

Coventry City Council
Code of conduct for issuing penalty notices for school absence from
September 2024

1. Introduction

- 1.1. The purpose of this code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across Coventry City Council. The code sets out the arrangements for administering penalty notices in Coventry City and must be adhered to by anyone issuing a penalty notice for school absence in this area.
- 1.2. 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'](#) guidance.
- 1.3. The School Attendance and Children Missing Education team is responsible for fulfilling Coventry City Council's statutory responsibilities to promote and enforce attendance within the Council's area.

2. Consultation

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

3. Legal framework

- 3.1. The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.
- 3.2. Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the Education Act 1996. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, Alternative Provision academies, and certain off-site places as set out in section 444A(1)(b).
- 3.3. A penalty notice can only be issued by an authorised officer: that is, a headteacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable.
- 3.4. The national framework for penalty notices is published in statutory guidance 'Working together to improve school attendance'. It provides

further national guidance on the operation of penalty notice schemes for school absence in England.

4. Definition of 'parent'

- 4.1. Section 576 Education Act 1996 defines 'parent' as:
- Any natural parent, whether married or not.
 - Any parent who, although not a natural parent, has parental responsibility as defined in the Children Act (1989) for a child or young person.
 - Any person who, although not a natural parent, has care of a child or young person.
- 4.2. Penalty notices will usually be issued to the parent or parents with day-to-day responsibility for the pupils' attendance or the parent or parents who have allowed the absence (regardless of which parent has applied for a leave of absence).

5. Rationale

- 5.1. Research published by the Department for Education in May 2022 found pupils with higher attainment at KS2 and KS4 had 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.
 - 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.
- 5.2. 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.
- 5.3. Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the DfE's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. 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.

- 5.4. Parents and pupils are supported by their school and Coventry City Council, to overcome barriers to regular attendance, through a wide range of assessment and intervention strategies.

6. Circumstances where a penalty notice may be issued.

- 6.1. 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 not worked, and
 - they are the most appropriate tool to change parental behaviour and improve attendance for that particular family.
- 6.2. When a school becomes aware that the national threshold has been met, they must consider whether a penalty notice can and should be issued or not.
- 6.3. The national threshold has been met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within 10 school weeks¹, with one of, or a combination of the following codes:
- a) code G (the pupil is absent without leave for the purpose of a holiday),
 - b) code N (the circumstances of the pupil's absence have not yet been established),
 - c) code O (none of the other rows of Table 3 in regulation 10(3) of the School Attendance (Pupil Registration) (England) Regulations 2024 applies), and
 - d) code U (the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)
- 6.4. If in an individual case the local authority believes a penalty notice would be appropriate, they retain the discretion to issue one before the threshold is met.
- 6.5. 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 within a rolling 3-year period. If the national threshold is met for a third time (or subsequent times) within 3 years, another tool should be used.
- 6.6. In cases where two penalty notices have been issued within the 3-year rolling period and there is continued high levels of absence Coventry

¹ 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).

City Council may prosecute the parent(s) under section 444(1A) of the Act.

- 6.7. 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.

7. Key considerations prior to the issue of a penalty notice for school absence.

- 7.1. The following consideration will be made before issuing (or requesting that another authorise officer issues) a penalty notice to ensure consistency of approach.

- 7.2. In cases where support is not appropriate (for example, for holidays in term time), consider on a case-by-case basis:

- Is the penalty notice the best available tool to improve attendance and change parental behaviour for this particular family or would one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010?
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?

- 7.3. In cases where support is appropriate, consider on a case-by-case basis:

- Has sufficient support already been provided? Sufficient support will usually include as a minimum:
 - Informal meeting with parent(s) including a School Action Plan.
 - Formal school attendance meeting resulting in Attendance Improvement Plan.
 - Early Help Assessment offered.
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this particular family or would one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be responsible for any resulting prosecution for the original offence in cases of non-payment?

- 7.4. If the answer to the above question is 'yes', then a penalty notice (or a notice to improve in cases where support is appropriate) will usually be issued.

8. Notice to improve.

- 8.1. 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 for irregular attendance 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 should usually be sent to give parents a final chance to engage in support.
- 8.2. An authorised officer can choose not to use one in any case, including cases where support is appropriate, but 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).
- 8.3. Upon receipt of referral, the Attendance and Children Missing Education team will issue a notice to improve to the parent(s) of the possibility of a penalty notice being issued.
- 8.4. The notice to improve will inform the parent(s) that a period of 20 days (40 sessions) has been set where the pupil's attendance will be monitored, and no sessions of unauthorised absence should occur during the monitoring period.
- 8.5. What sufficient improvement looks like will be decided on a case-by-case basis taking the individual family's circumstances into account.
- 8.6. Where it is clear that improvement is not being made, a penalty notice may be issued before the improvement period has ended.

9. Procedure for issuing penalty notices.

- 9.1. The local authority administers the national framework for penalty notices for all schools in its area, including academies, maintained Schools or places of alternative provision in Coventry, whether they are resident in the city or not.
- 9.2. The Local Authority will only post Penalty Notices via first class post.
- 9.3. The Local Authority will record when and whether the relevant financial penalty imposed under a Penalty Notice is received.
- 9.4. An online referral form must be completed with an accompanying up-to-date registration certificate and any relevant supporting documentation attached.

9.5. For unauthorised leave of absence.

- 9.5.1. The Local Authority will only issue penalty notices requested by a School in instances of unauthorised leave of absence where each of the following can be demonstrated:
- 9.5.2. Where a written request has been received, a copy of the application form or written request should be submitted. If a verbal request was received the head teacher should include notes detailing the discussion/meeting with the parent.
- 9.5.3. Written notification to the parent(s) of the head teacher's/authorised person's decision to refuse the period of absence including the reasons for the decision.
- 9.5.4. A copy of correspondence from the Headteacher, advising the parent the matter has been referred to the Attendance and Children Missing Education Team and a penalty notice will be issued and evidence of attendance for the relevant period signed by the head teacher.

9.6. For persistent absence:

- 9.6.1. The Local Authority shall consider the issue of a penalty notice for persistent absence if the following are in place:
- 9.6.2. A referral form is completed and submitted to the Attendance and Children Missing Education Team with all the necessary information and supporting relevant documentation.
- 9.6.3. The circumstances of the absence meet the criteria according to the protocol.
- 9.6.4. The issue of a Penalty Notice does not conflict with other intervention strategies in place by the Local Authority or by other agencies where the circumstances are known to the Local Authority.
- 9.6.5. A copy of the pupil's attendance record which demonstrates at least 10 sessions (5 school days) were lost to unauthorised absence during the course of 10 Weeks.
- 9.6.6. Prior to referral a Notice to Improve was issued providing a minimum period of 20 school days was given for the attendance to improve, evidencing the continued support offered by school.
- 9.6.7. A copy of the correspondence from the Headteacher, advising the parent the matter has been referred to the Attendance and Children Missing Education Team and a penalty notice will be

issued and evidence of attendance for the relevant period signed by the head teacher.

10. Withdrawal of penalty notices:

10.1. A Penalty Notice may be withdrawn by the Local Authority before or after the payment of a penalty in any case in which the Local Authority determines that:

- It ought not to have been issued.
- It ought not to have been issued to the person named as the recipient.
- It contains material errors.

10.2. Where a Penalty Notice has been withdrawn in accordance with the above:

- Recipients will be notified of the withdrawal.
- Any financial penalty paid to clear that Penalty Notice shall be repaid to the person who paid it; and
- No prosecution under sections 444(1) or 444(1A) of the Act shall be continued or begun in connection with the same unauthorised absence period, against the recipient of the Notice of the Withdrawal.

11. Payment of a penalty notice:

11.1. Payment of a penalty notice is £160.00 if paid within 28 days with a reduction to £80.00 if paid within 21 days.

- Arrangements for payment will be detailed on the penalty notice.
- Payment in full discharges a parent/carer's liability for the period in question.
- A second penalty notice issued within 3 years, to the same parent in respect of the same pupil will be charged at a flat rate of £160.00 if not paid within 28 days.
- The Attendance and Children Missing Education Team will inform the school about whether penalty notices are paid, withdrawn or prosecuted.
- The team will retain any revenue to cover the costs of issuing or enforcing notices.

12. Non-payment of penalty notices:

- 12.1. If payment is not received within 28 days the local authority will consider prosecution for the unauthorised absence.
- 12.2. Non-payment of a Penalty Notice may result in action being taken by the Local Authority.
- 12.3. A letter is sent to the parent informing of the Local Authority's intention to pursue legal proceedings for the period of absence in question.
- 12.4. The instigation of legal proceedings for unauthorised absence from school may be taken under S444 (1) or S444 (1A) of the Education Act 1996.
- 12.5. The prosecution is not for the non-payment of the notice but is for failure to ensure regular attendance at school.

13. Coordination with other Local Authorities

- 13.1. Where pupils move between local authority areas, Coventry City Council can be contacted on crossborder.penaltynotice@coventry.gov.uk to find out if penalty notices have been issued previously.
- 13.2. Where pupils attend school in Coventry but live in a different local authority, Coventry will send an email to the neighbouring authority to request information and any previous penalty notices and/or prosecutions which may have occurred in the previous 3 years.

14. Policy and publicity

- 14.1. Issuing of penalty notices as a sanction are included in the local authority's attendance process 'School Attendance Matters'.
- 14.2. All school attendance policies will include information on the issuing of penalty notices, and this will be brought to the attention of parents.
- 14.3. The Attendance and Children Missing Education Team will include information about the use of penalty notices and other enforcement sanctions in promotional/public material.

15. Reporting and review

- 15.1. The Attendance and Children Missing Education Team will report annually to schools on the deployment and outcomes of penalty notices.

15.2. The Attendance and Children Missing Education team will respond to Freedom of Information requests in relation to penalty notices.