



School attendance Code of Conduct



Updated January 2018



Legislation

Section 23 of the Antisocial Behaviour Act 2003 introduced new powers for designated Local Education Officers, Headteachers (and deputy or assistant headteachers authorised by them) and the Police to issue penalty notices for unauthorised absence from school.

The Education (Penalty notices) (England) Regulations 2004 came into force on 27 February 2004. These were updated with The Education (Penalty notices) (England) Regulations 2007.

Penalty notices must be issued in a manner that conforms to all requirements of the Human Rights Act and all Equal Opportunities legislation.

For the purposes of the protocol, the legal definitions of 'parent' are:

- Any natural parent, whether married or not.
- Any parent who, although not a natural parent, has parental responsibility as defined in the Children Act (1989) for a child or young person.
- Any person who, although not a natural parent, has care of a child or young person.

If a penalty notice remains unpaid:

Prosecutors must take into account the '**Code for Crown Prosecutors**' that sets out a two-stage test that prosecutors should follow when they make decisions on cases:

Is there enough evidence against the defendant?

When deciding whether there is enough evidence to charge, prosecutors must consider whether evidence can be used in court and is reliable. Prosecutors must be satisfied there is enough evidence to provide a 'realistic prospect of conviction' against each defendant.

Is it in the public interest for the CPS to bring the case to court?

A prosecution will usually take place unless the prosecutor is sure that the public interest factors tending against prosecution outweigh those tending in favour.



Rationale

Regular and punctual attendance at school is a legal requirement under Section 444 of the Education Act 1996. It is essential that parents maximise the educational opportunities available for their children and provide the best possible start in life.

Under previous legislation, parents of a registered pupil whose child failed to attend school regularly and whose absence was unauthorised, committed an offence for which prosecution was the only available sanction. With the Education (Penalty notices) Regulations 2007, penalty notices were introduced as an early intervention strategy as an alternative to the previous sanction by allowing parents an opportunity to discharge potential liability for conviction for the offence. From 1 September 2013 the fine is £60 to be paid within 21 days and increased to £120 to be paid within 28 days. If the penalty remains unpaid by the end of 28 days, the Local Authority must consider the commencement of proceedings for the offence to which the notice relates. The prosecution is not for the non-payment of the notice but is for failure to ensure regular attendance at school.

Penalty notices should be used as an early deterrent to prevent patterns of unauthorised absence developing and to supplement rather than replace the use of the wider powers already available. As with current legislative action, they are to be used for the enforcement of attendance and not for use as a punishment for absence.

Tameside Local Authority authorises the issue of all penalty notices. Where if parents fail to follow advice given by the school or where co-operation is absent or insufficient to bring about necessary improvement.

Penalty notices should be used where a parent is capable of securing an improvement in their child's school attendance but is unwilling to do so.

They can only be used for periods of unauthorised absence and the defences in law replicate those already in place for enforcement actions under the provisions of Section 444 of the Education Act 1996.

A separate penalty notice will be issued to each parent for every child who is not attending school. For each child, there should be an advisory letter issued to each parent during an academic year. All penalty notices will be issued by first-class post.



Advisory letters to parents

The Generic Letter (Appendix 1) should be communicated at least annually to the parents of all pupils in the schools.

Schools are expected to monitor the attendance of all pupils on their roll. When a pupil's attendance is a cause for concern, the school should follow their internal monitoring procedures and advise each responsible parent of the unauthorised absence and that their child's attendance is being monitored. The parent should normally also be advised that statutory action may be considered.

Any such advice should be given in writing and prior to sending such a letter, the school should:

- consider the attendance record of any other siblings, including siblings from other schools of statutory school age
- consider whether the process conflicts with other intervention strategies in place by the Local Authority or other agencies.

It is important that any school actions are accurately recorded on the pupil's file. This will aid completion



of the Penalty Notice or Penalty Notice Warning request form (Appendix 2) and may be used to provide evidence to the courts at a later date.

Leave of absence in term-time

The Education (Pupil Registration) (England) Regulations 2006, amended in 2013, confirm that schools cannot grant term time leave of absence unless:

- (a) an application has been made in advance by a parent with whom the pupil normally resides; and
- (b) the proprietor of the school, or a person authorised by the proprietor considers that leave of absence should be granted due to the exceptional circumstances relating to that application.

Term time leave of absence is not a parental right and the DfE recommend policies that neither ban all leave of absence in term-time nor bestow a right to all families.

Where a school has refused to authorise leave of absence, they must inform the parents in writing that the request has been refused and the possibility of statutory action being taken. Where permission has not been requested, and the school can demonstrate parents were aware via other forms of communication, such as attendance policies, newsletters or whole school letters sent to parents, then a Penalty Notice may be considered.

It is good practice that relevant schools communicate closely with each other before decisions are made for leave of absence during term-time.

The Local Authority will use its discretion before authorising the issue of penalty notices where there appear to be valid reasons to authorise a period of absence for one child and not another.

Persistent late arrival at school

When a pupil persistently arrives late, schools should investigate the reason for this and offer support where appropriate to rectify the situation. Where the arrival time is after the close of the registration period (Guidance for Schools and Local Authorities Absence and Attendance Codes state the register of pupils should close 30 minutes after the register was taken) the code U should be recorded. This unauthorised absence can be considered when requesting a Penalty Notice or a Penalty Notice Warning.



Issuing Penalty Notices

A Penalty Notice may be issued following a Penalty Notice Warning:

- Where unauthorised absence of a minimum of ten sessions (5 days) occur over a period of twelve weeks or a term, the Local Education Authority may send a Penalty Notice Warning Letter (Appendix 3) to each responsible parent. If further unauthorised absence occurs following a monitoring period (of not less than 15 school days) the Local Authority may then issue a Penalty Notice. (Appendix 4)
- Where a pupil is stopped on a truancy sweep and there is not a valid reason for the absence from school, the Local Authority may send a Penalty Notice Warning to each responsible parent. If further unauthorised absence occurs following a monitoring period (of not less than 15 school days) the Local Authority may then issue a Penalty Notice. The Local Authority will consult with the school where the pupil is registered to agree this action.

A Penalty Notice may be issued without a Penalty Notice Warning:

- Where the unauthorised absence of a minimum of ten sessions occurs on consecutive days or is due to an unauthorised holiday, then the Local Education Authority may issue a penalty notice without sending a Penalty Notice Warning.

Tameside Local Authority will consider requests to issue Penalty Notices or Penalty Notice warnings from Tameside schools only if:

- A Penalty Notice Request form (Appendix 2) is completed with all the necessary information and the supporting relevant documentation is provided.
- The period of absence is not being considered for proceedings according to Section 444 (1) or (1A) of the Education Act 1996.
- The issue of a penalty notice does not conflict with other intervention strategies in place by the Local Authority or by other agencies where the circumstances are known to the Local Authority.



To ensure consistent delivery of Penalty Notices and Penalty Notice Warnings, the request form (Appendix 2) will require completion by the school and the following documentation provided:

Request for a Penalty Notice:

- A copy of the pupil's up-to-date attendance record showing at least 10 sessions of unauthorised absence marked with the G code, signed by the Headteacher with the statement, 'This is a true and accurate record of (pupil's name) attendance'.
- A copy of the letter requesting leave of absence from the parent.
- A copy of the decline letter from the school.

NB where no application was received, the school must provide any relevant details.

Request for a Penalty Notice Warning:

- A copy of the pupil's up-to-date attendance record showing at least 10 sessions of unauthorised absence, signed by the Headteacher with the statement, 'This is a true and accurate record of (pupil's name) attendance'.
- A chronology of intervention; i.e. details of meetings and phone calls with the parent(s).
- Copies of any letters sent to the parent(s).

Considering Penalty Notice requests:

The Local Authority will consider each request and may deem it appropriate to take one of the following actions:

- Advise schools to refer to supporting agencies.
- Advise schools to monitor for a further period.
- Issue a Penalty Notice or Penalty Notice Warning.
- Advise the school to instigate legal proceedings.



Payment of penalty notices

The payment of a penalty notice will be £60 if paid within 21 days, increasing to £120 to be paid within 28 days.

Non-payment of penalty notices

If payment is not received within 28 days, the Local Authority will consider prosecution for the unauthorised absence to which the penalty notice relates.

Non-payment of a penalty notice may result in legal action being taken by the Local Authority. These actions will be considered where a significant improvement of school attendance is not apparent.

The instigation of legal proceedings for unauthorised absence from school under Section 444 (1) of the Education Act 1996 may also be considered where it is deemed to be appropriate.

In these circumstances, the school is required to provide the Local Authority with a signed school attendance record and a witness statement to be used as evidence in the prosecution.

The Local Authority may also undertake a Police and Criminal Evidence Act (PACE) caution interview prior to a decision to prosecute being made.

Procedure for withdrawal

Once a penalty notice has been issued, it can only be withdrawn in the following circumstances:

- It has been established that the notice was issued in error.
- The circumstances of the absence do not comply with the conditions of Tameside Metropolitan Borough Council's code of conduct and the Education (Penalty Notices) (England) Regulations 2007.
- The parent/carer provides evidence that would constitute a statutory defence.



School and Local Authority policy documents

All schools should include clear reference to the Local Authority School Attendance Code of Conduct in their attendance policies and this should be brought to the attention of all parents through prospectus material and in the general advice letter at Appendix 1 sent to parents at the beginning of the academic year. Where early patterns of unauthorised absence are occurring, the sending of advisory letters is an action that schools should normally undertake .

Monitoring and review

The Local Authority will monitor and evaluate the outcomes of penalty notices in terms of improvement in school attendance, payment and any subsequent legal action. The use of the notices will be reviewed at regular intervals and the enforcement strategy of the Local Authority may be amended accordingly.

Service reports include data on the deployment and outcomes of their use.



Appendix 1

School Letterhead

Dear Parent,

Penalty Notices for Non- school attendance – Information Letter

Section 444(A) of the Education Act 1996 empowers the local authority to issue Penalty Notices in cases of unauthorised absence from school. This means that when a pupil has unauthorised absence of 10 sessions (5 days) or more, in a 12 week period (where no acceptable reason has been given for the absence) or if their child persistently arrives late for school after the close of registration, their parents may receive a Penalty Notice of £120, which is reduced to £60 if paid within 21 days. The Penalty Notice will need to be paid in full before 28 days of the notice being served. Failure to pay a Penalty Notice may result in prosecution (a separate penalty notice may be issued to each parent for each child).

In law, an offence is committed if a parent fails to ensure their child's regular attendance at school. Tameside Education Welfare Officers, in conjunction with schools and Greater Manchester Police, will use this as a financial deterrent to prevent patterns of unauthorised absence to develop.

Parents may also receive a Penalty Notice without a warning letter for the offence of failing to secure regular school attendance under the following circumstances:

- The child is stopped on a truancy sweep
- Where the unauthorised absence of a minimum of 10 sessions occurs on consecutive days

The Education and Inspections Act 2006 also makes it an offence if a parent fails to ensure that their child is not in a public place during the first 5 days of a fixed term or permanent exclusion. Penalty Notices may be issued for such an offence.

The Local Authority and schools are committed to providing the best possible future for your child. If you have concerns about your child's attendance at school or if you are experiencing any difficulties, please contact your school and ask for help.

Yours sincerely

Head Teacher

Appendix 2



The Education (Penalty Notices) (England) Regulations 2004

The information on this form will be used in the consideration of issuing a Penalty Notice or Warning for Unauthorised Absence in term time under the above Act relating to unauthorised absence of a registered pupil at the School / College / Academy.

Name of pupil: Date of Birth: Year Group:

Registered Pupil at: School/College/Academy?

Number of Unauthorised absences: (minimum of 10 sessions/5 school days)

Between the dates of: and Current Attendance: %

I am applying for a **Penalty Notice/Penalty Notice Warning** to be issued to:-

Title	Full name	Address	Post Code	d.o.b (if known)

Siblings: (Please consult with other schools where relevant regarding)

Name	DOB	School	Attendance

Family background, school, other agency involvement: LAC, CP, mental health, anti-social behaviour etc.

Status - SEN/School Action Plus etc.

We are applying for:

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SAMPLE

Appendix 2

Appendix 2

Penalty Notice Warning

Please provide:

- Chronology of intervention
- Date of meeting/s or phone call/s with parent
- Copies of any relevant letters sent from school

Penalty Notice for 10 sessions or more of consecutive absence

Please provide:

- Copy of the application for leave of Absence if the parent requested this
- A copy of the Headteacher's letter declining the leave of absence
- If no application was received, please provide details in box below

All Applications must include an Attendance Certificate signed by the Headteacher with the declaration, 'This is a true and accurate record of (pupil's name) attendance'.

Any other relevant information which may be mitigation in court:

Has the family previously had a Penalty Notice? Yes/No?

Declaration: The information provided is true to the best of our knowledge and belief. I/we may be required to appear in court to defend the parent and attend court.

Headteacher: _____ Date: _____

Attendance Leader: _____ Date: _____

Please send form fully completed and attach all relevant paperwork to:

Education Welfare Service
Shirley House
5 Oldham Street
Hyde
Tameside
SK14 1LJ

educationwelfare referrals@tameside.gov.uk

Applications will not be considered without all the appropriate information



Appendix 3



School Attendance Warning

Section 4441 Education Act 1996 (as amended)

If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996.

PRIVATE AND CONFIDENTIAL

«Parents_Name»
«Address_1»
«Address_2»
«Address_3»
«Post_code»

Registered Pupil: «Childs_Name_»
D.O.B. «DOB»
School: «School»
Date of Issue: «Date_Sent_Out»

TAKE NOTICE that you have failed to cause your child to attend school regularly.

Your child, who is a registered pupil of compulsory school age, has had 10 or more absences within 12 school weeks or a term, which are unauthorised at school. You have therefore rendered yourself liable to a Penalty Notice under the provisions of the Education (Penalty Notices) (England) Regulations 2001.

This warning is issued in the hope that you will be necessary to take further steps to ensure your child's regular attendance.

Should there be no improvement in your child's attendance, you may be issued with a Penalty Notice.

Note: The amount of the fine is £60 if paid within 21 days, increasing to £120 to be paid within 28 days. Failure to pay this fine may result in prosecution for the offence and is subject to a fine of up to £1000.

Your child's attendance will be closely monitored for a period of not less than 15 school days and any further unauthorised absences will be reported to Tameside Education Welfare Department

If you require further details about this notice, email: educationwelfare referrals@tameside.gov.uk or write to the address below.

Education Welfare
Shirley House
5 Oldham Street
Hyde
Cheshire
SK14 1LJ
**Please Note: NO PUBLIC ACCESS;
CORRESPONDANCE ADDRESS ONLY**



Appendix 4



Penalty Notice

Section 444(1) Education Act 1996

If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996.

PRIVATE AND CONFIDENTIAL

Reference Number: xxxxxxxxxx
Registered Pupil:
Date of Birth:
School:
Period of Offence:
Date of Issue:

YOU MUST NOT IGNORE THIS NOTICE

Between _____ to _____ in the Borough of Tameside you were the parent of _____

who was of compulsory school age and a registered pupil at _____ who failed to attend regularly at that school contrary to section 444(1) of the Education Act 1996.

1. In Education Law any person who although not a natural parent, has care of a child or young person is liable to receive a penalty notice. A separate penalty notice may be issued to each parent or carer.
2. The payment of the penalty notice is £60 if paid within 21 days, increasing to £120 if not paid within 28 days.
3. This notice gives you the opportunity to pay a penalty fine instantly and avoid prosecution for the offence above.
4. Failure to pay this fine may result in prosecution for the offence above but you will not be liable for a fine of £120.
5. Payment must be made in full; part payments or no payment at all will not be accepted.
6. Payment of this penalty will discharge your liability and no further action will be taken against you in connection with the offence.
7. There is no statutory right of appeal against a penalty notice.
8. If you require further information about this notice please email educationwelfare referrals@tameside.gov.uk or write to the address below.

SAMPLE

Payment of £60 must be received by (21 days)
If payment is not received by this date, the amount due will increase to £120 and must be Paid by (28 days)

Instructions for payment

ONLINE
Payment can be made online using most Credit/Debit Cards at:
www.tameside.gov.uk/fpn
Quote your Reference Number:
XXXXXXXXXX

BY POST
Cheque or Postal Orders should be crossed 'A/C payee' and made payable to 'Tameside MBC'.
Write the Penalty Notice number, your name and address on the reverse and send to:
**Education Welfare
Shirley House
5 Oldham Street
Hyde
Cheshire
SK14 1LJ**
**Please Note: NO PUBLIC ACCESS;
CORRESPONDANCE ADDRESS ONLY**
Please allow 2 working days for 1st class and 5 working days for 2nd class post.



Appendix 5



REMINDER

Section 444(1) Education Act 1996

You have been previously issued a penalty notice in relation to your child's school attendance

If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996

PRIVATE AND CONFIDENTIAL
«Title» «Forename» «Surname»
«Property» «Street»
«Town»
«County»
«Postcode»

Reference Number: «Reference_Number»
Registered Pupil: «Value_I»
Date of Birth: «Value_IV»
School: «Value_II»
Period of Offence: «Value_III»
Date: 02 October 2017

The first penalty notice date has now passed and the payment is at the higher rate of £120.

Payment of a Penalty Notice discharges the parent or carer of liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.

If you require further details about this notice, email: educationwelfare@tameside.gov.uk or call 0161 342 2297

Failure to make the payment by the first date of payment

will result in the parent or carer being liable for the full amount of the penalty notice.

[Instructions for payment](#)

Payment can be made online using
Credit/Debit Cards at:

www.tameside.gov.uk/fpn

Quote your Reference Number:
«Reference_Number»

BY POST

Cheque or Postal Orders should be crossed 'A/C payee' and made payable to 'Tameside MBC'. Write the Penalty Notice number, your name and address on the reverse and send to:

Education Welfare
Shirley House
5 Oldham Street
Hyde
Cheshire
SK14 1LJ

**Please Note: NO PUBLIC ACCESS;
CORRESPONDANCE ADDRESS ONLY**
Please allow 2 working days for 1st class and 5 working days for 2nd class post.

