

ROCHDALE EDUCATION WELFARE SERVICE

Penalty Notice Protocol

1. Rationale:

- 1.1. 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 s/he is a registered pupil and that absence is not authorised by the school.
- 1.2. The use of Penalty Notices supplement the existing sanctions available under Section 444 of the Education Act 1996 and Section 36 of the Children Act 1989 to enforce attendance at school.
- 1.3. The Education Welfare Service delivers this Local Authority responsibility.
- 1.4. Parents and pupils are supported at school and Local Authority 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.

2. Legal Basis:

- 2.1. Section 23 of the Anti Social Behaviour Act 2003 empowers designated Local Authority Officers, Head Teachers (& Deputy and Assistant Head Teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.
- 2.2. The Education (Penalty Notices) (England) Regulations 2004 came into force on 27th February 2004.
- 2.3. The issuing of Penalty Notices must conform to all requirements of the Human Rights Act and all Equal Opportunities legislation.
- 2.4. The Local Authority has prime responsibility for developing the protocol within which all partners named in the Act will operate.

3. Circumstances where a Penalty Notice may be issued:

- 3.1 A Penalty Notice can only be issued in cases of **unauthorised** absence. Requests to the Local Authority to issue Penalty Notices can only be accepted where guidance on the marking and maintaining of registers is followed. This guidance - The Education (Pupil

Registration) (England) Amendment) Regulations 2011 can be found at: <http://www.legislation.gov.uk/ukxi/2011/1625/contents/made>.

- 3.2. Use of a Penalty Notice will be restricted to one per pupil per parent per term. In cases where families contain more than one poor-attending pupil, multiple issues may occur but this will be the subject of careful consideration and co-ordination. Alternative methods of addressing the non school attendance might be more suitable such as an Early Help Assessment.
- 3.3 There will be no restrictions on the number of times a parent/carer may receive formal warnings in advance of the possible issue of Penalty Notices.
- 3.4 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 an agreed/ authorised holidays without prior agreement from school.
 - Persistent late arrival at school (after the register has officially closed)

This is not an exhaustive list. Each case will be considered individually.

4. Types of Penalty Notices.

- 4.1 Unauthorised Absences Penalty Notices are issued if a minimum of 20 sessions (10 school days) lost to unauthorised absence by the pupil during the current term or within any 12 week period.
It is good practice to issue a formal warning and/or to allow the parents a specified period, usually 15 school days, to effect an improvement.
- 4.2 Penalty Notice for Unauthorised Leave during Term Time are issued if a pupil is absent for a minimum of 10 sessions (5 school days) for an absence relating to leave during the term time within any 6 week period.
Penalty Notice for Unauthorised Leave during Term Time will be issued without the issue of a warning if a pupil is absent for a period not agreed or authorised by the Head teacher.
- 4.3 Exclusions Penalty Notices are issued if a child of compulsory school age who is a registered pupil at a school and is excluded from that school, either for a fixed period or permanently, his/her parent/carer is guilty of an offence under Section 103 of the Education And Inspections Act 2006 - If that child is present in a public place during school hours without reasonable justification during the first five days of each and every fixed period or permanent exclusion.

The parent must have been notified by the school at the time of the exclusion of their duty and the days it relates to.

5. Procedure for issuing Penalty Notices

- 5.1 The Education Welfare Service may issue Penalty Notices on behalf of Rochdale Local Authority. This will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions.
- 5.2 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.
- 5.3 The Education Welfare Service will receive requests to issue Penalty Notices from schools and from the Police. These requests will be considered individually and against the following:
 - All relevant information is supplied in the specified manner,
 - The circumstances of the pupil's absence meet all the requirements of this Protocol.
 - Family circumstances/ability to pay is set against the likelihood of securing an improved attendance by issuing a Penalty Notice (this to include any cases of possible multiple issue to any one family).
 - The issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.
 - Referral for penalty notices for leave during term time will be considered for absences relating to the holiday taken in the current term or within the last 6 weeks.
- 5.4 The Education Welfare Service will respond to all requests within 10 school days and will:
 - Issue a formal written warning to the parent(s) on behalf of the referrer outlining the details of the offence and advising that a Penalty Notice may be issued if the referral for a fine relates to unauthorised absences. In the same letter, set a period of time, usually 15 school days, within which the pupil must have no further unauthorised absence if the issue of the Penalty Notice is to be averted
 - Issue a Penalty Notice through the post at the end of the prescribed period if the required level of improvement has not been achieved.
 - If the referral is for unauthorised leave during term time, the Local Authority will issue the fine without the issue of a warning, subject to the matter meeting the referral criteria.
- 5.5 Where the request to issue a Penalty Notice does not meet the defined criteria of the Protocol or is, in any respect considered to be inappropriate, the Education Welfare Service will:

- Advise the person making the request and provide an explanation for the decision not to issue a Penalty Notice
- Consider, recommend and/or implement alternative strategies that may be more appropriate

6. Procedure for the withdrawal of Penalty Notices:

- 6.1 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 this Protocol
 - The Penalty Notice is not paid in full within 28 days and subsequent checks indicate that no offence has been committed

7. Payment of Penalty Notices:

- 7.1 Arrangements for payment will be detailed on the Penalty Notice.
- 7.2 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.
- 7.3 Payment of a Penalty Notice within 21 days is £60 and payment after this time but within 28 days is £120.
- 7.4 The Local Authority retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

8. Non-payment of Penalty Notices:

- 8.1 Non-payment of a Penalty Notice will result either in the withdrawal of the Notice or will trigger the prosecution process under the provisions of Section 444, 1996 Education Act as detailed above.

9. Policy & Publicity

- 9.1 Deployment of Penalty Notices as a sanction is included in the Authority's revised Attendance Policy.

- 9.2 All schools intending to utilise this Protocol will include information on the deployment of Penalty Notices in their Attendance Policies and this will be brought to the attention of all parents.
- 9.3 The Local Authority will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material.

10. Reporting and Review

- 10.1 The Education Welfare Service will monitor and review this Protocol and the guidance and procedures relating to Penalty Notices at regular intervals. Outcomes will be evaluated, reported upon and amended as appropriate.

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