



Knowsley Council

Education Penalty Notice Code of Conduct Absence and Exclusion – May 2023

This code of conduct covers the issuing of Penalty Notices in respect of unauthorised absence and exclusions. It is an agreement between and on behalf of all Knowsley schools, Knowsley Council and Merseyside Police.

1. Introduction

- 1.1 This document sets out the principles which influence how and when education-related penalty notices will be used. It includes the codes of conduct in respect of notices for attendance and notices for the whereabouts of excluded pupils and also details the procedural arrangements for the administration of such notices.
- 1.2 Pupils with higher attainment at KS2 and KS4 have lower levels of absence over the key stage compared to those with lower attainment. Pupils who did not achieve the expected standard in reading, writing and Maths in 2019 had an overall absence rate of 4.7% over the key stage, compared with 3.5% among pupils who achieved the expected standard and 2.7% among those who achieved the higher standard.
- 1.3 Pupils who did not achieve grade 9 to 4 in English and Maths GCSEs in 2019 had an overall absence rate of 8.8% over the key stage, compared with 5.2% among pupils who achieved a grade 4 and 3.7% among pupils who achieved grade 9 to 5 in both English and Maths.
- 1.4 Generally, the higher the percentage of sessions missed across the key stage at KS2 and KS4, the lower the level of attainment at the end of the key stage. Among pupils with no missed sessions over KS2, 83.9% achieved the expected standard compared to 40.2% of pupils who were persistently absent. Among pupils with no missed sessions over KS4, 83.7% achieved grades 9 to 4 in English and Maths compared to 35.6% of pupils who were persistently absent (DFE 2022)
- 1.5 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. School attendance is also an essential component of safeguarding children. Education Penalty Notices offer a swift intervention and may be used to combat school non-attendance problems and where prosecution may seem inappropriate. Penalty Notices are suitable for use where there is a reasonable expectation of a parent's ability to bring about improvement and where parents are not co-

operating in those measures being offered, or recommended, to improve attendance.

- 1.6 Parents and pupils are supported at school and with local authority support 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 problem. Sanctions are used as a means of enforcing attendance where it is likely their use will secure an improvement.
- 1.7 Irregular attendance from school may require pastoral support, monitoring or other sanctions rather than a Penalty Notice and following appropriate case work, the LA may instigate legal action if applicable,
- 1.8 If a parent has already been prosecuted and convicted under section 444 1A in the previous 12 months, it would be inappropriate to issue a Penalty Notice and casework would be more appropriate. To comply with human rights legislation, it is essential that Penalty Notices are issued in a consistent manner.
- 1.9 This Code of Conduct will govern the issuing of Penalty Notices in respect of unauthorised absence from school and the failure to ensure an excluded child is not present in a public place without reasonable justification within the first five days of any exclusion period.
- 1.10 Penalty Notices will involve the recipient paying a fine of £120 within 28 days, reduced to £60 if paid within 21 days. Where an unauthorised absence has been dealt with by way of a Penalty Notice and it has been paid, it is not possible for a parent to be prosecuted for the same period of unauthorised absence under Section 444 of the Education Act 1996 or for the same instance of an excluded child being present in a public place under Section 103 of the Education and Inspections Act 2006.

2. Rationale and legal basis

- 2.1 There is a legal duty under section 7 of the Education Act 1996 for a parent to ensure their child receives full time education suitable to his age, ability and aptitude. The offence under section 444 relates to a child who is a registered pupil at a school and fails to attend there regularly. In law a parent is guilty of an offence if their child of compulsory school age fails to attend regularly at a school at which they are registered. Penalty Notices supplement the existing sanctions currently available under Section 444 Education Act 1996 or Section 36 Children's Act 1989 to enforce attendance at school.
- 2.2 Throughout this code the term *parent* is used to refer to an individual who falls within the definition of section 576 of the Education Act 1996. This includes all natural parents, whether they are married or not; any person or body who has parental responsibility for a child (as defined by the Children's Act 1989); and any person who although not a natural parent, has care of a child. Having care of a child means a person with whom a child lives and looks after, irrespective of what their relationship is with that child.
- 2.3 Section 23 of the Anti-Social Behaviour Act 2003 provides for the use of Penalty Notices by inserting section 444A into the Education Act 1996. The Education (Penalty Notices) (England) Regulations 2007 (as amended by the Education (Penalty Notices) (England) (Amendment) Regulations 2012 and 2013 came into force on 1st September 2007. This allows for Penalty Notices

to be issued where it appears that an offence under s444 of the Education Act 1996 has been committed.

- 2.4 The Education Act 2005 inserted s444ZA into the Education Act 1996, defining the term of 'school' to include alternative provision that has been made for the child.
- 2.5 Section 103 of the Education and Inspections Act 2006 places a legal duty on a parent in relation to excluded pupils. A parent is guilty of an offence under this Act where a child has been excluded from school (fixed-term or permanent) and is found in a public place during school hours without reasonable justification within the first five days of the exclusion period. In some circumstances it may be necessary for a child to be in a public place during school hours on a school day e.g., pre-arranged medical appointment or emergency. Also, a parent may need medical help and may consider it inappropriate for a child to be left at home alone if they are unable to make alternative arrangements.

3. Circumstances Where a Penalty Notice may be issued

- 3.1 The Local Authority deems regular attendance as 95% or above. The Government have amended the measure of persistent absence to 90% and Local Authorities are expected to raise attendance levels to above this rate. Therefore, attendance less than 95% is deemed unsatisfactory.
- 3.2 A Penalty Notice can only be issued in cases of unauthorised absence and in respect of a child who is a registered pupil at a school. Should a notice be unpaid and withdrawn, all those with parental responsibility may be liable for prosecution.
- 3.3 Schools should initially issue a warning letter to parent(s) on school headed paper (template at Appendix A). The letter should refer to recent/current unauthorised absence and warn of the likelihood of an Education Penalty Notice if the threshold of 10 sessions is reached within a ten week period. This may span more than one term. If there is further unauthorised absence in the 10-week period, the LA will issue a Penalty Notice
- 3.4 Penalty Notices will be issued on the basis of one per pupil per parent /carer to a maximum of 2 penalty notices issued per academic year per parent/carers per child.
- 3.5 In light of this the issuing of a Penalty Notice is considered appropriate, where a child's attendance is below 95% and one of the following circumstances applies:

Poor school attendance

- At least 10 sessions (5 school days) lost to unauthorised absence within a period of no more than 10 weeks.

Lateness

- In cases where a child persistently arrives at school after the register has closed and has accumulated 10 unauthorised late marks within a period of no more than 10 weeks.

Leave of Absence

- A leave of absence of at least 10 consecutive sessions (5 school days) not approved by the head teacher as exceptional. Whilst there are a number of examples available across the country which describe what could constitute exceptional circumstances, school attendance is of such a major priority within Knowsley that it has been agreed a list will not be provided. The one example agreed is of those parents in the military where operational needs may result in personnel having to take leave outside school terms. Even in these circumstances, this will involve contact between school and the relevant Armed Forces unit. In respect of Looked after Children, the local authority will not make a request for a child/young person to take leave of absence during term time. Where a child or young person is voluntarily accommodated, those persons holding Parental Responsibility should be advised of the likelihood of Education Penalty Notices being issued should a leave of absence be requested.
- Where siblings are registered at more than one educational establishment (typically at primary and secondary), there is an expectation that head teachers reach a consensus on whether the leave of absence is exceptional. The LA is unlikely to issue a Penalty Notice where only one school unauthorises the absence.

Following a Truancy Patrol

- Penalty Notices will not be issued during a truancy patrol but enquiries will be undertaken with the school for any pupil stopped. In cases where the school records an unauthorised absence, a Warning Letter should be issued by the school.

Excluded Children

- A Penalty Notice may be issued where a child has been excluded from a school, Pupil Referral Unit or alternative provision in the LA area or is a resident of the LA and found in a public place in the LA area during school hours without reasonable justification within the first five days of the exclusion period. Reasonable justification will be assessed on the individual circumstances of each case but may include the medical emergency of the parent or child or a pre-arranged medical appointment.

4. Operational Details

- 4.1 Cases will always proceed in accordance with this Code of Conduct and regard will be given to any guidance published by the Secretary of State. The School Attendance Service will respond to all requests from police or schools for the issue of a Penalty Notice within ten working days.
- 4.2 All Penalty Notices will be served by first class post which will satisfy evidential requirements and will meet Health, Safety and information security requirements. The notice is deemed to be received on the second working day after posting unless the contrary is proved.
- 4.3 The formal warning letter sent by schools (Appendix A) should inform the parent of:
- The record of unauthorised absences giving rise to the formal warning;
 - The Local Authority's power to issue a Penalty Notice and what the notice means;
 - The procedure for withdrawing a Penalty Notice (and that there is no right to appeal);
 - The penalty for a Penalty Notice being £120 reduced to £60 if paid within 21 days of receipt of the Notice. If the penalty is not paid in full by the end of 28 days, the LA will prosecute for the offence of non-attendance brought under s444 of the Education Act 1996.
- 4.4 Completion of a referral form (Appendix B) is required from schools requesting an Education Penalty Notice to be issued. All relevant information is required to be supplied which may impact on whether it is in the public interest to progress to court action if a notice is unpaid and withdrawn. Subject to the criteria being met and it being unlikely to interfere with other intervention strategies in place, an Education Penalty Notice will be issued.

5. Procedure for withdrawing Penalty Notices

- 5.1 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 the Code of Conduct
 - The Penalty Notice is not paid in full within 28 days.
- 5.2 Parents will be informed by letter if a Penalty Notice is withdrawn.

6. Payment of Penalty Notices

- 6.1 Arrangements for payment will be detailed on the Penalty Notice.
- 6.2 Payment of a Penalty Notice discharges the parent/carer's liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.
- 6.3 Each Penalty Notice carries a charge of £120 which is reduced to £60 if paid within 21 days.
- 6.4 The local authority retains the revenue from Penalty Notices to cover administration costs of the scheme and attendance-related initiatives.

7. Non-payment of Penalty Notices

- 7.1 Non-payment of a Penalty Notice will result in the withdrawal of the Notice and will trigger, where appropriate the instigation of proceedings through the courts under Sec 444 (1) of the 1996 Education Act.

1.1.1 8. Policy & Publicity

- 8.1 All school Attendance Policies should include information on the deployment of Penalty Notices, and this will be brought to the attention of all parents.
- 8.2 The local authority will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material and will publish a copy of the Code of Conduct on the Council's School Attendance Service web page.

9. Reporting & Review

- 9.1 The School Attendance Service will report at regular intervals to Knowsley Council, Headteacher Collaborative groups and Merseyside Police on the deployment and outcomes of Penalty Notices.
- 9.2 The School Attendance Service will review the administration of the Penalty Notice Code of Conduct at regular intervals and where appropriate amend the general enforcement strategy.

Appendix A - Template School Warning Letter

School letter-headed

Name

Address

Date

Dear XXX

Education Penalty Notice Warning Letter Re: XXX (Name of child and DOB)

XXXXXXX School takes a pupil's absence from school very seriously. If your child fails to attend school regularly you may be guilty of a criminal offence and could be prosecuted.

Education Penalty Notices were introduced under the Anti-Social Behaviour Act 2003 as an early way of addressing irregular school attendance. In Knowsley, notices are issued if at least ten sessions (five school days) of unauthorised absence (including lateness after the register is closed) are recorded in a ten week period.

As of today's date, your child has accumulated 10 sessions of unauthorised absence. An attendance record accompanies this letter.

If there are further unauthorised absences in the next 10 weeks, you may be issued with an Education Penalty Notice by the Local Authority and you will be required to pay a fine of £120, reduced to £60 if paid within 21 days. If payment is not received, you may be prosecuted under Sec 444 (1) of the Education Act 1996.

If a notice is issued, there is no right of appeal. Payment for the notice will discharge your liability for the irregular attendance of your child for the period identified.

Support and guidance is available or if you have any questions about this letter, please contact XXX in school.

Yours sincerely

Appendix B – Referral Form

Checklist Request for Knowsley Council to issue an Education Penalty Notice (EPN)
(PLEASE USE CAPITALS)

Name of School:.....

Pupil: DOB:.....

Parent/Carer 1:.....
Address:.....Postcode.....

Parent/Carer 2:.....
Address:Postcode.....

School-age siblings on role or known elsewhere
(Name/DOB/School)

Period of Absence to be issued for 10 Sessions of absence and below 95% attendance or a
Holiday :
Dates: From:.....To:.....

Date Warning Letter (WL) issued:

Are there further sessions of UA following date of WL within a 10 week period? YES/NO

Reasons given for absence e.g. leave of absence (holiday)/family
issues/illness/bereavement/familyoccasion/punctuality/combination/no reasons:
.....
.....
.....

Relevant information held by school e.g. background/written or verbal discussions between
parent and school, second address if relevant :
.....
.....
.....

Any other agency involvement (if none involved please state this).....
.....

- Checklist:
- Up to date Registration Certificate including period of unauthorised absence relating to EPN
 - Copy of Warning Letter
 - Copy of Application for Leave of Absence (if applicable)
 - Parents/Carers/ Legal Guardians Full Names (be aware surname may differ)
 - Current Address where pupil resides as main address above
 - Copy of SIMS commentary sheet (if applicable)

EPN Request made by Head Teacher’s nominated representative:
Name: Designation:
Dated:

Please send to: School Attendance Service, Knowsley Metropolitan Borough Council, PO Box 21, Archway
Road, Huyton, Merseyside, L36 9YU or your SSAO email address found on the Global Address Book

