

# Slough Borough Council

## Penalty Notice Protocol

### 1. Legal Basis

- 1.1 Section 23 of the Anti Social Behaviour Act 2003 empowers designated Local Authority (LA) Officers, Head Teachers (& Deputy and Assistant Headteachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school. The Education (Penalty Notices) (England) Regulations 2004 came into force on 27<sup>th</sup> February 2004.
- 1.2 The issuing of Penalty Notices must conform to all requirements of the Human Rights Act and all Equal Opportunities legislation. The LA has the prime responsibility for developing the protocol within which all partners named in the Act will operate. It is recommended that the Attendance Service is responsible in Slough for the issuing of Penalty Notices to ensure consistency.

### 2. Rationale

- 2.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. In law an offence occurs if a parent/carer 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.
- 2.2 The Attendance Service is responsible for enforcement of attendance. Parents and pupils are supported by schools and the LA to overcome barriers to regular attendance. However sanctions are sometimes necessary where parental co-operation is either absent or considered insufficient to resolve the problem. 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.

### 3. Circumstances where a Penalty Notice may be issued:

- 3.1 A Penalty Notice may only be issued in cases of unauthorised absence. The issue of a Penalty Notice can be appropriate:
  - In cases of overt truancy (including pupils caught on truancy sweeps)
  - In cases of parentally-condoned absence, where this can be demonstrated. This may include instances of parents stopped on truancy sweeps whilst accompanied by their children
  - In cases of persistent late arrival at school after the register has closed
  - In cases where the extended leave policy is not followed
  - In cases where an excluded child is found to be in a public place during school hours without reasonable cause (and it is for the parents to prove justification)

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

- Use of Penalty Notices shall be restricted to one per pupil per academic year. The issue of notices to families with more than one poorly attending pupil will be considered on a case by case basis.
- The pupil concerned must have lost at least 10 sessions (5 school days) to unauthorised absence during a 12 week period
- The parent/carer shall receive a formal warning that a Penalty Notice is about to be issued, and shall be given a maximum of 15 school days to demonstrate an improvement in the pupil's attendance. Where the extended leave policy has not been followed there will be no formal warning.
- Penalty notices will be issued on a per parent per child basis.

#### **4. Procedure for issuing Penalty Notices:**

4.1 The Attendance Service will issue Penalty Notices in Slough. This will ensure consistent and equitable delivery, maintain home-school relationships and take into account any other interventions by other services. Notices will only be issued following the agreement of the Headteacher or a nominated Deputy. Penalty Notices will only be issued by post and never as an on the spot action; this to ensure that all evidence supports the issue of a notice and to meet Health & Safety requirements.

4.2 The Attendance Service will receive requests to issue Penalty Notices from schools, Thames Valley Police and schools within 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,
- family circumstances/ability to pay is taken into account e.g. there may be cases where multiple Penalty Notices could be issued to one family and this may not have the desired outcome.
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.
- the neighbouring LA has given their agreement to the action

The Attendance Service 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 parent/carer 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.

#### **5. Procedure for withdrawing Penalty Notices:**

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
- the use of the Penalty Notice did not conform to the terms of this Protocol
- the Attendance Service is advised about other exceptional circumstances that were not known at the time the notice was issued.

## **6. Payment of Penalty Notices:**

- 6.1 Arrangements for payment will be detailed on the Penalty Notice. Payment of a Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the penalty Notice.
- 6.2 Parents will be required to pay a fine of £120 if paid within 28 days. Parents may pay the lesser amount of £60 if they do so within 21 days. The LA retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

## **7. Non-payment of Penalty Notices:**

Non-payment of a Penalty Notice will result in the withdrawal of the Notice and may trigger the prosecution process under the provisions of Sec 444, 1996 Education Act.

## **8. Policy & Publicity**

The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in any public information material.

## **9. Reporting & Review:**

- 9.1 The Attendance Service will report as required to Primary and Secondary Schools and other relevant bodies on the deployment and outcomes of Penalty Notices.
- 9.2 The Attendance Service will review the use of Penalty Notices at regular intervals and update the protocol.

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