



HILLINGDON  
LONDON

**PENALTY NOTICE  
CODE OF PRACTICE**

**London Borough of Hillingdon  
2024/25**

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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 Hillingdon local authority area.

**1.2** The code sets out the arrangements for administering penalty notices in Hillingdon Council and must be adhered to by anyone issuing a penalty notice for school absence in this area. The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the '[Working together to improve school attendance](#)' guidance.

**1.3** 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.

**1.4** This code has been drawn up in consultation with the headteachers and governing bodies of state-funded schools and the local police force.

**1.5** Penalty Notices can be issued to parents and those with parental responsibility in the circumstances outlined in this code, paying due diligence to any pupil recognised under the Equalities Act 2010 as having a disability. In this context, any reference to a "parent" means:

- all natural parents, whether they are married or not;
- all those who have parental responsibility for a child or young person;
- all those who have day to day responsibility for the child (i.e. lives with and looks after the child).

**1.6** 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.

**1.7** The national threshold is 10 sessions of unauthorised absence in a rolling period of 10 school weeks. A session is the equivalent to half a school day. A school week means any week in which there is at least one school session. Once threshold has been met, the headteacher must consider whether to request to issue a penalty notice. Threshold can be met with any combination of unauthorised absence (e.g. four sessions of holiday taken in term time plus six sessions of arriving late after the register closes all within 10 school weeks). These sessions can be consecutive (e.g. 10 sessions of holiday in one week) or not (e.g. six sessions of unauthorised absence taken in one week and one per week for the next four weeks). The period of 10 school weeks can also span different terms or school years (e.g. two sessions of unauthorised absence in the Summer Term and a further eight within the Autumn Term).

**1.8** Important information which underpins this code of practice:

### National

- [Working together to improve school attendance, August 2024](#)
- [Alternative provision: statutory guidance for local authorities](#)
- [Arranging education for children who cannot attend school because of health needs](#)
- [Children missing education](#)
- [Education for children with health needs who cannot attend school](#)
- [Exclusion from maintained schools, academies and pupil referral units in England](#)
- [Equalities Act, 2010](#)
- [Keeping children safe in education](#)
- [Supporting pupils at school with medical conditions](#)

## Hillingdon Council

- Hillingdon's Attendance Support guidance 2024/25 (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 2024/25](#)
- Hillingdon's Exclusions and Suspensions guidance 2024/25 (under review)
- Hillingdon's Attendance Strategy (under development)

## Additional relevant legislation and guidance

- [The Education Act 1996](#)
- [The Education & Inspections Act 2006](#)
- [The Education \(Penalty Notices\) \(England\) Regulations 2007](#)
- [The Education \(Penalty Notices\) \(England\) \(Amendment\) Regulations 2013](#)
- [Parental responsibility measures for attendance and behaviour](#)
- [Working together to safeguard children](#)
- [Special educational needs and disability code of practice: 0 to 25 years](#)
- [Promoting and supporting mental health and wellbeing in schools and colleges](#)
- [Preventing and tackling bullying](#)
- [Providing remote education](#)

## **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

**2.5** Research published by the Children's Commissioner in November 2023 found that:

- School absence has become endemic in Key Stage 4. Over the last couple of years, over a third of all pupils in Key Stage 4 were either persistently or severely absent for at least one year.
- Poor attendance has a dramatic relationship with GCSE results. While 78% of all children who were rarely absent in both years passed at least 5 GCSEs including English and maths, only 36% of children who were persistently absent in both years and just 5% of children who were severely absent in both years reached this same standard.
- When pupils' attendance improves, the likelihood of achieving qualifications at the end of school massively increases. More than half (54%) of pupils who were persistently absent in Year 10 and then rarely absent in Year 11 passed at least 5 GCSEs including English and maths, compared to 36% of pupils who were persistently absent in both years.

**2.6** For the most vulnerable pupils, regular attendance is also an important protective factor and often the best opportunity for needs to be identified and support provided.

**2.7** Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the DfE's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.

**2.8** The national framework for penalty notices is based on the principles that penalty notices should only be used in cases where:

- support is not appropriate (e.g. a term time holiday) or where support has been provided and not engaged with or not worked, and
- they are the most appropriate tool to change parental behaviour and improve attendance for that particular family.

### **3. Key considerations prior to the issue of a Penalty Notice for school absence**

**3.1** The following considerations will be made before issuing (or requesting that another authorised officer issues) a penalty notice to ensure consistency of approach when thresholds have been met:

- Is support appropriate in this case?
  - a) If yes, schools are expected to continue with the existing support without a penalty notice or issue a Notice to Improve if that support is not working or is not being engaged with. A penalty notice can be issued if either has not worked.
    - If no, for example a holiday in term time, a penalty notice should be issued subject to the other conditions below.
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this particular family or would another legal intervention be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the [Equality Act 2010](#)?
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?

If the answer to these questions is yes, then a penalty notice should be issued without the issue of a Notice to Improve. If not, another tool or legal intervention should be used to improve attendance. The local authority's decision on whether sufficient support has been provided before issuing a penalty notice should be treated as final.

**3.2** In cases where support is appropriate, this should be offered on a case-by-case basis. Sufficient support will usually include:

- School staff carrying out a thorough investigation of the pupil's circumstances, reasons for absence and have considering referrals to other agencies for support. Following such investigations, Head Teachers are required to determine each case on its individual circumstances considering the results of any investigation, any other relevant information, any guidance, the school attendance policy, this code and the law.
- Conducting telephone calls every day the pupil is absent to ascertain the barrier(s) to attendance and to offer support with any issues the parent or child may be having.
- Writing an Attendance Overview Letter letting the parent know about the pupil's attendance, the impact of their continued absence, and inviting the parent to contact the school to discuss the situation further.
- Inviting the parent to an Attendance Support Meeting to discuss the pupil's unauthorised absences and to offer support to ensure their attendance improves and ensure consequences are outlined and understood by the parent should the pupil continue to have unauthorised absences.

## **4. Notice to Improve**

**4.1** A Notice to Improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued.

**4.2** If the national threshold has been met and support is appropriate but offers have not been engaged with by the parent or have not worked, a Notice to Improve should usually be sent to give parents a final chance to engage in the support available.

**4.3** An authorised officer can choose not to use a Notice to Improve in any case, including cases where support is appropriate, where they do not expect this would have any impact on a parent's behaviour (e.g. because the parent has already received one for a similar offence).

**4.4** The local authority uses a flexible improvement period for a Notice to Improve so that it can be varied in individual cases, but it will be no more than three school weeks.

**4.5** Schools will issue any Notice to Improve. Sufficient support will look different for each individual family, the measurement of which will be determined by the formal support plan created and agreed by all parties. Monitoring and review of the support plan is expected to be carried out over the improvement period and the process for deciding whether to issue a penalty notice if sufficient improvement is not made.

**4.6** Hillingdon has a template available for a Notice to Improve which can be found [here](#).

## **5. Circumstances where a penalty notice may be considered**

**5.1** Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the Education Act 1996. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, AP academies, and certain off-site places as set out in section 444A(1)(b). The national framework for penalty notices is published in [statutory guidance](#). It provides further information on the operation of penalty notice schemes for school absence in England.

**5.2** A parent includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996. Penalty notices will usually be issued to the parent or parents with day-to-day responsibility for the pupil's attendance or the parent or parents who have allowed the absence (regardless of which parent has applied for a leave of absence).

**5.3** The [Education \(Penalty Notices\) \(England\) Regulations 2007 \(and subsequent amendments\)](#) set out how penalty notices for school absence must be used.

**5.4** A penalty notice can only be issued by an authorised officer: that is, a headteacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable. In Hillingdon, the Local Authority issues penalty notices for non-attendance.

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

- When a school becomes aware the national threshold has been met, they must consider whether a penalty notice can and should be issued or not. The national threshold has been met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within 10 school weeks with one of, or a combination of the following codes:
  - a) code G (the pupil is absent without leave for the purpose of a holiday),

- b) code O (none of the other rows of Table 3 in [regulation 10\(3\) of the School Attendance \(Pupil Registration\) \(England\) Regulations 2024](#) applies), and
- c) code U (the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)
- 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. If the suspension is for more than five school days, and the child is of compulsory school age, the school must provide alternative suitable education for the child from day six of the suspension. If the child has been permanently excluded, the local authority will arrange alternative suitable education for the child from day six of the exclusion.

**5.6** 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.

**5.7** The local authority (or other authorised officers) retains the discretion to issue a penalty notice in individual cases before the threshold is met if it is deemed appropriate. This may be, for example, a family with a history of removing their child(ren) from school to celebrate birthdays each year.

**5.8** If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be the most appropriate tool. Upon a third offence within a 3-year period, prosecution at the Magistrates' court or an appropriate legal intervention available to Hillingdon Council may be used, including a referral to Children's Services, especially for any pupil whose attendance is less than 50% or if their personal circumstances warrant such a referral.

**5.9** For the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward if the parent pleaded or was found guilty) but not those which were withdrawn.



**5.10** The threshold is 10 sessions of unauthorised absence in a rolling period of 10 school weeks. A school week means any week in which there is at least one school session. This can be met with any combination of unauthorised absence (e.g. four sessions of holiday taken in term time plus six sessions of arriving late after the register closes all within 10 school weeks). These sessions can be consecutive (e.g. 10 sessions of holiday in one week) or not (e.g. six sessions of unauthorised absence taken in one week and one per week for the next four weeks). The period of 10 school weeks can also span different terms or school years (e.g. two sessions of unauthorised absence in the Summer Term and a further eight within the Autumn Term).

**5.11** 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
- Any legal and other requirements have not been complied with.

**5.12** Two penalty notice limit and escalation in cases of repeat offences: From autumn term 2024, two penalty notices can be issued to the same parent in respect of the same child within a three year period and any second notice within that period is charged at a higher rate:

- The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.
- A second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.
- A third penalty notice cannot be issued to the same parent in respect of the same child within three years of the date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those three years, alternative action should be taken instead. Schools, trusts and local authorities are expected to work together and make use of the full range of legal interventions rather than relying solely on penalty notices or prosecution. It is for individual schools and local authorities to decide whether to use them in an individual case after considering the individual circumstances of a family. These are:
  - Attendance contracts
  - Education supervision orders
  - Attendance prosecution (if found guilty, magistrates’ court can impose a community order and or impose a prison sentence of up to three months)
  - Parenting order

**5.13** Penalty notices: In cases where a pupil has moved school or local authority area in the previous three years, an additional check should be made to try and ascertain whether previous penalty notices have been issued to the parent in respect of the pupil. Where the pupil’s previous school was in the same local authority area this check will be simple. If the pupil has moved between local authorities in the previous three years and the previous local authority(ies) is known, they should be contacted to check whether a penalty notice has been issued to that parent for that pupil in the previous three years. These checks can be made by the school and/or local authority depending on the agreed local process. In cases where the previous local authority is not known or the information cannot be, or is not, provided by the previous local authority, it should be assumed that the parent has not previously received a penalty notice and the escalation process started as a new case. All local authorities are expected to have an email mailbox to make these enquires as easy as possible. In Hillingdon this email address is:  
[crossborder.penaltynotice@hillingdon.gov.uk](mailto:crossborder.penaltynotice@hillingdon.gov.uk)

## **6. How authorised officers will work together**

**6.1** An authorised officer is a headteacher or someone authorised by them (a deputy or assistant head), a local authority officer or the police.

**6.2** Authorised officers should work together to ensure that penalty notices are used when likely to be effective and change behaviour.

**6.3** Improving attendance is everyone's business. That starts with the senior attendance champion on the school's leadership team but includes all school staff. All schools should work with local communities (including voluntary and community groups) to help remove the barriers to attendance that families experience. Schools of all types, local authorities and other local partners should work jointly and share data on individual cases where it is of benefit to the pupil (e.g. health services where there are medical conditions or the police where there are extra-familial harms).

## **7. Procedure for issuing penalty notices**

**7.1** 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.

**7.2** 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

**7.3** 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.

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

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

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

**7.7** Due to the volume of Penalty Notice requests received in Hillingdon, we will continue to separate those that are for non-attendance and those that are for leave taken during term time and have defined the systems here accordingly.

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

## **8. Procedure for the withdrawal of penalty notices**

**8.1** 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

## **9. Payment of penalty notices**

**9.1** Arrangements about how to pay are outlined for parents in Hillingdon's Penalty Notice documentation.

**9.2** 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.

**9.3** The Penalty is £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days. A second penalty notice issued within the same three-year period as the first penalty notice is £160 if paid within 28 days.

**9.4** 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.

## **10. Non-payment of penalty notices**

**10.1** The non-payment of a Penalty Notice regarding unauthorised absence within the prescribed period 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.

**10.2** 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.

**10.3** Where a penalty notice is issued by someone other than a local authority officer, the person issuing the penalty notice is expected to check with the local authority before doing so and must also send them copies of any penalty notices issued.

**10.4** The local authority will inform the school if penalty notices are paid, withdrawn or prosecuted for non-payment. The allocated Attendance School Officer will advise, or a school can request this information by contacting [penaltynotices@hillingdon.gov.uk](mailto:penaltynotices@hillingdon.gov.uk).

## **11. Policy and publicity**

**11.1** 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. Schools must include the full breadth of the potential outcomes of parents failing to ensure their child attends school regularly, including a possible referral to Children's Services where attendance falls below 50%.

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

## **12. Review**

**12.1** 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:**

Kathryn Angelini, Assistant Director for Education and Vulnerable Children

Abi Preston, Director of Education & SEND

**Date of last review:** July 2024

**Date of next full review:** August 2025