

Herefordshire Education Welfare Service Penalty Notice Protocol

1. Legal Basis:

Section 23 of the Anti Social Behaviour Act 2003 empowers designated LEA 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 come into force on 27th February 2004.

The issuing of Penalty Notices must conform with all requirements of the Human Rights Act and all Equal Opportunities legislation.

The LEA has the prime responsibility for developing the protocol within which all partners named in the Act will operate

2. 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/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 Sec 444, Education Act 1996 or Sec 36, the Children's Act 1989 to enforce attendance at school where appropriate.

The Education Welfare Service (EWS) delivers this LEA responsibility.

Parents and pupils are supported at school and LEA 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 insufficient to resolve the presenting 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:

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

Use of Penalty Notices will be restricted to one per pupil per academic year.

In cases where families contain more than one poor-attending pupil multiple issue may occur but this will be the subject of careful consideration and co-ordination.

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.

The issuing of a Penalty Notice is considered appropriate in the following circumstances:

overt truancy (including pupils caught on truancy sweeps)
parentally-condoned absences
excessive holidays in term-time
excessive delayed return from extended holidays without prior school agreement
persistent late arrival at school (after the Register has closed).

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 current term.
- other than in specific circumstances* the liable parent/carer 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 .

** the deliberate taking of a holiday in term time without / against school permission (where it can be clearly demonstrated that the parent/carer understood that permission had not/would not be given)and where this has created a period of unauthorised absence in the current term of at least 10 sessions.*

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 assigned EWO and any other attendance-support staff who have involvement with or knowledge of the pupil/family.

4. Procedure for issuing Penalty Notices:

The EWS will issue Penalty Notices in Herefordshire. This will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions.

Penalty Notices will only be issued by post and never as an on the spot action; this to satisfy that all evidential requirements are in place and to meet Health and Safety requirements.

The EWS will receive requests to issue Penalty Notices from schools, West Mercia Constabulary and neighbouring LEAs. 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 set against the likelihood of securing an improved attendance by issuing a Penalty Notice (this to include any cases of possible multiple issue to any one family).
- the issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

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 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

6. Payment of Penalty Notices:

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.

Payment of a Penalty Notice within 28 days is £50 and payment after this time but within 42 days is £100.

The LEA 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 will trigger the fast-track prosecution process under the provisions of Sec 444, 1996 Education Act.

8. Policy & Publicity

Deployment of Penalty Notices as a sanction is included in the Authority's Attendance Policy.

All school Attendance Policies will include information on the deployment of Penalty Notices and this will be brought to the attention of all parents.

The LEA will include information on the use of penalty Notices and other attendance enforcement sanctions in promotional/ public information material.

9. Reporting & Review:

The EWS will report at regular intervals to the Headteacher Associations and West Mercia Constabulary on the deployment and outcomes of Penalty Notices.

The termly reports to Select Committee on attendance matters will include Penalty Notice use.

EWS will review Penalty Notice use at regular intervals and amend the general enforcement strategy as appropriate.