

## EDUCATION WELFARE SERVICE

# Penalty Notice to Address Poor Attendance and/or Unauthorised Absences at School

### Advice to Parents and Carers

- **The Anti Social Behaviour Act 2003**

Section 23 of the Anti Social Behaviour Act gives powers to the local authority and other designated bodies to issue penalty notices where a parent has failed to ensure their child of compulsory school age attends school regularly. Examples provided by the Department for Education include:

- Where absences have not been authorised by the school
- Where parents allow their child to be present in a public place during the first five days of an exclusion
- One off incidences of irregular attendance such as holidays taken during term time without the schools permission.

- **Why are Penalty Notices issued?**

Reducing absence from school is a key priority nationally and locally because missing school may damage a child's attainment levels, disrupts school routines and the learning of others and could possibly leave a pupil vulnerable to anti-social behaviour and youth crime.

Above all, missing school can affect a child's life opportunities.

- **What is a Penalty Notice?**

Under existing legislation, you commit an offence if your child fails to attend school regularly and the absences are classed as unauthorised (those for which the Headteacher has not given permission). Depending on circumstances such cases may result in prosecution under Section 444 of the Education Act 1996.

A penalty notice, if paid in full, is an alternative to prosecution and does not require an appearance in court, thus enabling you to discharge potential liability for conviction.

- **What are the costs?**

Payment within 21 days of receipt of a penalty notice is £60 which will increase to £120 if paid after 21 days, but within 28 days.

- **Who is liable?**

Parents, defined as:

- All natural parents, whether married or not;
- Any person who has parental responsibility; and,
- Any person who has care of a child or young person (lives with and looks after)

So in short if you live with a child and take on a caring role for that child and you are over 18, you are responsible for their school attendance and therefore liable for a fine should you meet the criteria.

- **When are they used and will a warning be given?**

East Riding of Yorkshire Council 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, for example:-

<b>A Penalty Notice may be issued in the following circumstances</b>	<b>Is a warning given?</b>
1. Unauthorised absence from school, where a pupil has accrued 10 or more unauthorised absence sessions (two sessions per school day) spread over a 13 week period.	A formal warning is issued to inform parents that if further unauthorised absences occur within the following 15 school days from the date of the letter a penalty notice will be issued.
2. Unauthorised absence from school, where a pupil has accrued 10 or more consecutive unauthorised absence sessions (two sessions per school day) and the <b>parent did not follow</b> the schools request for ‘Absence from School in Exceptional Circumstances’ procedure.	Parents will be made aware of the school’s policy by the school in the schools newsletter. This is the warning of potential liabilities for penalty notices.
3. Where a parent takes their child out of school and the child accrues 10 or more consecutive unauthorised absence sessions (two sessions per school day), when the <b>parent has followed</b> the request for ‘Absence from School in Exceptional Circumstances’ procedure. Following the procedure gives the parent the opportunity to provide evidence to support their application.	Parents should follow the procedure for requesting exceptional leave set down by their child’s school. Parents will be made aware of the school’s policy by the school; this may be in the schools newsletter but will also be included on the ‘Absence from School for Exceptional Circumstances’ request form. These are the warnings of potential liabilities for penalty notices.
4. Where a child is found by a police officer or a police and community support officer, unsupervised by an adult in a public place during the first five days of a fixed term or permanent exclusion from school.	Parents are advised in the exclusion letter sent from their child’s school that their child should not be in a public place during the first five days of the exclusion and that should their child be found in a public place, a penalty notice may be issued.

<p>5. Overt truancy, where a child has been found out of school during school hours without permission. This can be during an organised truancy sweep or where found by a police officer or police and community support officer whilst carrying out their daily duties</p>	<p>On receipt of a referral from the police or when a child has been found truanting from school, the local authority will consider the child's overall school attendance. If the child has accrued 10 or more sessions of unauthorised absence within the last 13 weeks an immediate penalty notice will be issued.</p>
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In each case you will be informed of the extent of your child's unauthorised absence from school. There is no limit to the number of times a formal warning may be given of the possibility of a penalty notice being issued, though the local authority will restrict the issuing of penalty notices to two per parent for each of their children in any one academic year (September to July).

- **How are they issued?**

By post to your home address.

- **How do I pay?**

Details of payment arrangements will be included on the penalty notice invoice. You need to be aware that payment by instalment is **not** an option. A withdrawal of the penalty notice can only be made in the following circumstances:-

- If it should not have been issued
- Issued outside of the Code of Conduct for Education Penalty Notices
- If the penalty notice contains material errors
- The penalty notice may be withdrawn if it is not paid in full, and the local authority does not intend to, instigate legal proceedings against you
- The penalty notice may be withdrawn following successful prosecution for the original offence of unauthorised absence from school

- **Is there an appeal process?**

If you receive a warning and you do not think this is correct you should take this up with the issuer of the warning. Once a notice has been issued there is no right of appeal.

- **What happens if I do not pay?**

You have up to 28 days, from the date of the letter sent with the invoice, to pay the penalty notice in full. After 28 days, if the fine remains unpaid, the local authority is required under the Act to consider proceedings in the Magistrates' Court for the original offence of unauthorised absence from school by your child.

If proven, this can attract a range of fines up to £1,000 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 of the penalty notice discharges you of the offence for the period in question and you cannot subsequently be prosecuted under other enforcement powers for the period covered by the penalty notice. 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 such as the education welfare service.

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

Yes, the local authority and your child’s school will give you advice and support to help you fulfil your responsibility to secure an improvement in your child’s attendance.

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

**Useful contact:**

Education Welfare Service  
County Hall  
Beverley  
HU17 9BA  
Tel No: 01482 392146  
Email: [education.welfare@eastriding.gov.uk](mailto:education.welfare@eastriding.gov.uk)