



## **PENALTY NOTICE Code of Conduct**

### **1 Background**

- 1.1 Wokingham Borough Council's Children's Services are committed to raising standards in education. They recognise that this can be achieved only if pupils are in regular attendance at schools and acknowledge the long established correlation between the absence from pupils at school and poor academic achievement. Good attendance results in higher academic attainment.
- 1.2 In order to comply with the requirements of Human Rights legislation Penalty Notices must be issued in a consistent manner. The measures detailed in this Code of Conduct govern the issuing of Penalty Notices in Wokingham.

### **2 Legal Basis:**

- 2.1 Section 23 of the Anti-social Behaviour Act 2003 empowers designated LA officers, Head Teachers (& Deputy and Assistant Head Teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

The Education (Penalty Notices) (England) Regulations 2007 came into force on 1<sup>st</sup> September 2007.

- 2.2 The issuing of Penalty Notices must conform with the requirements of the Human Rights Act and Equal Opportunities legislation.
- 2.3 The LA has the prime responsibility for developing a protocol within which all partners named in the Act will operate.
- 2.4 Where an unauthorised absence has been dealt with by way of a Penalty Notice, it is not possible for a parent/carer to be prosecuted for the same period of unauthorised absence under Section 444 of the Education Act 1996.

### **3 Rationale:**

- 3.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

- 3.2 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.
- 3.3 In Wokingham the Education Welfare Service (EWS) delivers this LA responsibility.
- 3.4 Parents/carers and pupils are supported at school and LA level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed to be insufficiently effective to resolve the presenting problem.
- 3.5 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.

#### **4 Circumstances where a Penalty Notice may be issued:**

- 4.1 A Penalty Notice can only be issued in cases of unauthorised absence. Use of Penalty Notices will be restricted to two per pupil in any 12 month period. In cases where families contain more than one poor-attending pupil multiple issues may occur but this will be the subject of careful consideration and co-ordination. Each parent/carer will receive a Penalty Notice for each pupil.
- 4.2 There will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Penalty Notice.
- 4.3 The issuing of a Penalty Notice will usually be considered appropriate in the following circumstances (these are cited as examples and are not meant to be exhaustive):
- overt truancy (including pupils caught on truancy sweeps)
  - parentally-condoned absences
  - unauthorised holidays in term-time –5 days or more
  - excessive delayed return from authorised extended holidays without prior school agreement – i.e. 2 days
  - persistent late arrival at school (after the Register has closed) - i.e. 10 occasions in a 10 school week period.
  - less than 80% attendance, the absences being unauthorised; during a 4 school week period
  - a pupil having been excluded from a Wokingham School, being found present in a public place, during school hours, without reasonable justification.
- 4.4 To ensure consistent deliver of Penalty Notices the following criteria will apply:

- Other than in specific circumstances\* the liable parent/carers will receive a formal warning of the possibility of a Penalty Notice being issued and given a maximum of 15 school days to effect an improvement.

\* no warning given when absence is due to unauthorised holiday.

- The deliberate taking of a holiday in term time without/against school permission (where it can be clearly demonstrated that the parents/carers understood that permission had not/would not be given) and where this has created unauthorised absence of at least 10 sessions (5 days or more), whether consecutively or not, in a 10 school week period, will result in the issuing of a penalty notice.

4.5 Schools must consider every aspect of a pupil's case before considering whether a Penalty Notice would be appropriate. This must include strategic discussions with the schools named Education Welfare Officer (EWO) and any services which have involvement with or knowledge of the pupil/family.

4.6 No penalty notice will be issued for absences from 23 March 2020 until 1 September 2020 due to COVID-19.

## 5 **Procedure for Issuing Penalty Notices:**

5.1 In Wokingham all Penalty Notices will be issued through the Education Welfare Service (EWS). This will ensure consistent and equitable delivery, retain home-school relationships and allow cohesion with other enforcement sanctions.

5.2 The decision about whether the criteria are met for issuing a fine will be made by the Education Welfare Service.

5.3 Penalty Notices will only be issued by post and never as an on the spot action; this is to satisfy that all evidential requirements are in place. First class post and certificate of posting will be used.

5.4 The EWO will receive requests to issue Penalty Notices from schools, Thames Valley Police and neighbouring LA's. 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,
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

5.5 The EWS 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 parents/carers 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.
- Issue a Penalty Notice for unauthorised holiday absence only after the holiday/absence has occurred

## **6 Procedure for withdrawing Penalty Notices:**

6.1 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, or
- the use of the Penalty Notice did not conform to the terms of this Protocol, or
- There is a material error in the Penalty Notice

## **7 Payment of Penalty Notices:**

7.1 Arrangements for payment will be detailed on the Penalty Notice.

7.2 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.

7.3 Payment of a Penalty Notice within 21 days is £60, per parent/carer per pupil, and payment after this time, but within 28 days, is £120.

7.4 The LA retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event on non-payment).

## **8 Non-payment of Penalty Notices:**

8.1 Non-payment of a Penalty notice, other than those for unauthorised holiday absence, will trigger the fast-track prosecution process under the provisions of Section 444 of the Education Act 1996.

8.2 Non payment of a Penalty Notice issued for unauthorised holiday absence will result in immediate referral for prosecution for non-school attendance. Where a prosecution does not result following non-payment then the Penalty Notice will be withdrawn under Regulation 9 of the 2007 Regulations.

## **9 Policy & Publicity**

- 9.1 Deployment of Penalty Notices as a sanction is included in the Authority's Attendance Policy.
- 9.2 All school Attendance Policies should include information on the deployment of Penalty Notices and this will be brought to the attention of all parents/carers.
- 9.3 The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional/public information material.

## **10 Reporting & Review:**

- 10.1 The EWS will prepare and publish an annual report on the number of Penalty Notices issued and their outcomes
- 10.2 The EWS will review Penalty Notice use at regular intervals and amend the general enforcement strategy as appropriate.

**Penalty Notice**

**S.444A EDUCATION ACT 1996**

Please read the notes overleaf carefully.

**PART 1**

If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his/her parent/carer is guilty of an offence under s.444 Education Act 1996.

To: Title: ... Surname:  
Forename: ...  
Of: Address:  
..... Postcode: ... ..

You are a parent of (called in this notice "the pupil") who is a registered pupil at school.

Between .....and..... the pupil failed to attend regularly at the school and absences were unauthorised..

This notice gives you the opportunity to pay a penalty fine instead of being prosecuted for the offence given above. The amount of the penalty is £60/£120 in accordance with the table overleaf. If you pay this penalty within the time limits set out below, no further action will be taken against you in connection with the offence as set out in this notice.

Payment should be made within 21 days. If paid after 21 days but within 28 days the penalty is doubled to £120. Payment should be made to Wokingham Borough Council and can be made in person at Shute End, Wokingham (during office hours) *using the pay-in machine on the ground floor*, or by posting this notice with a cheque or postal order to Education Welfare Service, Brambles Area Team, Budes Gardens, Wokingham, RG40 1PX.

Late or part payments will not be accepted and no reminders will be sent. **If payment is not received by *(insert date 28 days from date of issue)*, you may be prosecuted for the offence and could be subject to a fine of up to £1,000. [£2500]**

This notice is issued by *(name) (official particulars) of (address/employer) (within Wokingham LA)*.

Date of Issue:

21 days: ...

28 days:

NOTES:

## **Penalty Notice Table**

£60 - if payment made within 21 days

£120 - if payment made between 22 and 28 days

Prosecution: if no payment received by day 28

## **Payment**

By cheque or postal order payable to Wokingham Borough Council

### **By Post**

To Education Welfare Service, Brambles Area Team, Budes Gardens, Wokingham  
RG40 1PX.

### **By Person**

Cash Office Pay-in Machine, Shute End.

## Penalty Notice Payment Form

### Part 2

Please complete the following and return this notice with your payment to Wokingham Borough Council, Brambles Area Team, Budes Gardens, Wokingham, RG40 1PX or take this with you if you intend paying in person to the pay-in machine at Shute End.

Name: .....

Address: .....

Pupil Name.....

I attach payment in the sum of £.....

Signed: .....Date:.....

Revenue Code: 40026 3201

### NOTES

#### 1. Contact Details.

If you have any queries about this notice, please contact Wokingham Local Authority at Education Welfare Brambles Area Team, Budes Gardens, Wokingham RG41 1PX.

#### 2. Amount of penalty.

The amount of penalty is as follows:

##### When paid

Within 21 days £60

Within 28 days £120

#### 3. Code of Conduct.

This notice is issued in accordance with the PN code of conduct drawn up by the Wokingham LA. Any questions or correspondence about the code should be addressed to the Principal EWO in the Children's Services Department

#### 4. Withdrawal.

The Wokingham LA may withdraw this notice if it is shown that it should not have been issued to you or has not been issued to you in accordance with the local code of conduct. If you believe that the notice was wrongly issued you must contact the LA to ask for it to be withdrawn as soon as possible, stating why you believe the notice to have been incorrectly issued. The LA will consider your request and will contact you to let you know whether the notice is withdrawn. If the notice is not withdrawn and you do not pay, you will be liable to prosecution for the offence that your child has failed to attend school regularly.

#### 5. Payment.

You should complete the notice above and send or deliver it to the LA at the address given.

#### 6. Prosecution.

If you do not pay the penalty, and the notice is not withdrawn, you will be prosecuted for the offence of failing to ensure your child's regular attendance at school. You will receive a separate summons for this which will give you notice of the time and date of the court hearing. You will be able to defend yourself and you would be advised to seek legal representation. In some circumstances you may be entitled to legal aid.



