



**Northumberland**  
County Council

**Northumberland County Council –  
Education Welfare Team local code of  
conduct for issuing penalty notices for  
school absence 2024**

**Date issued: 15<sup>th</sup> July 2024**

**Applicable from: 19<sup>th</sup> August 2024**

**Issued by:**

**Audrey Kingham, Executive Director of Children, Young People and  
Education / Director of Children's Services**

## **Rationale**

The purpose of this local code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across Northumberland County Council. This code sets out the arrangements for administering penalty notices in Northumberland County Council's area. Within Northumberland this duty rests solely with the Education Welfare Team and must be adhered to. The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the '[Working together to improve school attendance](#)' statutory guidance ("**the guidance**").

As set out in the guidance:

*"The law entitles every child of compulsory school age to an efficient, full-time education suitable to their age, aptitude, and any special educational need they may have. It is the legal responsibility of every parent to make sure their child receives that education either by attendance at a school or by education otherwise than at a school."*

*"Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of allowable circumstances such as being too ill to attend or being given permission for an absence in advance from the school."<sup>1</sup>*

For the most vulnerable pupils, regular attendance is also an important protective factor and often the best opportunity for needs to be identified and support provided.

Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the guidance, only resorting to legal enforcement when necessary and or appropriate. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.

A penalty notice is a legal enforcement tool available to Education Welfare Officers and is one of several options available to allow for swift intervention to improve attendance.

## **Consultation**

This code has been drawn up in consultation with the headteachers and governing bodies of state-funded schools and the local police force.

---

<sup>1</sup> [Working together to improve school attendance](#)

## Legal basis

- Under the requirements of s7 of the Education Act 1996 (***“the 1996 Act”***) it is the duty of a parent to ensure that every child of compulsory school age receives efficient full-time education suitable to their age, ability and aptitude and to any special educational needs or additional learning needs they may have.
- Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the 1996 Act. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools and alternative provision sites (***“school(s)”***) as set out in s 444A(1)(b) and s444B (4) of the 1996 Act.
- A penalty notice may also be issued in accordance with s105 (1) of the Education and Inspections Act 2006 (***“the 2006 Act”***) in respect of the presence of an excluded pupil in a public place.
- The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) (***“the 2007 Regulations”***) set out how penalty notices for school absence must be issued.
- The new national framework for penalty notices is published in the guidance and provides national guidance on the operation of penalty notice schemes for school absence in England. This framework also introduces the national threshold which must be considered when looking at whether it is appropriate to issue a penalty notice. **Please note** however, that penalty notices issued in accordance with s105(1) of the 2006 Act, are not included in the national framework.
- The national framework for penalty notices is based on the principles that penalty notices should only be used in cases where:
  - support is not appropriate (e.g. a term time holiday) or where support has been provided and not engaged with or has not worked, and
  - they are the most appropriate tool to change parental behaviour and improve attendance.
- In Northumberland, all penalty notices will only be issued by officers within the Education Welfare Team (***“authorised officer / officers”***). This is in accordance with Regulation 14 of the 2007 Regulations which allows a local authority to draw up a code of conduct setting out measures to ensure consistency in the issuing of penalty notices. As a team, Education Welfare wish to avoid the issuing of duplicate penalty notices. In addition, if a penalty notice is not paid or is not withdrawn then as a local authority, Northumberland County Council may prosecute parents for the original offence, under either section 444 (1) of the 1996 Act or section 103 of the 2006 Act. As such,

consistency of approach and assurance that the penalty notice was issued correctly is key.

- Any penalty notice must be issued in accordance with this code of conduct as per Regulation 16 of the 2007 Regulations.
- In accordance with s444 of the 1996 Act, the responsibility to secure regular attendance rests with the parent. In accordance with s576 of the 1996 Act, a parent includes: any person who is not a parent but who has parental responsibility for the child or who has care of the child. Penalty notices can be issued to the parent or parents with day-to-day responsibility for the pupil's attendance or the parent or parents who have allowed the absence (regardless of which parent has applied for a leave of absence or allowed the absence).
- In accordance with the 2007 Regulations:
  - A penalty notice, if issued to a parent in respect of a particular pupil will be charged at £80 if paid within 21 days, rising to £160 if paid after 21 days. A penalty notice should be paid within 28 days.
  - A second penalty notice issued to the same parent in respect of the same pupil will be charged at a flat rate of £160 if paid within 28 days.
- Penalty notices will be dated, and payment dates will be specified in the penalty notice.
- It should be noted that a third penalty notice **cannot** be issued to the same parent for the same child within 3 years of the date of issue of the first.

### **The national framework / national threshold**

- The national framework for issuing penalty notices is set out in the guidance and this new framework introduces the national threshold. The national threshold will be met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within a rolling period of 10 school weeks<sup>2</sup>, with one of, or a combination of the following codes:
  - code G (the pupil is absent without leave for the purpose of a holiday)
  - code N (the circumstances of the pupil's absence have not yet been established)
  - code O (none of the other rows of Table 3 in regulation 10(3) of the School Attendance (Pupil Registration) (England) Regulations 2024 applies)

---

<sup>2</sup> A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period when the national threshold applies may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

- code U (the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)

When a school becomes aware that the threshold has been met, a referral should be made to an authorised officer, that authorised officer must consider whether they should exercise their discretion to issue a penalty notice.

- If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be most appropriate tool. The national framework for penalty notices sets out that a maximum of 2 penalty notices per child, per parent can be issued. A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. This means that if the national threshold is met for a third time (or subsequent times) within 3 years, another tool should be used.
- The tools that may be considered include but are not limited to:
  - Attendance contracts
  - Education supervision orders
  - Prosecution
  - Parenting Orders
- When considering which is the most appropriate tool, each case will be considered on an individual basis and on the individual circumstances of the family. The intention would be to look at which tool is the most appropriate intervention to change parental behaviour towards attendance. **Please note** that a combination of tools listed above may be considered.
- For the purpose of the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward if the parent pleaded or was found guilty) but not those which were withdrawn.

### **Procedure for issuing penalty notices.**

- When it has become apparent to the school that the threshold has been met, a referral should be made to an authorised officer (documentation as to the referral process will be issued separately to this code of conduct). Once a referral has been made, initially consideration will be given as to whether support is appropriate. Such support is something which is designed to improve attendance, this would not include a penalty notice or a prosecution.
- All cases will be carefully considered on a case-by-case basis.
- In cases where support is **not appropriate** (for example, for holidays in term time), a penalty notice will be considered, however other tools to improve attendance and change parental behaviour are also available.

- In cases where support **is appropriate**, authorised officers will initially consider whether sufficient support has already been provided. Sufficient support may include but is not limited to:
  - Telephone calls
  - Home visits
  - Meetings arranged at school / alternative provision
  - Reasonable adjustments at school / alternative provision
  - Referrals to other agencies such as Early Help, Mental Health Services
  - Any additional support that authorised officers may deem appropriate and suitable.

If an authorised officer feels that sufficient support has been provided then a penalty notice will usually be issued, however, an authorised officer can also issue a “notice to improve”.

#### Notice to improve.

- A notice to improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a notice to improve may be sent to give parents a final chance to engage in support. An authorised officer may choose not to use one in any case, including cases where support is appropriate, where they do not expect a notice to improve would have any impact on a parent’s behaviour (e.g. because the parent has already received one for a similar offence).
- A notice to improve will be issued by authorised officers in accordance with this code of conduct following a referral by a school.
- The notice will set out that the recommended length of any improvement period will be 15 school days (3 weeks). Should there be further sessions of unauthorised absence in that improvement period, there will be immediate consideration as to whether a penalty notice should be issued or indeed whether any other tool can be used to secure attendance.

*When considering a penalty notice, obligations under the Equality Act 2010 and the Code for Crown prosecutors will be taken into account.*

**Note** that a penalty notice is **not applicable** where the maximum number of 2 penalty notices per child, per parent have been issued within a rolling 3-year period. Other tools will have to be considered at that point.

#### **Excluded Pupils**

- S103 of the 2006 Act places a duty on parents in relation to an excluded pupil. Parents must ensure that their child is not present in a public place during school hours without reasonable justification during the first five days of each

and every fixed term and permanent exclusion. These days are known as the specified days of exclusion.

- Section 104 of the 2006 Act requires schools to notify parents in writing that they are responsible for the child during these days.
- A public place means any highway or any other public place to which the public have access on payment or otherwise, as of right or by virtue of express or implied permission.
- Where an excluded child is found to be in a public place on one of the specified days for exclusion, the parent(s) will be given the opportunity to provide reasonable justification prior to issuing the penalty notice.
- The decision as to whether the circumstances for being in a public place are justified or not will be determined by authorised officers.
- A Penalty Notice issued under the 2006 Act is payable at £60 if paid within 21 days beginning with the date on which the notice is received, then at £120 if not paid within 28 days.

### **Penalty Notices generally.**

- Officers from the Education Welfare team will inform a school about whether penalty notices are paid, withdrawn or prosecuted for non-payment.
- Should a penalty notice be issued this is a direct alternative to prosecution, it should be noted that non-payment of the penalty notice may lead to a prosecution under s444 (1) of the 1996 Act or under s103 of the 2006 Act. Any decision to prosecute will be on a case-by-case basis and consideration will be given to the Code for Crown Prosecutors.
- Should the decision be made to prosecute, then proceedings will be laid in the Magistrates' Court and the following maximum penalties apply:
  - S444 (1) of the 1996 Act – fine not exceeding level 3 on the standard scale (£1000)
  - S444 (1A) of the 1996 Act – fine not exceeding level 4 on the standard scale (£2500) and or a custodial sentence of up to 3 months
  - S103 of the 2006 Act – fine not exceeding level 3 on the standard scale (£1000)
- Penalty notices will be withdrawn in accordance with regulation 8 of 2007 Regulations and where it appears, or authorised officers have determined that:
  - A penalty notice ought not to have been issued.
  - A penalty notice has been issued to the wrong person
  - The penalty notice contains material errors

Where a penalty notice has been withdrawn in accordance with the above, notice of the withdrawal shall be given to the recipient and any amount paid by way of penalty in pursuance of the notice shall be repaid to the person who paid it. No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawal notice was issued or for an offence under Section 444 (1) of the 1996 Act arising out of the same circumstances.

However, where a penalty notice was withdrawn as it contained material errors, proceedings may still be brought under s444 (1) or s444(1A) of the 1996 Act if a further penalty notice was issued at the time the first was withdrawn and has not been paid in accordance with the 2007 Regulations.

- Where pupils move between local authority areas, the Education Welfare officers at Northumberland County Council can be contacted on [crossborder.penaltynotice@northumberland.gov.uk](mailto:crossborder.penaltynotice@northumberland.gov.uk) to find out if penalty notices have been issued previously.
- Where pupils attend school in Northumberland but live in a different Local Authority, authorised officers will liaise with the appropriate Local authority when a penalty notice is being considered, this may include discussions around support and use of the most appropriate tool to improve attendance.
- The arrangements for the payment of a penalty notice will be contained in the penalty notice itself.