

Penalty Notice Protocol

1. Legal Basis:

Section 23 of the Anti Social Behaviour Act 2003 empowers designated LEA officers, Headteachers (& Deputy and Assistant Headteacher's 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.

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

2. Purpose:

Bradford Council recognises that regular school attendance plays a crucial role in raising educational standards for children and young people and in turn contributing to the broader social inclusion agenda.

The law states that the parent of every child of compulsory school age must ensure their child receives efficient, full-time and suitable education. Under the Education Act 1996 a parent may be prosecuted if they fail to ensure their child attends regularly.

Fixed penalty notices supplement the existing sanctions currently available to Bradford Council to enforce attendance at school where appropriate.

The Education Social Work Service is responsible for fulfilling Bradford Council's statutory responsibilities to promote and enforce school attendance. The Service works in partnership with schools to support parents and pupils and to overcome barriers to securing good attendance.

The use of sanctions is only considered appropriate when there is reasonable expectation that their use will secure improvement.

3. Circumstances where a Penalty Notice may be issued:

A Penalty Notice can only be issued in cases of **unauthorised** absence.

Use of Penalty Notices will be restricted to one per pupil per academic year.

In cases where families contain more than one poor-attending pupil, multiple issue may occur but this will be the subject of careful consideration and co-ordination.

There will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Penalty Notice.

The issuing of a Penalty Notice is considered appropriate in the following circumstances:

- overt truancy (including pupils caught on truancy sweeps),
- parentally-condoned absences,
- unauthorised holidays in term-time,
- excessive delayed return from authorised holidays without prior school agreement,
- persistent late arrival at school (after the Register has closed),

To ensure consistent delivery of Penalty Notices the following criteria will apply:

- at least 10 sessions (5 school days) lost to unauthorised absence by the pupil in a 6 week period.
- other than in specific circumstances* the liable parent/carer will receive a formal warning of the possibility of a Penalty Notice being issued and given a maximum of 20 school days to effect an improvement. An attendance target will be issued with the formal warning.
** the deliberate taking of a holiday in term time without / against school permission (where it can be clearly demonstrated that the parent/carer understood that permission had not/would not be given) and where this has created a period of unauthorised absence in the current term of at least 10 sessions.*

Consultation between a school and the relevant officer from the Education Social Work Service should take place before considering whether a Penalty Notice would be appropriate in order to ensure that all cases are consistent with the agreed criteria.

4. Procedure for issuing Penalty Notices:

The Principal Education Social Worker will issue Penalty Notices in Bradford.

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

The Principal Education Social Worker will receive requests to issue Penalty Notices from schools, West Yorkshire Police and neighbouring LEAs. 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.

The Principal Education Social Worker will respond to all requests within 10 school days of receipt and where all criteria are met will:

- issue a formal written warning to the parent/carer of the possibility of a Penalty Notice being issued,
- in the same letter set a period of 20 school days within which the pupil must attain the specified target,
- issue a Penalty Notice through the post at the end of the 20 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,
- 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.

From 1 September 2013, payment of a Penalty Notice within 21 days is £60 and payment after this time but within 28 days is £120.

The LEA 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 result in the withdrawal of the Notice and will trigger the fast-track prosecution process under the provisions of Sec 444, 1996 Education Act.

8. Policy and Publicity

All schools will be required to amend existing Attendance Policies to include information on the deployment of fixed penalties.

9. Reporting and Review

The Principal Education Social Worker will report at regular intervals to the Headteacher Associations, West Yorkshire Police and other relevant partners on the deployment and outcomes of Penalty Notices.

The Principal Education Social Worker will ensure a regular report will be made available to the EPP on attendance matters to include Penalty Notice use.

The Principal Education Social Worker will review Penalty Notice use at regular intervals.