

DURHAM LOCAL AUTHORITY

**PENALTY NOTICES FOR
TRUANCY**

PROTOCOL



Penalty Notices for Truancy Protocol

1. Legal Basis

Section 23 of the Anti-Social Behaviour Act 2003 empowers designated LA Officers, Head Teachers (and Deputy and Assistant Heads authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

The Education (Penalty Notices) (England) Regulations 2004 came into force on 27 February 2004.

The issuing of Penalty Notices must conform with all requirements of the Human Rights Act and all Equal Opportunities legislation.

The LA has the prime responsibility for developing the protocol within which all partners named in the Act will operate.

2. Rationale

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

In law an offence occurs if a parent/carer fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under Section 444, Education Act 1996 or Section 36, the Children's Act 1989 to enforce attendance at school where appropriate.

The Attendance Improvement Team delivers this LA responsibility.

Parents and pupils are supported at school and LA level 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 presenting problem.

Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

3. Circumstances where a Penalty Notice may be Issued

A Penalty Notice may only be issued in cases of unauthorised absence. The issue of a Penalty Notice may be considered appropriate in any of the following circumstances:

- In cases of overt truancy (including pupils caught on truancy sweeps).

- In cases of parentally-condoned absence, where this can be demonstrated. This may include instances of children stopped on truancy sweeps whilst accompanied by their parents.
- In instances of unauthorised leave of absence in term-time (where the leave gives rise to 7 days or more unauthorised absence in a minimum 12 rolling school week period).
- In instances of excessive delayed return from a leave of absence, without prior school agreement.
- In cases of persistent late arrival at school after the register has closed.
- To assist Key Stage 4 pupils to re-engage in the final term.
- In connection with the attendance enforcement procedures.

To ensure consistent and fair delivery of Penalty Notices, the following criteria for their use shall apply:

- The pupil concerned must have lost 7 school days or more due to unauthorised absence in any minimum 12 rolling school week period.
- Each liable parent/carer shall receive a formal warning from the Local Authority of the possibility of a Penalty Notice being issued, and shall be given a maximum of 15 school days to effect an improvement. In the event of a further referral in the same rolling year a Penalty Notice may be issued with immediate effect.
- The preceding paragraph will not apply in cases of where a leave of absence (or other parentally condoned absence) is taken in term-time without or against school permission, and it can be shown that the parent/carer understood that permission had not or would not be given, and where the leave of absence has given rise to a period of 14 sessions (7 school days) or more of unauthorised absence in a minimum 12 rolling school weeks. Further information on this topic can be found in the Local Authority's 'Term Time Leave of Absence' guidance document.
- Schools and agencies must consider every aspect of a pupil's case, including the involvement of other professionals, before judging whether or not to refer to the LA to issue a Penalty Notice. This must include discussions with the staff who have knowledge of or involvement with the family.
- If a request to issue a Penalty Notice is received from a school or other relevant agency and it refers to a child in public care then the LA will discuss the request with the Corporate Director of Children and Young People's Services prior to deciding, whether to proceed with the request.
- There shall be no restriction on the number of times a parent / parents may be issued with formal warning of a possible Penalty Notice.

- Where families contain more than one poorly-attending pupil, multiple notices may be issued, however the appropriateness of such a measure will be subject to careful consideration and co-ordination in such circumstances.

4. **Procedure for Issuing Penalty Notices**

The Local Authority will issue Penalty Notices in County Durham.

Penalty Notices will only be issued by post and never as an on the spot action; this is to satisfy that all evidential requirements are in place and to meet Health and Safety requirements.

The Local Authority will receive requests to issue Penalty Notices from schools and other relevant agencies. These requests will be actioned provided that:

- all relevant information is supplied in the specified manner;
- the circumstances of the pupil's absence meets all the requirements of this protocol;
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed, and is considered an appropriate means of dealing with the original offence of failure to cause child to attend school regularly between certain dates (see paragraphs below).

Guidance contained within the Code for Crown Prosecutors states out of court disposals (such as Fixed Penalty Notices) should only be offered where the disposal is a 'proportionate response' to the seriousness and consequences of the offence. In this case, the offence being that the parent did 'fail to cause their child to attend regularly at school, by reason of absence' between certain dates.

Where the Local Authority receives a request for the issuing of a Penalty Notice, it is the referrers responsibility to ensure that other possible enforcement measures have been considered in relation to the offence, including an Education Supervision Order, and are thus satisfied that the issuing of a Fixed Penalty Notice is appropriate taking into account the circumstances outlined in part 3 of this guidance. Further guidance can be sought via Attendance Improvement Officers on 03000 265650.

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

- issue a formal written warning to each parent/carer of the possibility of a Penalty Notice being issued (for first offences only);
- in the same letter set a period of 15 school days within which the pupil must have no unauthorised absence.

- issue a Penalty Notice through the post at the end of the 15 day period if the required level of improvement has not been achieved.

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.
- After investigation of the circumstances, school has authorised absences.
- The use of the Penalty Notice did not conform to the terms of this Protocol.

6. Payment of Penalty Notices

Arrangements for payment will be detailed on the Penalty Notice.

Payment of a Penalty Notice discharges the parent/carer 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 payable on issue of a Penalty Notice is £60 if paid within 21 days of receipt of the Notice, rising to £120 if paid after 21 days but within 28 days of receipt of the Notice (a Notice served by post is deemed to have been received on the second day after posting it by first class post). Notices are issued to each person(s) responsible for the offence(s).

The Local Authority retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

7. Non-Payment of Penalty Notices

Non-payment of a Penalty Notice will trigger a prosecution for the original offence to which the notice relates (failure to cause child to attend school regularly) under the provisions of Section 444, Education Act 1996 or will result in withdrawal of the Notice if it is found the circumstances mentioned in Paragraph 5 apply.

Potential witnesses in contested prosecution matters (not guilty plea by parents) need to be aware that they may be called to give evidence in the Magistrate's court.

8. **Policy and Publicity**

Deployment of Penalty Notices as a sanction is included in the relevant Local Authority documentation.

All school attendance policies should include information on the deployment of Penalty Notices and this should be brought to the attention of all parents.

To assist with this the Local Authority will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material.

9. **Reporting and Review**

The Local Authority will report at regular intervals to Head Teachers, Police and Community Safety Partnerships on the deployment and outcomes of Penalty Notices.

Local Authority reports on attendance matters will include Penalty Notice use.

The Local Authority will review the use of Penalty Notices at regular intervals and amend the general enforcement strategy as appropriate.

Attendance Improvement Referrals – Thresholds Guidance

Enforcement Measure	Trigger 1	Trigger 2
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FPN Route: Low level offences, specific instances of poor attendance

Fixed Penalty Notice Warning	14 Sessions unauthorised absence in a minimum 12 rolling school weeks.	
Fixed Penalty Notice	Any further unauthorised absences in the 3 school weeks following the FPN warning.	14 Sessions unauthorised leave of absence in term time or any other parentally condoned absence (where this can be evidenced) in a minimum 12 rolling school weeks trigger FPN without prior warning.

General Enforcement Route

Formal Warning	<p>10 Sessions of ANY unauthorised absence in a minimum 12 rolling school weeks.</p> <p>Please note – the UA could be due to any type of unauthorised absence including G marks, O marks, U marks.</p>	
Formal Interview	14 Sessions unauthorised absence with attendance below 90% in offence period (i.e.at least a further 4 sessions of UA following the warning).	

Referral for Statutory Attendance Enforcement Action

ait@durham.gov.uk

Name of referrer	Click or tap here to enter text.	Job Title	Click or tap here to enter text.
School	Click or tap here to enter text.	Date	Click or tap to enter a date.

Child	Click or tap here to enter text.	DoB DD/MM/YYYY	
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Parent 1	Click or tap here to enter text.	Parent 2	Click or tap here to enter text.
DoB DD/MM/YYYY	Click or tap here to enter text.	DoB DD/MM/YYYY	Click or tap here to enter text.
Relationship to child	Choose an item.	Relationship to child	Choose an item.
Address	Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text.	Address	Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text.
Child lives with parent	Yes <input type="checkbox"/> No <input type="checkbox"/>	Child lives with parent	Yes <input type="checkbox"/> No <input type="checkbox"/>

Open case	Choose an item.	Comments CP/CIN/YC	Choose an item.
Worker / LP	Click or tap here to enter text.	Risk? Details	Click or tap here to enter text.
Open TAF	Yes <input type="checkbox"/> No <input type="checkbox"/>		

Interventions tried by school / agencies (please choose from drop downs and inset dates)			
Choose an item.	Click or tap to enter a date.	Click or tap to enter a date.	Click or tap to enter a date.
Choose an item.	Click or tap to enter a date.	Click or tap to enter a date.	Click or tap to enter a date.
Choose an item.	Click or tap to enter a date.	Click or tap to enter a date.	Click or tap to enter a date.
Planning Meeting Held (Date)	Click or tap to enter a date.		
Attended by	Choose an item.	Choose an item.	Choose an item.
Other interventions tried	Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text. Click or tap here to enter text.		

Please attach evidence pieces – registration certificate, APM minutes & contract, SIMS log, LOA application & not approved letter, last TAF minutes etc

Enforcement Action Requested	Choose an item.
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FOR OFFICE USE ONLY

Checks	Choose an item.	Proceed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Offence from	Click or tap to enter a date.	Offence to	Click or tap to enter a date.

Click or tap here to enter text.

