

**Worcestershire County Council
Education Engagement Service**

1. Purpose and Rationale:

The purpose of this local code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across Worcestershire. The code sets out the arrangements for administering penalty notices in **Worcestershire** and must be adhered to by anyone issuing a penalty notice for school absence in this area. 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 \(applies from 19 August 2024\) \(publishing.service.gov.uk\)](#) guidance.

Regular and punctual attendance of pupils at school is both a legal requirement under section 4(2)(a) of the Education Act 1996 and a requirement under regulation 10(1)(g) of the Education (Pupil Information) Regulations 2002.

the Local Authority will consider prosecution of a parent / carer under s4441 Ed. Act 1976 for irregular attendance of a pupil at school.

Worcestershire County Council has the responsibility for drawing up the Code of Conduct. The local code of conduct is a requirement of The Education (Penalty

child during these days. Section 105 allows for a penalty notice to be issued to a parent guilty of an offence under section 103 (3).

The Act empowers designated Local Authority Officers, Head Teachers, Deputy Head Teachers and Police to issue Penalty Notices in case of unauthorised absence from school in line with the Local Authority's code of conduct for Penalty Notices.

The Local Authority and any persons authorised to issue Penalty Notices must have regard to the Human Rights Act 1998, Disability Discrimination Act 1995 and Sex Discrimination Act 1975 and the Equality Act 2006 and the Special Educational Needs Code of Practice.

The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.

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.

A parent includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996. Penalty notices will usually be issued to the parent/carer or parents/carers with day-to-day responsibility for the pupil's attendance or the parent/carer or parents/carers who have allowed the absence (regardless of which parent/carer has applied for a leave of absence).

3. Circumstances where a Penalty Notice may be issued.

A Penalty Notice can be issued in cases of unauthorised absence from school and in respect of any excluded child found in a public place during school hours 'without reasonable justification' in the first five days of the exclusion.

The Education Engagement Service will generally only issue a Penalty Notice if it is an appropriate sanction for unauthorised absences from school or for a child's presence in a public place during school hours without reasonable justification, for example where the parent/carer has failed to make adequate arrangements for that child during their exclusion.

It is the parent(s)/carer(s) responsibility to prove reasonable justification to the Authority and they may be asked to produce evidence of matters upon which they intend to rely (e.g. doctor's certificate or confirmation of a hospital visit). Whether parental/carers justification is reasonable is a matter for the Authority to decide upon, taking account of individual circumstances advanced by the parent/carers. Parents/carers will be given the opportunity to provide reasonable justification prior to issuing the penalty notice.

The issuing of a Penalty Notice is considered appropriate in cases of;

- An excluded child is found in a public place during the school hours of the first five days of exclusion.
- Overt truancy is detected (including being caught on truancy sweeps)

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A Penalty Notice can be issued for leave of absence in term time for which no permission has been sought from the school, or permission sought was refused, or child has not returned by the agreed date and no acceptable reason for delay has been received, and where a child has been encountered on more than one truancy patrol and the absences were unauthorised.

Where more than one child in a family is involved multiple notices to improve may be issued. 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. The national framework for penalty notices sets out that a maximum of 2 penalty notices per child, per parent/carer 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. In these circumstances the Local Authority will consider prosecution of a parent / carer under s4441 Ed. Act 1976 for irregular attendance of a pupil at school.

Where a Penalty Notice is used for unauthorised absence, there will be a restriction of no more than two per parent per academic year.

The use of a Penalty Notice allows a parent/carer to discharge their liability for an offence under section 444 of the Education Act 1996 and 103 of the Education and Inspections Act 2006 by the payment of a fine. If the fine remains unpaid at the end of the 28-day payment period, the matter will automatically proceed to court for prosecution of the original offence unless the notice is withdrawn where the parent/carer will be notified in writing.

5. Procedures for Issuing Penalty Notice

The issue of Penalty Notices will be administered by the Education Engagement Service to ensure compliance with the Regulations and that provisions of this code do not conflict with other forms of statutory intervention pursued by the Education Engagement Service.

Penalty Notices will always be issued by first class post as there may be health and safety implications involved in the operation of direct delivery.

With certain exceptions, parents will receive a notice to improve/warning letter before a Penalty Notice is issued. Exceptions may include unauthorised leave of absence in term-time and where a child has been encountered on more than one truancy patrol. The notice to improve/warning letter will indicate the period of time over which improvement is expected (usually 20 school days) and the consequences of failing to ensure regular attendance.

The Education Engagement Service will consider requests to issue Penalty Notices from schools/colleges in the local authority and the local Constabulary.

The Education Engagement Service will action these requests providing a signed attendance certificate from the head teacher is received with a declaration confirming that:

- The circumstances of the case meet the criteria for the issue of a Penalty Notice, as specified in the Code of Conduct, and
- All necessary information is provided to the Education Investigation Service in order to establish that an offence under Section 444 (1 /1A)T0 1 T offeteion 4d2 (e) phh pon tab0 (ct)2 (sh)h)6 2, 1 in Note (1) 1 (b) e (c) 48 sh (c) 44 w (e) 10

- The period for payment has expired

8. Policy and Publicity

Deployment of Penalty Notices as a sanction is included in Worcestershire County Council's Inclusion and Attendance Strategies.

All school/alternative provision Attendance Policies should include information on the deployment of Penalty Notices and this should be brought to the attention of parent(s) on a regular basis.

9. Reporting and Review