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Coventry City Council

Code of Practice: Penalty Notices

**1 Introduction**

1.1 This code of practice governs the application of penalty notices issued to parents for school attendance matters. It outlines the roles and responsibilities of the local authority, schools, academies, parents, the police and other agencies.

1.2 It lays down the basis for the use of penalty notices as a legal sanction and deterrent, in accordance with the Education (Penalty Notices) (England) Regulations 2007 with amendments as per the Education (Penalty Notice) (England) (Amendment) Regulations 2013.

**2 Legal Framework**

2.1 Section 23 of the Anti-Behaviour Act 2003 empowers designated local authority officers, Head teachers or their nominated Deputies, and the Police to issue Penalty Notices in cases of unauthorised absence from school.

2.2 The Education (Penalty Notices) (England) Regulations 2007 sets out details of how the penalty notice scheme must operate.

2.3 The issuing of Penalty Notices must conform to all requirements of the Human Rights Act, and Equal Opportunities legislation. Penalty notices must be applied consistently and fairly.

2.4 Coventry City Council is responsible for developing the protocol within which all partners named in the Act will operate.

**3 Rationale**

3.1 Regular and punctual attendance at school is both a legal requirement, and essential for pupils in order to maximise their educational opportunities.

3.2 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 Section 444(1) of the Education Act 1996 a parent may be prosecuted if they fail to ensure their child attends regularly and that absence is not authorised by the school.

3.4 Penalty Notices supplement the existing sanctions currently available for this offence, and offer a means of swift intervention which can be used to combat truancy problems before they become entrenched.

3.5 Parents and pupils are supported by their school or academy and at local authority level, to overcome apparent barriers to regular attendance, through a wide range of assessment and intervention strategies.

3.6 Penalty Notices and other sanctions will be used only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem. They will be used as a means to support parents to meet their responsibilities in law, and where there is a reasonable expectation that their use will secure an improvement.

3.7 The issuing of penalty notices will be based on clear threshold criteria which will need to be applied consistently and equitably across the LA schools or academies.

**4 Circumstances where a Penalty Notice may be issued**

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

4.2 Use of Penalty Notice will be restricted to two per pupil per academic year.

4.3 In cases where families contain more than one poor-attending pupil, multiple issue may occur. This decision will involve careful consideration and consultation with schools by the Attendance and Children Missing Education Team.

4.4 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.

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

* Overt truancy
* Parentally condoned absence
* Unauthorised holidays/leave of absence in term-time
* Unauthorised delayed return from extended holidays
* Persistent late arrival at school (after the register has closed)

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

* At least 10 sessions (5 school days) lost to unauthorised absence by the pupil in a 5 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 and improvement. An attendance target will be issued with the formal warning.
* The deliberate taking of a holiday/leave of absence in term time without / against school permission and where this has created a period of unauthorised absence in the current term of at least 10 sessions **does not** require an improvement period to be set.

**5 Procedure for Issuing Penalty Notices**

5.1 The Local Authority administers the scheme for all schools in its area, including Academies and Free Schools.

5.2 Penalty Notices will only be issued by post and never as an on the spot action (e.g. during a truancy sweep). This will ensure that all evidential requirements are in place and take into account health and safety requirements for Coventry City Council employees.

5.3 Penalty notices can only be issued by a head teacher or someone authorised by them (a deputy or assistant head), or the police. All schools and the police must send copies of penalties issued to the Local Authority.

5.4 Requests will be scrutinised and actioned by the Attendance and Children Missing Education Team provided that:

* All necessary information is provided in order to establish that an offence under Section 444(1) Education Act 1996 has been committed.
* The issue of a Penalty Notice would not conflict with other intervention strategies already in place, or other enforcement sanctions already being processed.
* There is a reasonable expectation that the use of a Penalty Notice would improve attendance.

5.5 The Attendance and Children Missing Education Team 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 have no unauthorised absence, and give opportunity to respond.
* 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.

6 **Procedure for the Withdrawal of Penalty Notices**

6.1 Once issued, a Penalty Notice can 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 does not conform to this protocol.
* The parent can show that they did not receive the Notice (e.g. that it was delivered to the wrong address).
* The Head teacher has considered “new information” after the original request was submitted and instructs the Local Authority to withdraw on these grounds.
* The period for payment has expired (and the matter will proceed to Court).

**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’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.

7.3 Payment within 21 days is £60 and payment after this time, but within 28 days is £120. The payment must be paid directly to the Local Authority. Parents can be prosecuted if 28 days have expired and full payment has not been paid.

7.4 Coventry City Council retains any revenue from Penalty Notices to cover the cost of administration (both collection and prosecution in the event of non-payment). This revenue will be held separately and audited annually.

**8 Non-Payment of Penalty Notices**

8.1 Non-payment of a Penalty Notice will result in the withdrawal of the Notice and will trigger a fast-track prosecution for the same offence under Section 444(1) Education Act 1996.

8.2 There is no right of appeal by parents against a penalty notice. If the penalty notice is not paid in full by the end of the 28 day period, the Local Authority must decide either to prosecute for the original offence (failing to ensure that a child attends school regularly) to which the notice applies or withdraw the notice.

**9 Policy and Publicity**

9.1 Issuing of Penalty Notices as a sanction is included in the Authority’s Attendance Policy.

9.2 All school Attendance Policies will include information on the issuing of Penalty Notices and this will be brought to the attention of parents.

9.3 The Attendance and Children Missing Education Team will include information about the use of Penalty Notices and other enforcement sanctions in promotional/public information material.

**10 Reporting and Review**

10.1 The Attendance and Children Missing Education Team will report annually to schools on the deployment and outcomes of Penalty Notices.

10.2 The Attendance and Children Missing Education Team will review Penalty Notices use at regular intervals (at least every other year) and amend the general enforcement strategy as appropriate.

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