



## ***Knowsley Council***

### **Penalty Notice Code of Conduct Absence and Exclusion – Revised January 2016**

**This code of conduct covers the issuing of Penalty Notices in respect of unauthorised absence, leave of absence in term time and exclusions. It is an agreement between and on behalf of all Knowsley schools, Knowsley Council and Merseyside Police.**

#### **1. Introduction**

- 1.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. School attendance is also an essential component of safeguarding children. Education Penalty Notices offer a swift intervention and may be used to combat school non-attendance problems before they become entrenched and where prosecution may seem inappropriate. Penalty Notices are suitable for use where there is a reasonable expectation of a parent's ability to bring about improvement, and where parents are not co-operating in those measures being offered, or recommended, to improve attendance.
- 1.2 Parents and pupils are supported at school and with local authority support 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 problem. Sanctions are used as a means of enforcing attendance where it is likely their use will secure an improvement.
- 1.3 Regular non-attendance from school may require pastoral support, monitoring or other sanctions rather than a Penalty Notice and following appropriate case work the LA may instigate legal action if applicable, particularly when the family has complex issues and the parents' capacity is reduced in remedying school absenteeism. In order to comply with human rights legislation, it is essential that Penalty Notices are issued in a consistent manner
- 1.4 This Code of Conduct will govern the issuing of Penalty Notices in respect of unauthorised absence from school, leave of absence requests and the failure to ensure an excluded child is not present in a public place without reasonable justification within the first five days of any exclusion period.
- 1.5 Penalty Notices will involve the recipient paying a fine of £120 within 28 days, reduced to £60 if paid within 21 days. Where an unauthorised absence has been dealt with by way of a Penalty Notice and it has been paid, it is not possible for a parent to be prosecuted for the same period of unauthorised absence under Section 444 of the Education Act 1996 or for the same instance of an excluded child being present in a public place under Section 103 of the Education and Inspections Act 2006.

## **2. Rationale and legal basis**

- 2.1 There is a legal duty under section 7 of the Education Act 1996 for a parent to ensure their child receives full time education suitable to his age, ability and aptitude. The offence under section 444 relates to a child who is a registered pupil at a school and fails to attend there regularly. In law a parent is guilty of an offence if their child of compulsory school age fails to attend regularly at a school at which they are registered. Penalty Notices supplement the existing sanctions currently available under Section 444 Education Act 1996 or Section 36 Children's Act 1989 to enforce attendance at school.
- 2.2 Throughout this code the term *parent* is used to refer to an individual who falls within the definition of section 576 of the Education Act 1996. This includes all natural parents, whether they are married or not; any person or body who has parental responsibility for a child (as defined by the Children's Act 1989); and any person who although not a natural parent, has care of a child. Having care of a child means a person with whom a child lives and looks after, irrespective of what their relationship is with that child
- 2.3 Section 23 of the Anti-Social Behaviour Act 2003 provides for the use of Penalty Notices by inserting section 444A into the Education Act 1996. The Education (Penalty Notices) (England) Regulations 2007 (as amended by the Education (Penalty Notices) (England) (Amendment) Regulations 2012 and 2013 came into force on 1<sup>st</sup> September 2007. This allows for Penalty Notices to be issued where it appears that an offence under s444 of the Act has been committed.
- 2.4 The Education Act 2005 inserted s444ZA into the Education Act 1996, defining the term of 'school' to include alternative provision that has been made for the child.
- 2.5 Section 103 of the Education and Inspections Act 2006 places a legal duty on a parent in relation to excluded pupils. A parent is guilty of an offence under this Act where a child has been excluded from school (fixed-term or permanent) and is found in a public place during school hours without reasonable justification within the first five days of the exclusion period. In some circumstances it may be necessary for a child to be in a public place during school hours on a school day e.g. pre-arranged medical appointment or emergency. Also a parent may need medical help and may consider it inappropriate for a child to be left at home alone if they are unable to make alternative arrangements.

## **3. Circumstances Where a Penalty Notice may be issued**

- 3.1 A Penalty Notice can only be issued in cases of unauthorised absence and in respect of a child who is a registered pupil at a school. Ordinarily, one can be issued for each child although should a notice be unpaid and withdrawn, all those with parental responsibility may be liable for prosecution.
- 3.2 Schools should initially issue a warning letter to parents on school headed paper (example at Appendix A). The letter should refer to recent/current unauthorised absence and warn of the likelihood of an Education Penalty Notice if the threshold of 10 sessions is reached within a ten week period. This may span more than one term. If a leave of absence has not been requested, a warning letter would advise the parent retrospectively of the

school's intention to request the LA issue an Education Penalty Notice. In certain circumstances, the LA itself will issue a warning letter.

- 3.3 Ordinarily, one penalty notice will be issued to a family for each individual child. In the case of a leave of absence (e.g. holiday), there is the potential to increase this and issue a penalty notice to each parent/carer for each individual child because of the financial decisions made by the family.
- 3.4 Penalty Notices should only be issued once in relation to a particular child in any one academic year. If an issue is reoccurring, other sanctions and initiatives should be considered.
- 3.4 The issuing of Penalty Notices may be appropriate in the following circumstances:

### **Poor school attendance**

- At least 10 sessions (5 school days) lost to unauthorised absence within a period of no more than 10 weeks.

### **Lateness**

- In cases where a child persistently arrives at school after the register has closed and has lost ten unauthorised late marks within a period of no more than 10 weeks.

### **Poor school attendance and lateness**

- A combination of reasons which amounts to 10 sessions lost to unauthorised absence within a period of no more than 10 weeks.

### **Leave of Absence**

- A leave of absence of at least 10 consecutive sessions (5 school days) not approved by the head teacher as exceptional. Whilst there are a number of examples available across the country which describe what could constitute exceptional circumstances, school attendance is of such a major priority within Knowsley that it has been agreed a list will not be provided. The one example agreed is of those parents in the military where operational needs may result in personnel having to take leave outside school terms. Even in these circumstances, this will involve contact between school and the relevant Armed Forces unit. In respect of Looked after Children, the local authority will not make a request for a child/young person to take leave of absence during term time. Where a child or young person is voluntarily accommodated, those persons holding Parental Responsibility should be advised of the likelihood of Education Penalty Notices being issued should a leave of absence be requested.
- Where siblings are registered at more than one educational establishment (typically at primary and secondary), there is an expectation that the

headteachers strive to reach a consensus on whether the leave of absence is exceptional. The LA is unlikely to issue an EPN where only one school authorises the absence.

### **Following a Truancy Patrol**

- Penalty Notices will not be issued during a truancy patrol but enquiries will be undertaken with the school for any pupil stopped. In cases where the school records an unauthorised absence, a Warning Letter should be issued by the school.

### **Excluded Children**

- A Penalty Notice may be issued where a child has been excluded from a school, Pupil Referral Unit or alternative provision in the LA area or is a resident of the LA and found in a public place in the LA area during school hours without reasonable justification within the first five days of the exclusion period. Reasonable justification will be assessed on the individual circumstances of each case but may include the medical emergency of the parent or child or a pre-arranged medical appointment.

## **4. Operational Details**

- 4.1 Cases will always proceed in accordance with this Code of Conduct and regard will be given to any guidance published by the Secretary of State. The School Attendance Service will respond to all requests from police or schools for the issue of a Penalty Notice within ten working days.
- 4.2 All Penalty Notices will be served by first class post which will satisfy evidential requirements and will meet Health, Safety and information security requirements. A separate Penalty Notice may in the case of a leave of absence be addressed to each parent and be sent to the recipient at his/her usual or last known address. The notice is deemed to be received on the second working day after posting, unless the contrary is proved.
- 4.3 The formal warning letter sent by schools (Appendix A) should have accompanying guidance which will inform the parent of:
- The record of unauthorised absences giving rise to the formal warning;
  - The Local Authority's power to issue a Penalty Notice and what the notice means;
  - The procedure for withdrawing a Penalty Notice (and that there is no right to appeal);
  - The penalty for a Penalty Notice being £120 reduced to £60 if paid within 21 days of receipt of the Notice. If the penalty is not paid in full by the end of 28 days the LA will prosecute for the offence of non-attendance brought under s444 of the Education Act 1996.
- 4.4 Completion of a checklist (Appendix B) is required from schools requesting an Education Penalty Notice to be issued. All relevant information is required to be supplied in the specified manner. Subject to the criteria being met and it being unlikely to interfere with other intervention strategies in place, an Education Penalty Notice will be issued.

## **5. Procedure for withdrawing Penalty Notices**

- 5.1 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 the Code of Conduct
  - The Penalty Notice is not paid in full within 28 days.
- 5.2 Parents will be informed by letter if an EPN is withdrawn.

## **6. Payment of Penalty Notices**

- 6.1 Arrangements for payment will be detailed on the Penalty Notice.
- 6.2 Payment of a Penalty Notice discharges the parent/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.
- 6.3 Each Penalty Notice carries a charge of £120 which is reduced to £60 if paid within 21 days.
- 6.4 The local authority retains the revenue from Penalty Notices to cover administration costs of the scheme and attendance-related initiatives.

## **7. Non-payment of Penalty Notices**

- 7.1 Non-payment of a Penalty Notice will result in the withdrawal of the Notice and will trigger, where appropriate the instigation of proceedings through the courts under Sec 444 (1) of the 1996 Education Act.

## **8. Policy & Publicity**

- 8.1 All school Attendance Policies should include information on the deployment of Penalty Notices and this will be brought to the attention of all parents.
- 8.2 The local authority will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material and will publish a copy of the Code of Conduct on the Council's School Attendance Service web page.

## **9. Reporting & Review**

- 9.1 The School Attendance Service will report at regular intervals to Knowsley Council, Headteacher Collaborative groups and Merseyside Police on the deployment and outcomes of Penalty Notices.
- 9.2 The School Attendance Service will review the administration of the Penalty Notice Code of Conduct at regular intervals and where appropriate amend the general enforcement strategy.

## Appendix A – Example School Warning Letter

School Letter Headed

Ref:

Date:

Dear Parent/ Guardian,

Re: Education Penalty Notice Warning Letter

XXXXXXX School takes a pupil's absence from school very seriously. If your child fails to attend school regularly you may be guilty of a criminal offence and could be prosecuted. Education Penalty Notices have been introduced under the Anti-Social Behaviour Act 2003 as an additional sanction to address the problem of poor school attendance. They are issued if at least ten sessions (five school days) of unauthorised absence (including lateness after the register is closed) are recorded in a ten week period.

*Option 1 - Non-consecutive unauthorised absence*

*You have been sent this warning letter because your child XXXX has recently recorded some unauthorised absences. If your child has further unauthorised absences, a Penalty Notice may be issued. A printout and leaflet is enclosed for your information.*

*Option 2 – Requested leave of absence*

*You have been sent this warning letter because of a requested leave of absence for your child XXXX for the period x to x, which I have unfortunately been unable to grant. Following guidance from the Department of Education, I am only able to authorise leave in exceptional circumstances. A printout and leaflet is enclosed for your information.*

*Option 3 – Unrequested leave of absence*

*You have been sent this warning letter because of an unrequested leave of absence for your child XXXX for the period x to x. A printout and leaflet is enclosed for your information.*

*Option 4 – Consecutive unauthorised absence*

*You have been sent this warning letter because of a current absence which has been reported as an illness. If there are at least ten consecutive sessions (five school days) missed due to this illness, appropriate medical evidence obtained during the period of absence will be required to ensure it remains authorised. A printout and leaflet is enclosed for your information.*

If you are issued with an Education Penalty Notice from the Local Authority, you will be required to pay a fine of £120, reduced to £60 if paid within 21 days of the date of the Notice. If issued, there is no right of appeal. Payment for the notice will discharge your liability for the irregular attendance of your child. If payment is not received, you may be prosecuted.

Support and guidance is available or if you have any questions about this letter, please contact XXX.

Yours sincerely

**Appendix B – Checklist**

**Request for Knowsley Council to issue an Education Penalty Notice (EPN)**  
(PLEASE USE CAPITALS)

Name of School: .....

Pupil: ..... DOB:.....1 of .... related requests

Parent/Carer 1:.....Parent/Carer 2:.....

Address: ..... Postcode: .....

School-age siblings known elsewhere (Name/School).....

Period of Absence to be issued for (no more than 10 weeks): .....

Date Warning Letter issued: .....

Reasons given for absence e.g. leave of absence (holiday)/family issues/illness/bereavement/family occasion/punctuality/comboination/no reasons:  
.....  
.....  
.....  
.....

Relevant information held by school e.g. background/written or verbal discussions between parent and school/agency involvement/second address if relevant:  
.....  
.....  
.....

**Checklist:**

- Up to date Registration Certificate including period of unauthorised absence relating to EPN
- Copy of Warning Letter
- Copy of Application for Leave of Absence (if applicable)
- Parents/Carers/ Legal Guardians Full Names (be aware surname may differ)
- Current Address where pupil resides as main address above
- Copy of SIMS commentary sheet(if applicable)

EPN Request made by Head Teacher's nominated representative:

Name: ..... Designation: .....

Dated: .....

Please send to: School Attendance Service, Knowsley Metropolitan Borough Council, PO Box 21, Archway Road, Huyton, Merseyside, L36 9YU