

Doncaster Council
Attendance and Pupil Welfare Service
Attendance and Pupil Welfare

Code of Conduct under the Provision of the Education (Penalty Notices) Regulation 2004 and subsection (1) Section 23 Anti-Social Behaviour Act 2003

RATIONALE

- 1** Regular and punctual attendance of pupils at schools is, under section 7 of the Education Act 1996, a legal requirement, parents being responsible for ensuring that any child of compulsory school age receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any special educational needs the child may have. Compulsory school age is defined as: Commencing at the start of term commencing on or after a child's fifth birthday and concluding on the last Friday in June of the school year in which the pupil becomes 16. It is also essential for pupils to attend school regularly in order to maximise the opportunities available to them. The Attendance and Pupil Welfare Service in Doncaster will continue to investigate cases of irregular attendance at school and following a strict process of targeted casework delivery, instigate statutory action where appropriate.
- 2** Under the provisions of subsection (1) of section 23 of the Anti-social Behaviour Act 2003, it will now be possible that in certain cases of unauthorised absence a fixed penalty notice may be issued to the parent(s)/carer(s) responsible. Under these provisions the penalty is £60 if paid within 21 days of receipt of the notice, rising to £120 if paid after 21 days but within 28 days of receipt.
- 3** Doncaster Council will ensure the smooth administration of the necessary process and in order to fully comply with legislation on Human Rights will also ensure the consistent, fair and transparent application of fixed penalty notices throughout Doncaster. This Code of Conduct will govern the issuing of fixed penalty notices across Doncaster.

Section 576 Education Act 1996: Definition of a Parent

The education-related provisions of the Anti-social Behaviour Act 2003 apply to all parents who fall within the definition set out in this section of the Education Act 1996. This defines 'parent' as:

- All natural parents, whether they are married or not.
- Any person who, although they are 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 – having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child is considered to be a parent in education law.

Throughout this document, references to 'parent' mean each and every parent coming within the definition, whether acting jointly or separately, and should not be taken to mean that provisions only apply to 'parent' in the singular.

THE CONTEXT IN DONCASTER

- 4** Excellent educational attainment for Young People is a key aim of the Children and Young Peoples Plan and improving attendance of all children and young people is a key factor in achieving this goal. The Local Authority, through the Attendance and Pupil Welfare Service, and in partnership with schools is establishing a rigorous approach to addressing unauthorised absence from school
- 5** It is the Local Authority that has the responsibility for developing the Code of Conduct that will govern the Fixed Penalty Notice Procedures. Although the regulations make provision for a Head teacher, the police and authorised LA staff to issue Penalty Notices relating to unauthorised absence, the responsibility for issuing and managing the arrangements for these Penalty Notices in Doncaster will rest solely with the Head Of Attendance and Pupil Welfare and the staff of this service. This will ensure that all procedures relating to Penalty Notices are consistently applied, that enforcement action is not duplicated and any subsequent court action that may be necessary can be integrated within existing arrangements.
- 6** Regular and punctual attendance at school is both a legal requirement and a necessity for pupils to maximise their educational opportunities. In law, an offence is committed if a parent/carer fails to secure a child's regular attendance at a school, at which s/he is a registered pupil, and the absence is not authorised by the Head teacher. A range of supportive measures are in place to ensure that parents and pupils are assisted both by school staff and, where appropriate LA staff, to overcome barriers to regular attendance. This support is provided through a wide continuum of assessment and intervention strategies and sanctions of any nature are used only where parental co-operation is either absent or deemed insufficient. Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that parents can exercise their responsibility more effectively

CIRCUMSTANCES WHEN A FIXED PENALTY NOTICE MAY BE ISSUED

- 7** Unauthorised leave of absence (holidays) taken during term time

Parents will be expected to complete a holiday application form at least 4 weeks in advance of the proposed holiday. The form will include information about the use of Penalty Notices as a consequence of leave of absence taken in term time without the Head teacher's authorisation.

Where a parent/carer has taken a child out of school for a holiday or other leave of absence without authorisation, there should be evidence on the attendance certificate of unauthorised absence. The head teacher will notify the local authority that an unauthorised leave of absence has taken place and will complete the following documents:-

- A completed pro-forma witness statement
- A certificate of attendance for the period in question
- A copy of the advisory letter sent to the parent
- A copy of the holiday application form and reply
- A completed referral form

If a holiday form has not been completed but a Head Teacher has sufficient evidence that the child has been absent from school due to an unauthorised holiday/leave of absence. The Head Teacher or their representative should provide this evidence in the witness statement and submit the following documents to the Attendance and Pupil Welfare Service:

- A completed referral form
- A completed pro-forma witness statement
- A certificate of attendance for the period in question

On receipt of these, the Attendance and Pupil Welfare Service will issue a FPN by first class post to the parent(s). Where a parent fails or refuses to pay a penalty issued in these circumstances, then the evidence provided by the Head teacher will be the only evidence laid before the court, alongside a Certificate of Confirmation of Non-payment of the Fixed Penalty. This will be done after 28 days have lapsed since the Notice was received. From that point, the court hearing will be scheduled for a date within 21 days subject to court availability.

8 Cases of non-cooperation with the Attendance and Pupil Welfare Service

Where a parent has not cooperated with the Education Welfare Officer following receipt of a referral from school in accordance with the established procedures, consideration will be given to issuing a Penalty Notice. Prior to a referral the school will have taken steps to address the absence with the parent and the pupil. This will have included writing to the parent to confirm the nature of the concerns and seeking their support in addressing them.

The Following factors will need to be in place:

- An EWO is able to produce evidence to show that a parent has failed to keep a pre-arranged appointment without just cause, and has also failed to respond to a 'Failed Appointment Letter (containing a warning about penalty notices- parent should be given 15 days to improve attendance before a notice is issued)
- In the 4 week period since the warning letter was issued there has been unauthorised absence from school.
- A Head teachers Certificate is available for the period covering the 4 weeks following the warning letter and two weeks prior to it, with a level of attendance of less than 95%

- The EWO has completed a pro-forma witness statement which will support a prosecution should the penalty not be paid.

The EWO will be required to supply the following documentation to Systems Support:-

- A completed referral form
- A copy of the Appointment Letter and the Failed Appointment Letter

On receipt of these, and after due consideration, taking into account all circumstances of the case, a Penalty Notice will be issued by first class post to the parent(s). Where a parent fails or refuses to pay a penalty issued in these circumstances, then the evidence provided by the Head teacher will be laid before the court, alongside a witness statement completed by the EWO, copies of the letters and a Certificate of Confirmation of Non-payment of the Fixed Penalty. This will be done after 28 days have lapsed since the Notice was received. From that point, the court hearing will be scheduled for a date within 21 days, subject to court availability.

9 Unauthorised absence in a 4 week period, following a warning letter being issued

- Education Welfare Officer receives a referral for poor attendance. Following home visit parent is sent a warning letter about FPN. This procedure may be implemented as part of an attendance initiative, in which case the letter is handed to the parent or left at the home address
- Parent should be given 15 school days to improve attendance before the notice is issued.
- In the 4 week period since the warning letter there has been unauthorised absence.
- Headteachers Certificate is available for the period covering the 4 weeks after the warning letter and the two weeks prior, with a level of less than 95% attendance.
- The EWO has completed a proforma witness statement which will support a prosecution should the penalty not be paid.

The EWO will be required to supply the following documentation to Attendance and Pupil Welfare Support:-

- A completed referral form
- A copy of the Appointment Letter and the Legal Warning Letter
- A certificate of attendance

On receipt of these, the Attendance and Pupil Welfare Service will issue a FPN by first class post to the parent(s). Where a parent fails or refuses to pay a penalty issued in these circumstances, then the evidence provided by the Head teacher will be laid before the court, alongside a witness statement completed by the EWO, copies of the letters and a Certificate of Confirmation of Non-payment of the Fixed Penalty. This will be done after 28 days have lapsed since the Notice was received. From that point, the court hearing will be scheduled for a date within 21 days, subject to court availability.

10 A child is located twice on a truancy patrol during a four month period unless there is a justifiable reason for absence.

- Child is located during a truancy patrol.
- Letter is sent to parent/carer advising them that if the child is located a second time during a truancy patrol a Fixed Penalty Notice will be issued
- The absence is unauthorised and the Head teachers Certificate of attendance is available for the evidential period
- The evidence has been reported by an Education Welfare Officer, a Neighbourhood Response Team Officer, a Police Officer or a Police Community Support Officer whilst taking part in a LA approved truancy operation.

Where a parent fails or refuses to pay a penalty issued in these circumstances, then the evidence provided by the Head teacher will be laid before the court, alongside a witness statement completed by the reporting officer, copies of the letters and a Certificate of Confirmation of Non-payment of the Fixed Penalty. This will be done after 28 days have lapsed since the Notice was received. From that point, the court hearing will be scheduled for a date within 21 days, subject to court availability.

11 A parent will not receive more than three Fixed Penalty Notices relating to the absence of a named child in a 12 month period.

In cases where families contain more than one child with unauthorised absence multiple issuing of Notices may be necessary but this will be the subject to careful consideration by the Attendance and Pupil Welfare Service.

Penalty notices will only be issued by post and never as an 'on the spot' action; this is to ensure that all evidential requirements are in place and to meet Health and Safety requirements.

No flexible payment terms will be agreed.

12 Procedure for withdrawing Penalty Notices

Guidance only allows a Penalty Notice to 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 did not conform to the terms of this Code of Conduct.

Where a Penalty Notice is withdrawn, a notice confirming this will be issued to the recipient.

13 Payment of Penalty Notices

Arrangements for payment will be detailed on the Penalty Notice.

Payment of a Penalty Notice discharges the parent/carer of liability for the period in question and s/he cannot subsequently be prosecuted for the period covered by the Penalty Notice.

Payment of a Penalty Notice within 21 days is £60 and payment after this time but within 28 days is £120.

The LA retains any revenue from Penalty Notices to cover enforcement costs. In compliance with auditory regulations, any surplus monies will be paid to the consolidated fund.

14 Non-payment of Penalty Notices

Non-payment of a Penalty Notice will trigger a prosecution under Section 444 of the Education Act 1996 on the basis that the parent has failed to secure regular school attendance. The non-payment of the Penalty Notice cannot be used as a reason for prosecution.

15 Policy and Publicity

The utilisation of Penalty notices as a sanction for unauthorised absence from school will be included in the LAs attendance guidance.

All policies in schools relating to school attendance will include information on the utilisation of Penalty Notices and this will be brought to the attention of all parents.

The LA will provide information on the use of Penalty Notices in publicity campaigns about the importance of school attendance, and within its range of leaflets which are available to parents.

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