



## TRAFFORD COUNCIL

### **PENALTY NOTICE CODE OF CONDUCT**

#### **1. Legislation**

Section 23 of the Anti-Social Behaviour Act 2003 empowers designated Local Education Officers, Headteachers (and Deputy or Assistant Headteachers authorised by them) and the police to issue penalty notices for unauthorised absence from school.

Education (Penalty Notices) (England) Regulations 2007 are the basis for this policy. Penalty Notices must be issued in accordance with existing legislation including the Human Rights Act 1998.

#### **2. Rationale**

Regular and punctual attendance of pupils at school is a legal requirement and is essential in order for pupils to maximise their educational opportunities.

Penalty Notices provide an alternative to prosecution and will offer parents an opportunity to discharge potential liability for conviction for that offence by paying £60 if paid within 21 days and £120 if paid within 28 days.

If the penalty is not paid by the end of 28 days, the local authority must withdraw the notice. Trafford Council will then consider commencing proceedings for the offence to which the notice relates. The prosecution is not for the non-payment of the notice but is for failure to ensure regular attendance at school. Penalty Notices can be used as an early deterrent to the development of patterns of unauthorised absence and, as such, supplement the wider powers already available. As with other legislative action, they are used for the enforcement of attendance and not for use as a punishment for absence.

The Education Welfare Team delivers Trafford Council's responsibility in accordance with current casework and enforcement procedures. The Education Welfare Team offers support and advice to parents whose children are not attending school regularly. Sanctions are used where parents fail to follow advice given or where co-operation is insufficient to bring about necessary improvement.

### **3. Issuing Penalty Notices**

Penalty Notices can only be used for periods of unauthorised absence. No parent will receive more than one Penalty Notice resulting from the irregular attendance of a pupil within an academic year unless the absence is due to unauthorised leave of absence in term time.

For the purpose of this document a parent is defined as “anybody who has responsibility for the young person”.

All Penalty Notices will be issued by post.

#### **a) Casework**

Penalty Notices will be used as part of an Education Welfare Officer’s casework management. A parent will be warned at the outset of intervention of their legal responsibilities regarding their child’s attendance at school and of the likely sanctions if the situation does not improve. Assessment will take place, advice and support given and where a parent fails to meet agreed and appropriate targets or condones the absence from school, a penalty notice can be issued. Their use is intended as an early intervention to the development of patterns of unauthorised absence and as such supplement and do not replace alternative sanctions. If unauthorised absence continues after the period of the notice, proceedings may be taken in accordance with Section 444 (1) or (1A) Education Act 1996. A Penalty Notice will only be used once per pupil before prosecution takes place unless the absence is due to unauthorised leave of absence in term time.

#### **b) Multi Agency Attendance Initiatives**

Where a pupil is stopped on a multi-agency attendance initiative and there is no valid reason for the absence from school, a letter will be sent to the home address containing a clear warning that a further offence can result in a Penalty Notice. In the instance that a pupil is stopped again and the absence is unauthorised by the school, a Penalty Notice will be issued.

#### **c) Leave During Term-time**

Any leave taken during term-time without the approval of the Headteacher may result in the issue of a Penalty Notice after 8 missed sessions (4 days).

#### **d) Persistent Late Arrival at School**

When a pupil persistently arrives late to school, investigations should take place to determine the reason, and support offered where appropriate to rectify the situation. Where the arrival time is after the close of registration and investigations show that there is not an acceptable reason, a school can request that a Penalty Notice is issued by the Education Welfare Team provided that these sessions have been coded U (Unauthorised Absence). Schools are advised to have a policy on how long

registers should be kept open. DfE guidelines suggest that 30 minutes from the beginning of registration would be reasonable, but schools can set shorter periods.

#### **4. Procedure for Issuing Penalty Notices**

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

- In cases of irregular school attendance, at least 10 sessions (5 school days) lost to unauthorised absence by the pupil.
- When a pupil has been stopped in a public place, during school hours and without authorised permission, the parents will be issued with a warning. Should the pupil be stopped again, in similar circumstances, within a 15 day period, a penalty notice will be issued.
- Other than in the circumstances below, a formal written warning of a Penalty Notice will have been issued to both parents and a period of 15 school days given for the situation to be improved
- If leave of absence is taken during term time without the approval of the Headteacher, a Penalty Notice may be issued without any prior warning after 8 sessions of absence (4 days). A Penalty Notice will not be issued until the pupil has returned from the leave of absence. The Penalty Notice request form must be received by the Senior Education Welfare Officer within 3 school weeks from the last unauthorised day of absence.

All Penalty Notices will be issued and monitored by the Education Welfare Team in Trafford. This will ensure consistent and equitable delivery, maintain home/school relationships, be mindful of health and safety issues and allow cohesion with other enforcement action. Penalty Notices will be issued through the post and not as 'on the spot' action allowing for the necessary evidential requirements to be in place.

The Education Welfare Team will receive requests to issue Penalty Notices from Trafford schools, Greater Manchester Police and neighbouring local authorities. These will be considered provided that:

- They are received on a fully completed referral form with a copy of an accurate, up to date registration certificate attached, signed by the Headteacher or designated person
- The circumstances of the absence meet the criteria according to the protocol
- The period of absence is not being considered for proceedings according to Section 444 (1) Education Act 1996

- The issue of a Penalty Notice does not conflict with other intervention strategies in place by the Education Welfare Team or by other agencies where the circumstances are known to the Education Welfare Team

The Education Welfare Team will respond to all requests within 10 school days of the receipt; and where the criteria are met, will:

- Issue a Penalty Notice to the parent/carer immediately if the absence is as a result of an unauthorised period of leave of 8 sessions (4 days) or more
- Send a formal warning in writing about the possibility of a Penalty Notice being issued and give the parent/carer 15 school days to improve the attendance
- Issue a Penalty Notice to the parent/carer in the post after the 15-day period if the improvement has not been achieved. In the 15 day period nil unauthorised absence must be recorded
- Issue a Penalty Notice to the parent/carer immediately if a warning letter has previously been sent within the last 12 months

## **5. Payment of Penalty Notices**

The arrangements for payment will be stated on the Penalty Notice.

Payment of a Penalty Notice is £60 within 21 days or £120 within 28 days of receipt. Payment in full discharges a parent/carer liability for the period in question and this period cannot then be part of a Section 444 Education Act 1996 prosecution. The local authority retains any revenue to cover enforcement costs.

## **6. Non-Payment of Penalty Notices**

Non-payment of a Penalty Notice will result in the withdrawal of the notice and Trafford Council may then instigate legal proceedings in accordance with Section 444(1) or (1A) of the Education Act 1996. Any proceedings will be for the original offence of irregular school attendance and not for the non- payment of the penalty notice.

## **7. Procedure for Withdrawal**

Once a Penalty Notice has been issued, it can only be withdrawn in the following circumstances:

- It ought not to have been issued.
- It has been established that the notice was issued to the wrong person.
- The penalty notice contains material errors.
- The circumstances of the absence do not comply with the conditions of the protocol.

- Payment has not been made within 28 days. If this is the case, Trafford Council may prosecute the parent/carer under the provisions of S444(1) or (1A) Education Act 1996.

**Please Note:** Withdrawal of a Penalty Notice after 28 days for non-payment does not automatically result in a prosecution. Trafford Council will need to make a judgement about whether the evidence available of non-attendance meets the test for prosecution.

## **8. School and EWT Policy Documents**

All schools must include clear reference to the Trafford Council Penalty Notice Code of Conduct in their attendance policies and this should be brought to the attention of all parents. Education Welfare Team documentation will include reference to the use of penalty notices to supplement existing practices. Parents will be informed about the use of the sanction through the use of leaflets, the media, a general information letter and a formal warning letter.

## **9. Monitoring and Review**

The Education Welfare Team will monitor and evaluate the success of Penalty Notices in terms of improvement in school attendance, payment, and any subsequent legal action. The use of the notices will be reviewed at regular intervals and the enforcement strategy of the Education Welfare Team amended accordingly. Service reports will include data on the deployment and outcomes of their use.