



HILLINGDON
LONDON

PENALTY NOTICE CODE OF PRACTICE

**London Borough of Hillingdon
2023/24**

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ATTENDANCE SUPPORT: PENALTY NOTICE CODE OF PRACTICE

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1. Framework

1.1 The purpose of this code of practice is to ensure that suitable arrangements are in place for the administration of Penalty Notice fines and that the associated powers are applied consistently and fairly across the local authority area.

1.2 The law empowers designated local authority officers, head teachers, or the police to issue Penalty Notices in cases of unauthorised absence from school for pupils of compulsory school age. This code is for their use.

1.3 Penalty Notices can be issued to parents and those with parental responsibility in the circumstances outlined in this code. In this context, any reference to a “parent” means:

- natural parents (irrespective of whether they are married or live with the child)
- a person who (although not a natural parent) has either parental responsibility for, or care of a child. A person having care of a child lives with and looks after the child, irrespective of their relationship to the child

1.4 Penalty Notices may be issued in respect of unauthorised absence of pupils registered in maintained schools, academies, free schools, alternative provision providers in the London Borough of Hillingdon and, under certain circumstances, independent schools.

1.5 Important information which underpins this code of practice:

National

- [Working together to improve school attendance](#)
- [Parental responsibility measures for attendance and behaviour](#)
- [Children missing education](#)
- [Education for children with health needs who cannot attend school](#)
- [Exclusion from maintained schools, academies and pupil referral units in England](#)

Hillingdon Council

- Hillingdon’s Attendance Support guidance 2023/24 (under review)
- [Hillingdon's policy for the alternative education arrangements of children who miss school due to health reasons](#)
- [Hillingdon’s Children Missing Education Policy 2022/23](#)
- Hillingdon’s Exclusions and Suspensions guidance (under review)
- Hillingdon’s Attendance Strategy (under development)

Relevant legislation

- [The Education Act 1996](#)
- [The Education & Inspections Act 2006](#)
- [The Education \(Penalty Notices\) \(England\) Regulations 2007](#)
- [The Education \(Penalty Notices\) \(England\) \(Amendment\) Regulations 2013](#)

2. Rationale

2.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. Failure by a parent to secure their child's regular attendance at the school where the child is registered is a criminal offence for which the parent may be prosecuted in the Magistrates' Court.

2.2 A Penalty Notice is an alternative to prosecution and is one of a range of options available to local authorities to encourage school attendance. The aim is to support parents to meet their responsibilities in law. These options will be used only where parental cooperation in this process is either absent or deemed insufficient to resolve the presenting problem.

2.3 Penalty Notices will only be used where there is a reasonable expectation that their use will secure an improvement. They offer a means of swift intervention at an early stage, before attendance problems become entrenched. Whatever action is taken, parents and pupils will continue to be supported by school, with the aid of other agencies if appropriate, to overcome apparent barriers to regular attendance, through a range of intervention strategies.

2.4 The aim is:

- to ensure consistent and equitable delivery of Penalty Notices
- to allow schools to maintain good relationships with parents
- to allow cohesion with other enforcement sanctions and
- to comply with statutory and other requirements

3. Circumstances where a penalty notice may be issued

3.1 Before making a Penalty Notice referral to the local authority, school staff should carry out a thorough investigation of the pupil's circumstances, reasons for absence and have considered referring to other agencies for support. Following such investigations, Head Teachers (or those listed at 1.2) are required to determine each case on its individual circumstances taking into account the results of any investigation, any other relevant information, any guidance, the school attendance policy, this code and the law.

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3.3 A formal warning letter pre-empts the issue of a Penalty Notice. Warning letters (and then Penalty Notices) may only be issued as a consequence of unauthorised absences. Whilst there is no restriction on the number of times a parent may receive a formal warning of a possible Penalty Notice, these should be used sparingly for maximum impact. Warnings should only be used where there is an intention to follow through to enforcement where appropriate.

3.4 Use of Penalty Notices should be restricted to one per pupil every academic year for unauthorised absence, or on the occasion of every unauthorised holiday taken during term time. Each parent of the pupil should be issued with their own Penalty Notice.

In cases where there is more than one irregularly attending pupil in a family, Penalty Notices may be issued to each parent in respect of each pupil. This decision will involve careful consideration and consultation between school and the Attendance Support Team. Where a second holiday in term time has been taken without authorisation of the Headteacher, a criminal prosecution at the Magistrates Court will be considered in lieu of second and subsequent Penalty Notices.

3.5 The issue of Penalty Notices to parents may be considered in the following circumstances:

3.5a A permanently excluded or suspended pupil is present, without reasonable justification, in a public place during school hours during the first five days of a permanent exclusion or suspension

3.5b In the case of unauthorised holiday taken during term time where there have been at least six consecutive unauthorised absences (six half days or 3 full days), and this is in breach of the school's attendance policy and where the following considerations have been taken into account:

- Any exceptional circumstances, such as bereavement, funerals abroad, unavoidable cause (illness/flight delays) to determine the reasonableness of delay to return and allow parents the opportunity to provide appropriate evidence
- The family's circumstances and the likely benefits to the pupil and family, considering social, emotional, and cultural reasons
- The likely detrimental impact on the pupil's social, emotional, and intellectual development, attainment level and any SEN
- The child's previous attendance record

3.5c In the case of unauthorised absence where a child's attendance falls below 90% in a given period (6 school weeks), without reasonable justification and where the following considerations have been taken into

account:

- The family's circumstances and the likely benefits to the pupil and family, considering social, emotional, and cultural reasons
- The likely detrimental impact on the pupil's social, emotional, and intellectual development, attainment level and any SEN
- The child's previous attendance record

3.6 Unauthorised absence includes:

- Absence for which no explanation was provided, or the school was not satisfied with the explanation given
- Late arrival at school after the registers have closed
- Holidays taken during term-time for which permission in advance was not granted by the Headteacher
- Failure to return to school after a period of authorised absence or after a suspension

3.7 Exceptional circumstances may include:

- Service personnel returning from a tour of duty abroad where it is evidenced the parent will not be in receipt of any leave in the near future that coincides with school holidays
- Where an absence from school is recommended by a health professional as part of a parent's or child's rehabilitation from a medical or emotional issue
- The recent death or terminal illness of a person close to the family
- To attend a wedding or funeral of a person close to the family or where the school has evidence there are other pressing personal issues for a family that would warrant a short break from school

Any examples provided are illustrative rather than exhaustive. It is acceptable to take a pupil's previous record of attendance into account when the school is making decisions. The fundamental principles for defining 'exceptional' are rare, significant, unavoidable, and short. And by 'unavoidable' it implies that an event could not reasonably be scheduled at another time.

It is important to note that Headteachers can agree the absence of a child in exceptional circumstances and this discretion can be used also to determine the length of the authorised absence.

3.8 Penalty Notices should not be issued where:

- A pupil is "Looked After" (as defined by law in the [Children Act 1989](#)), as other interventions should be used
- It is clear that any legal and other requirements have not been complied with

3.9 A Penalty Notice must be requested by schools to the Attendance Support Team within 10 school days of the pupil failing the review period of a formal attendance meeting. For Penalty Notices required for unauthorised holidays/leave of absence, requests should also be made within 10 school days of the child returning to school.

3.10 Any school wishing to utilise the Penalty Notice tool to improve attendance needs to articulate this possibility in their school Attendance Policy which needs to be reviewed regularly, ratified by Governors and available to parents.

4. Procedure for issuing penalty notices

4.1 In Hillingdon, the Attendance Support Team will issue Penalty Notices. If the correct procedure is not followed by schools, the Attendance Support Team has discretion to decline the request or advise further action to be taken before a Penalty Notice is issued. This will avoid the possibility of inconsistent use of Penalty Notices across the local authority.

4.2 Parents must be sent a warning letter for unauthorised absence in term time before a Penalty Notice is issued. Where the unauthorised absence is for reasons other than a term-time holiday, the warning letter should indicate the period of time over which improvement in attendance is expected (typically no longer than 15 school days), as otherwise a Penalty Notice will be issued.

4.3 A warning letter may not necessarily be considered appropriate for unauthorised holiday if the unauthorised absence was not expected by the Head Teacher, as long as the school's attendance policy is clear that holidays in term time will not be authorised. A judgement should be made about how best to proceed in these circumstances, with the ultimate decision held with the Local Authority.

4.4 Where schools, the police or neighbouring local authorities consider the issuing of a Penalty Notice is appropriate, this request will be investigated and actioned by the Attendance Support Team provided that:

- it is appropriate to do so in the circumstances, which includes that to do so would not conflict with other enforcement sanctions or action being taken
- there is a reasonable expectation that to issue a Penalty Notice would improve attendance
- all necessary information and documentation are provided promptly to the Attendance Support Team in order to establish that an offence has been committed

4.5 The Attendance Support Team should respond to all requests within 10 working days of receipt, and where all criteria are met, will issue a Penalty Notice.

4.6 Non-payment of Penalty Notices will usually result in prosecution for non-attendance through the Single Justice process at the Magistrates Courts.

4.7 Warning letters are required prior to the issuing of a Penalty Notice. Save for a significant and immediate improvement in attendance following receipt of a Warning letter, a Penalty Notice will be issued provided that the conditions specified in the warning letter, by which the parent would avoid a Penalty Notice, have not been met.

4.8 A request for a Penalty Notice for non-attendance can be made via [Stronger Families](#).

4.9 A request for a Holiday Penalty Notice to be issued can be made via [LEAP](#).

4.10 A checklist for Holiday Penalty Notices/requests for exceptional leave can also be found on [LEAP](#).

5. Procedure for the withdrawal of penalty notices

5.1 Once issued, a Penalty Notice should only be withdrawn in the following circumstances:

- proof has been established that the Penalty Notice was issued to the wrong person
- that it contains material errors
- it ought not to have been issued

6. Payment of penalty notices

6.1 Arrangements about how to pay are outlined for parents in Penalty Notice documentation.

6.2 Timely payment of a Penalty Notice discharges the parents' liability for the offence specified on the Penalty Notice. This means the parent cannot be prosecuted subsequently for the same period. However, the issue of an earlier Penalty Notice (or failure to pay) may be relevant to what action is taken over subsequent offences and this information may be given in evidence in any later court proceedings in accordance with relevant legal provisions.

6.3 The Penalty is £60 if paid within 21 days of receipt of the notice, increasing to £120 if paid between day 21 and day 28. This amount is prescribed by the [Education Penalty Notices \(England\) Regulations 2007](#). Failure to pay a Penalty Notice within the prescribed period may result in prosecution for the underlying offence of failure to secure regular school attendance.

7. Non-payment of penalty notices

7.1 The non-payment of a Penalty Notice regarding unauthorised absence within the prescribed period of time will automatically lead to a prosecution under [section 444, Education Act 1996](#) (unless the Penalty Notice must be withdrawn for either of the reasons given in section 5 above). The prosecution cannot be for the non-payment of the Penalty Notice.

7.2 The non-payment of a Penalty Notice regarding presence in a public place within the first five days of an exclusion without reasonable justification will automatically lead to a prosecution under [s103 of the Education and Inspections Act 2006](#). The prosecution cannot be for the non-payment of the Penalty Notice.

8. Policy and publicity

8.1 Schools that wish the local authority to issue Penalty Notices must include information about this possibility in their attendance policies and bring it to the attention of parents.

8.2 The local authority will include information about the use of Penalty Notices and other enforcement sanctions in public information material.

9. Review

9.1 The Attendance Support Team will review this code and Penalty Notice use when required, in the event of a change in the pertinent legislation or otherwise annually.

Agreed by:

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Julie Kelly, Corporate Director Children's Services

Date of last review: July 2021

Date of next full review: August 2024