

Wokingham Borough Council

PENALTY NOTICE Code of Conduct

1 Background

- 1.1 Wokingham Borough Council's Children's Services are committed to raising standards in education. They recognise that this can be achieved only if pupils are in regular attendance at schools and acknowledge the long established correlation between the absence from pupils at school and poor academic achievement.
- 1.2 In order to comply with the requirements of Human Rights legislation, Penalty Notices must be issued in a consistent manner. It is proposed that the measures detailed in this Code of Conduct will govern the issuing of Penalty Notices in Wokingham.

2 Legal Basis:

- 2.1 Section 23 of the Anti-social Behaviour Act 2003 empowers designated LA officers, Head Teachers (& Deputy and Assistant Head Teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

The Education (Penalty Notices) (England) Regulations 2007 came into force on 1st September 2007.

- 2.2 The issuing of Penalty Notices must conform with the requirements of the Human Rights Act and Equal Opportunities legislation.
- 2.3 The LA has the prime responsibility for developing the protocol within which all partners named in the Act will operate.
- 2.4 Where an unauthorised absence has been dealt with by way of a Penalty Notice, 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.

3 Rationale:

- 3.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.
- 3.2 In law, an offence occurs if a parent fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Penalty notices supplement the existing sanctions currently

available under Section 444, Education Act 1996 or Section 36, The Children's Act 1989 to enforce attendance at school where appropriate.

- 3.3 The Education Welfare Service (EWS) delivers this LA responsibility.
- 3.4 Parents and pupils are supported at school and LA level 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 to be insufficiently effective to resolve the presenting problem.
- 3.5 Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

4 Circumstances where a Penalty Notice may be issued:

- 4.1 A Penalty Notice can only be issued in cases of unauthorised absence. Use of Penalty Notices will be restricted to one per pupil per term. In cases where families contain more than one poor-attending pupil, multiple issues may occur but this will be the subject of careful consideration and co-ordination. Each parent will receive a Penalty Notice for each pupil.
- 4.2 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.
- 4.3 The issuing of a Penalty Notice will usually be considered appropriate in the following circumstances (these are cited as examples and are not meant to be exhaustive):
 - Overt truancy (including pupils caught on truancy sweeps)
 - parentally-condoned absences
 - unauthorised holidays in term-time – 5 days or more
 - excessive delayed return from extended holidays without prior school agreement – i.e. 2 days
 - persistent late arrival at school (after the Register has closed) - i.e. 15 occasions in a half term period
 - Less than 80% attendance, the absences being unauthorised; during a 4 week period

4.4 To ensure consistent delivery of Penalty Notices the following criteria will apply:

- Other than in the specific circumstance when no warning is given when absence is due to an unauthorised holiday, the liable parent will receive a formal warning of the possibility of a Penalty Notice being issued and given a maximum of 15 school days to effect an improvement.

- In the case of the deliberate taking of a holiday in term time without / against school permission (where it can be clearly demonstrated that the parent(s) understood that permission had not / would not be given) and where this has created a period of unauthorised absence in the current term of at least 10 sessions (5 days or more).

4.5.1 Schools must consider every aspect of a pupil's case before considering whether a Penalty Notice would be appropriate. This must include strategic discussions with the schools named Education Welfare Officer (EWO) and any services who have involvement with or knowledge of the pupil/family.

4.6 Children's Services have a responsibility to promote children's welfare and to ensure that a holistic approach is taken when looking at family support. The Education Welfare Service will ensure that such a holistic approach is taken into consideration prior to the issuing of a penalty notice.

5 Procedure for Issuing Penalty Notices:

5.1 In Wokingham, all Penalty Notices will be issued through the Education Welfare Service (EWS). This will ensure consistent and equitable delivery, retain home-school relationships and allow cohesion with other enforcement sanctions.

5.2 The decision about whether the criteria are met for issuing a fine will be made by the Education Welfare Service

5.3 Penalty Notices will only be issued by post and never as an on the spot action; this is to satisfy that all evidential requirements are in place to meet Health and Safety requirements. First class post and certificate of posting will be used.

5.4 The EWO will receive requests to issue Penalty Notices from schools, Thames Valley Police and neighbouring LAs. These requests will be actioned provided that:

- all relevant information is supplied in the specified manner;
- the circumstances of the pupil's absence meets all the requirements of this Protocol; and
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

5.5 The EWS 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 parents/carers of the possibility of a Penalty Notice being issued.
- In the same letter set a period of 15 school days within which the pupil must have no unauthorised absence.
- Issue a Penalty Notice through the post at the end of the 15-day period if the required level of improvement has not been achieved.
- Issue a Penalty Notice for unauthorised holiday absence only after the holiday / absence has occurred

6 Procedure for withdrawing Penalty Notices:

6.1 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, or
- the use of the Penalty Notice did not conform to the terms of this Protocol, or
- there is a material error in the Penalty Notice

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 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 of a Penalty Notice within 28 days is £60 and payment after this time, but within 42 days, is £120.
- 7.4 The LA retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event on non-payment).

8 Non-payment of Penalty Notices:

- 8.1 Non-payment of a Penalty notice, other than those for unauthorised holiday absence, will trigger the fast-track prosecution process under the provisions of Section 444 of the Education Act 1996.
- 8.2 Non payment of a Penalty Notice issued for unauthorised holiday absence will result in immediate referral for prosecution for non-school attendance. Where a prosecution does not result following non-payment then the Penalty Notice will be withdrawn under Regulation 9 of the 2007 Regulations.

9 Policy and Publicity

- 9.1 Deployment of Penalty Notices as a sanction is included in the Authority's Attendance Policy.
- 9.2 All school Attendance Policies should include information on the deployment of Penalty Notices and this will be brought to the attention of all parents / carers.
- 9.3 The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional / public information material.

10 Reporting and Review

- 10.1 The EWS will prepare and publish an annual report on the number of Penalty Notices issued and their outcomes
- 10.2 The EWS will review Penalty Notice use at regular intervals and amend the general enforcement strategy as appropriate.

Penalty Notice
S.444A EDUCATION ACT 1996
Please read the notes overleaf carefully.

PART 1

If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence under s.444 Education Act 1996.

To: Title: Surname:
Forename:
Of: Address:
..... Postcode:

You are a parent of (called in this notice "the pupil") who is a registered pupil at school.

Betweenand..... the pupil failed to attend regularly at the school.

This notice gives you the opportunity to pay a penalty fine instead of being prosecuted for the offence given above. The amount of the penalty is £60 / £120 in accordance with the table overleaf. If you pay this penalty within the time limits set out below, no further action will be taken against you in connection with the offence as set out in this notice.

Payment should be made within 28 days. If paid after 28 days but within 42 days, the penalty is doubled to £120. Payment should be made to Wokingham Borough Council and can be made in person at Shute End, Wokingham (during office hours), or by posting this notice with a cheque or postal order to Education Welfare Service, 2nd Floor Shute End, Wokingham, RG40 1WN.

Late or part payments will not be accepted and no reminders will be sent. **If payment is not received by (insert date 42 days from date of issue), you may be prosecuted for the offence and could be subject to a fine of up to £1,000. [£2500]**

This notice is issued by (name) (official particulars) of (address/employer) (within Wokingham LA).

Date of Issue:

28 days:

42 days:

NOTES:

Penalty Notice Table

£60 - if payment made within 28 days

£120 - if payment made between 28 and 42 days

Prosecution: if no payment received by day 42

Payment

By cheque or postal order payable to Wokingham Borough Council

By Post

To Education Welfare Service, Wokingham Borough Council, 2nd Floor, Shute End,
P O Box 156, Wokingham RG40 1WN.

By Person

Cash Office, Shute End.

Penalty Notice Payment Form

Part 2

Please complete the following and return this notice with your payment to Wokingham Borough Council, Children's Services, PO Box 156, Shute End, Wokingham, RG40 1WN or take this with you if you intend paying in person to the cash desk at Shute End.

Name:

Address:

I attach payment in the sum of £.....

Signed:Date:.....

Revenue Code: 40026 3201

NOTES

1. Contact Details.

If you have any queries about this notice, please contact Wokingham Local Authority Education Welfare Service, 2nd Floor, Shute End, Wokingham, RG40 1WN.

2. Amount of penalty.

The amount of penalty is as follows:

When paid

Within 28 days:	£60
Within 42 days:	£120

3. Code of Conduct.

This notice is issued in accordance with a local code of conduct drawn up by the Wokingham Local Authority. Any questions or correspondence about the code should be addressed to the Children's Services' Department

4. Withdrawal.

The Wokingham LA may withdraw this notice if it is shown that it should not have been issued to you or has not been issued to you in accordance with the local code of conduct. If you believe that the notice was wrongly issued, you must contact the LA to ask for it to be withdrawn as soon as possible, stating why you believe the notice to have been incorrectly issued. The LA will consider your request and will contact you to let you know whether the notice is withdrawn. If the notice is not withdrawn and you do not pay, you will be liable to prosecution for the offence that your child has failed to attend school regularly.

5. Payment.

You should complete the notice above and send or deliver it to the LA at the address given.

6. Prosecution.

If you do not pay the penalty, and the notice is not withdrawn, you will be prosecuted for the offence of failing to ensure your child's regular attendance at school. You will receive a separate summons for this which will give you notice of the time and date of the court hearing. You will be able to defend yourself and you would be advised to seek legal representation; in some circumstances you may be entitled to legal aid.