordshire Police on the deployment and outcomes of Penalty Notices;
- make regular reports to Staffordshire County Council on attendance matters which will include Penalty Notice use; and
- review Penalty Notice use at regular intervals and amend the Protocol as appropriate.

Representation

There is no statutory right of appeal against the issuing of a Penalty Notice.

The parent will be advised when they receive the warning that they may make representation to the Strategic Lead of Targeted Services setting out reasons why they should not have been issued.

PENALTY NOTICE REQUEST

Reason for Penalty Notice

Unauthorised Persistent absence ☐
Unauthorised Leave of absence ☐

Excluded pupil ☐
Truancy Sweep (Police Only) ☐

Registered pupil at:School

Pupil Details:

Name: MALE/FEMALE D.O.B.

Address:

.....Postcode:

Telephone No: Mobile No:

Parent/Carer (please add any additional parent/carers)

Name:

Relationship to pupil.....

Address (if different from above):

.....Postcode:

Telephone No: Mobile No:

Name:

Relationship to pupil.....

Address (if different from above):

.....Postcode:

Telephone No: Mobile No:

Dates of unauthorised absence

The named pupil was absent from school on the following dates:

.....

.....

And this absence is recorded in the school register as unauthorised. (Please attach a signed attendance certificate showing the period).

Declaration

I am the Head Teacher/Acting Head Teacher of the School named. I certify that this request for a Penalty Notice has been considered in line with the School Attendance Policy.

- Does the case fulfil the criteria laid out in the Code of Conduct? Yes / No
- To the best of my knowledge there are no exceptional circumstances to consider.
- Does the pupil have any statement of Special Educational needs? Yes / No / NA
- Does the pupil have a Disability under the Equality Act 2010? Yes / No / NA
- The school is not beyond the statutory limits for walking, but if so, transport was available. The limit of two miles for pupils under 8 years old; three miles for pupils aged 8 and over: Yes / No / NA
- ❖ Did parents request authorisation prior to leave of absence: Yes / No / NA
- ❖ School responded in writing to decline authorisation of leave of absence: Yes / No / NA
- School issued letter to parents informing them of responsibilities during first 5 days of exclusion. Yes / No / NA
- Evidence can be provided to substantiate the child has been in a public place during school hours. Yes / No / NA
- Is there an Assessment of need and a plan of intervention in place? Yes / No / NA
- Is there any evidence of lack of co-operation from parent/carer? Yes / No / NA
- Has the parent/carer been informed of potential Penalty Notice for persistent absence? Yes / No / NA

PLEASE ATTACH COPIES OF ALL CORRESPONDENCE WITH REQUEST, AND SEND TO THE LOCAL SUPPORT TEAM.

Name: Position

Signature Date:

Targeted Services

(District Office Address inc LST)

(District Office Address)

(District Office Address)

(Post Code)

Telephone: (Tel no)

Facsimile: (fax no)

E-mail: (EWW name) @staffordshire.gov.uk

Website: www.staffordshire.gov.uk

Restricted

Please ask for: (EWW name)

Name and Address

My ref: /PN2

Date:

Dear Insert Parents/Guardians Full Name

Penalty Notice – S.444 Education Act 1996 (inserted by S23 of the Anti Social Behaviour Act 2003)

It has come to my attention that your son/daughter, Insert Pupil's Name, has recently been in irregular attendance at Insert Name of School.

Section 444(1) of the Education Act, 1996 says:

"If a child of compulsory school age, who is a registered pupil at a school, fails to attend regularly at the school, his (her) parent /guardian is guilty of an offence."

If the reasons given for your child's irregular school attendance are not satisfactory, then the Education Committee may issue you with a Penalty Notice for failure to comply with the law.

On receipt of this letter you are being given the opportunity to take such steps as to ensure your child's attendance at school. The Staffordshire County Council protocol allows **20 school days** from Insert Date to Insert Date in which time Insert Pupil's Name must have no unauthorised absence. Failure will result in a Penalty Notice being issued to you.

In pointing out the Law to you in this way, it merely serves to reinforce your obligations to your child; I hope most sincerely that you will take such steps as would render such a course of action unnecessary.

Yours sincerely

Printed Name and designation

On behalf of

Strategic Lead for Targeted Services


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Penalty Notice

S.444 Education Act 1996

(insert by S23 of the Anti Social Behaviour Act 2003)

Please read the notes overleaf carefully

PART 1

If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence under s.444 Education Act 1996.

To: [title] [forenames] [surname]

Of: [address] [postcode]

You are a parent of [name and address of child] (called in this notice "the pupil") who is a registered pupil at [name of school].

Between [date] and [date] the pupil failed to attend regularly at the school.

This notice gives you the opportunity to pay a penalty fine instead of being prosecuted for the offence given above. The amount of the penalty is £60/£120 in accordance with the table overleaf. If you pay this penalty within the time limits set out below, no further action will be taken against you in connection with the offence as set out in this notice.

Payment should be made within 21 days from date of issue. If paid after 21 days but within 28 days the penalty is doubled to £120. Payment should be made to [Local Authority Name] and can be made in person at [Local Authority Address] between 9am and 5pm Monday to Thursday 4.30pm on Fridays, or by posting this notice with a cheque or postal order to this address. **NO CASH PAYMENTS**

Late, cash or part payments will not be accepted and no reminders will be sent. If payment is not received by [insert date 28 days from date of issue], you may be prosecuted for the offence and could be subject to a fine of up to £1,000.

This notice is issued by [Local Authority Strategic Lead], Strategic Lead Targeted Services, on behalf of [Local Authority Name].

Date of issue: [Date]



PART 2

Please complete the following and return this notice with your payment to [Local Authority Name]:

Name: [insert name]

Address: [insert address]

Child's name [insert name]

I attach payment in the sum of £

NO CASH PAYMENTS ACCEPTED

Signed:

Date:

NOTES**1. Contact Details**

If you have any queries about this notice, please contact Staffordshire County Council at [insert district contact name, telephone number, fax number and address]

2. Amount of penalty.

The amount of the penalty is as follows:

When paid

Within 21 days £60

Within 28 days £120

To be paid by:

[insert date 21 calendar days from date of issue]

[insert date 28 calendar days from date of issue]

Address payment to be sent to:

[Local Authority Contact Name and address]



3. Code of conduct.

This notice is issued in accordance with a local code of conduct drawn up by [Local Authority Name]. Any questions or correspondence about the code should be addressed to the Strategic Lead– Targeted Services at [Local Authority Address].

4. Withdrawal.

This notice may be withdrawn by [Local Authority Name] if it is shown that it should not have been issued to you, it has not been issued to you in accordance with the local code of conduct or you did not receive the notice e.g. sent to wrong address. If you believe that the notice was wrongly issued you must contact the County Council to ask for it to be withdrawn as soon as possible, stating why you believe the notice to have been incorrectly issued. The County Council will consider your request and will contact you to let you know whether the notice is withdrawn. If the notice is not withdrawn and you do not pay, you will be liable to prosecution for the offence that your child has failed to attend school regularly.

5. Payment.

You should complete the notice above and send or deliver it to Targeted Services, [Local Authority Name] at the address given. Office opening hours, Monday to Thursday 9am - 5pm, Friday 9am - 4.30pm.

6. Prosecution.

If you do not pay the penalty, and the notice is not withdrawn, you will be prosecuted for the offence of failing to ensure your child's regular attendance at school. You will receive a separate summons for this which will give you notice of the time and date of the court hearing. You will be able to defend yourself and you would be advised to seek legal representation; in some circumstances you may be entitled to legal aid.



