

Penalty Notices to address unauthorised absence from school

The Anti-Social Behaviour Act 2003

Advice for Parents and Carers

What is the Anti-Social Behaviour Act 2003?

Section 23 of the Act gives powers to the Local Authority and other designated bodies to issue Penalty Notices where a parent/carer is considered capable of but unwilling to secure an improvement in their child's school attendance. The powers came into force on the 27th February 2004.

Why was it introduced?

Reducing absence from school is a key priority nationally and locally because missing school damages a pupil's attainment levels, disrupts school routines and the learning of others and can leave a pupil vulnerable to anti-social behaviour and youth crime. Above all, missing school seriously affects children's longer term life opportunities.

What is a Penalty Notice?

Under existing legislation, parents/carers commit an offence if a child fails to attend regularly, and the absences are classed as unauthorised (those for which the school cannot or has not given permission). Depending on circumstances such cases may result in prosecution under Section 444 of the Education Act 1996. A Penalty Notice is an alternative to prosecution, which does not require an appearance in Court whilst still securing an improvement in a pupil's attendance. Payment of a Penalty Notice enables parents to discharge potential liability for conviction. Further unauthorised absences after two penalty notices have been issued will progress straight to court.

Two penalty notice limit and escalation in cases of repeat offences.

A penalty notice is an out of court settlement which is intended to change behaviour without the need for criminal prosecution. If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be most appropriate tool. Therefore, from autumn term 2024, only 2 penalty notices can be issued to the same parent in respect of the same child within a 3 year rolling period and any second notice within that period is charged at a higher rate:

The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.

A second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.

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. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. This will often include considering prosecution but may include other tools such as one of the other attendance legal interventions.

Once 3 years has elapsed since the first penalty notice was issued a further penalty notice can be issued, but in most cases it would not be the most effective tool for changing what may have now become an entrenched pattern of behaviour.

For the purpose of the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward and the parent pleaded or was found guilty) but not those which were withdrawn. Notices cannot be paid in instalments.

Who is a "Parent"?

Section 576 of the Education Act 1996 defines "parent" as:

- All natural (biological) parents, whether they are married or not;
- Any person who, although not a natural parent, has parental responsibility for a child or young person;
- Any person who, although not a natural parent, has care of a child or young person.

How are they issued?

By post to your home.

When are they used?

South Tyneside LA considers that regular attendance at school is of such importance that Penalty Notices may be used in a range of situations where unauthorised absence occurs:

Overt truancy (including pupils found during truancy sweeps).

Inappropriate parentally condoned absence (e.g. a family holiday) which has not been authorised by the Head Teacher or no request for authorisation has been sought and

Persistent late arrival at school (after the register has closed).

The Authority never takes such action lightly and would far rather work with parents/carers to improve attendance without having to resort to any enforcement actions. Attendance is of such importance to all of us however that the Authority **will** use the powers if this is the only way of securing a child's schooling. Only two penalty notices are issued in one academic year.

Is a Warning Given?

Yes, you will receive a notice of improvement written warning of the possibility of a Penalty Notice being issued, which will tell you the extent of your child's absences and give you 15 – 30 days, 3 – 6 weeks flexible, to be reviewed on an individual basis at 3 week mark, in which to effect an improvement. In that time your child must have no unauthorised absences/have shown improvement from school.

You will not receive a written warning of the possibility of a Penalty Notice being issued for leave of absence in term time, which has not been authorised by the Head Teacher or where no request for authorisation has been sought.

There is no limit to the number of times formal warning of possible Penalty Notice issue may be made in any particular case.

Is there an appeal process?

There is no statutory right of appeal once a Penalty Notice has been issued, but on receipt of a warning you can make representation should you wish.

How do I pay?

Details of payment arrangements will be included on the Penalty Notice. You need to be aware that payment in part or by installment is not an option with Penalty Notices. Payments made after 28 days will be deemed unpaid.

What happens if I do not pay?

You have up to 28 days from receipt to pay the Penalty Notice in full, after which the Authority is required under the Act to commence proceedings in the Magistrates court for the original offence of poor attendance by your child.

If proven, this can attract a range of fines up to £2,500 and/or a range of disposals such as Parenting Orders or Community Sentences depending upon circumstances.

Can I be prosecuted if I pay the Penalty Notice but my child is still missing school?

Not for the period included in the Penalty Notice - payment discharges your liability in this respect. However, it may be the case that a prosecution might be considered for further periods of poor attendance not covered by the Penalty Notice, depending upon the circumstances. If this is an issue, it is vital that you work closely with your child's school and support agencies.

Can I get help if my child is not attending regularly?

Yes, your child's school will give you advice and support if you need help to secure an improvement in your child's attendance.

It is very important that you speak with the school at the earliest opportunity if you have any worries at all about securing your child's attendance.

For further information contact: The Attendance Monitoring Team

Town Hall and Civic Offices

Email: SYP@southtyneside.gov.uk

Westoe Road

Telephone No. 0191 4247400

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