



## **BEDFORD BOROUGH LOCAL AUTHORITY**

### **PENALTY NOTICE**

### **CODE OF CONDUCT**

#### **RATIONALE**

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\* fails to secure a child's attendance at school at which they are a registered pupil and that absence is not authorised by the school. Parents are supported by school, Local Authority Services and Partner Agencies to overcome barriers to regular attendance.

Section 23 of the Anti-Social Behaviour Act 2003 empowers designated Local Authority (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 2004 came into force on 27 February 2004. Penalty Notices (Sections 444A & 444B) supplement the existing sanctions to enforce attendance at school currently available under Section 444 of the Education Act 1996 and Section 36 of the Children Act 1989.

The issuing of Penalty Notices must conform to requirements of the Human Right Act 1998 and all other Equal Opportunities legislation.

The LA has the prime responsibility for developing a protocol within which all partners named in the Act will operate and has responsibility for the overall administration of the Penalty Notice Scheme.

This local code sets out the procedures and terms under which Penalty Notices can be issued in Bedford Borough. Authorised persons should issue Penalty Notices in compliance with this code in order to ensure that the powers are consistently applied.

#### **PROCEDURES FOR ISSUING PENALTY NOTICES**

Bedford Borough Education Welfare Service, in consultation with schools (and other agencies where appropriate) will be responsible for the decision to issue Penalty Notices. This will ensure consistency in the delivery of the scheme; avoid school-home conflicts and ensure that the Penalty Notices are not being issued when the process towards court prosecution has already started. The Education Welfare

Service (EWS) will receive requests to issue Penalty Notices from schools, the police and neighbouring LAs. These requests will be considered provided that:

- all relevant and evidential information is supplied
- the circumstances of the pupil's absence meets the requirements of this protocol
- the issuing of a Penalty Notice does not conflict with other intervention strategies or other enforcement sanctions already being processed
- the requirements of the cross border protocols are met

The EWS will respond to all requests within 10 working school days of receipt and where all criteria are met will:

- give a formal written warning to the parent\* of the possibility that a Penalty Notice will be issued
- in the same letter, where relevant, 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

## **CIRCUMSTANCES WHERE A PENALTY NOTICE MAY BE ISSUED**

A Penalty Notice can only be issued in cases of **unauthorised** absence.

The issuing of a Penalty Notice is considered appropriate:

- when the pupil has taken holiday during term-time and the absence has not been authorised by the school, providing the school has taken into account government and LA guidance to inform its decision making
- following a Truancy Patrol when the school has recorded the absence of the pupil as unauthorised
- in the early stages of intervention where the School or EWS believes that the sanction will lead to an improvement in attendance, e.g. persistent late arrival at school; parents failure to attend/co-operate at a parenting contract meeting

In the case of poor attendance the use of Penalty Notices will be restricted to one per pupil in an academic year. If more than 1 parent\* has parental responsibility, both parents will receive a Penalty Notice (i.e. 1 per parent per child). In situations where there is more than

one pupil in a family with irregular school attendance, multiple Penalty Notices can be issued to the same parents during the year. However, this action must be subject to careful consideration and co-ordination. There will be no restriction on the number of times a parent may receive a warning on the possible issue of a Penalty Notice.

**If the penalty notice is being issued for unauthorised leave of absence (coded in the register with G) then a penalty notice can be issued for each period of leave of absence during an academic year. Subject to the criteria below.**

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

- at least 10 sessions (5 school days) lost to unauthorised absence by the pupil during the last 12 school weeks
- except in cases of unauthorised leave of absence or exceptional circumstances, the parent\* will receive a formal warning of the possibility of a Penalty Notice being given and a maximum of 15 school days to effect an improvement.

## **PROCEDURE FOR WITHDRAWING PENALTY NOTICES**

A Penalty Notice can only be withdrawn in the following circumstances:

- when it has been issued to the wrong person
- when the use of the Penalty Notice did not conform to the terms of this protocol
- it contains a material error
- Not paid, and the LA has not and does not intend to instigate proceedings.

## **PAYMENT OF PENALTY NOTICES**

The arrangement for the payment will be detailed on the Penalty Notice. The penalty is £60 if paid within 21 days of receipt of the notice, rising to £120 if paid after 21 days but within 28 days of receipt of the Notice (a notice served by post is deemed to have been received on the second day after posting it by first class post).

The LA will retain any revenue from Penalty Notices to cover enforcement costs.

Non payment of a Penalty Notice will result in the immediate prosecution of parents\* under the provisions of Section 444 of the Education Act 1996 unless;

- The notice was materially defective
- The Local Authority has not started legal proceedings and has no intention of doing so

## **POLICY AND PUBLICITY**

The deployment of Penalty Notices as a sanction is included in the Authority's Attendance Strategy. **All school Attendance policies should include information on the deployment of Penalty Notices which should be brought to the attention of parents.** The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional information material.

## **REPORTING AND REVIEW**

The Education Welfare Service will report at regular intervals on the deployment and outcomes of the use of Penalty Notices. The Service Annual Report will include information and analysis of the use of the Notices.

A review of the deployment of the Penalty Notices will be undertaken at regular intervals and the strategy amended as appropriate.

\*Definition of a parent

Section 576, Education Act 1996 defines a parent as:

- all natural parents, whether named or not
- any person who although not a natural parent, has parental responsibility (as defined in Children Act 1989) for a child or young person
- any person who, although not a natural parent, has care of the child or young person. A person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered a parent in education law.

Throughout this document 'parent' means each and every person referred to within this definition.