

Fixed Penalty Notices Code of Practice

This Code of Practice governs the application of penalty notices issued to parents for school attendance matters in accordance with **The Education (Penalty Notices) (England) Regulations 2007 and subsequent amendments.**

The Education (Pupil Registration) (England) Regulations 2006 amended in 2013, states headteachers continue to have the power to authorise leave of absence, but only in exceptional circumstances. While family holidays are enriching experiences, the school year is designed to give families the opportunity for these breaks without having to disrupt their children's education. It is for schools to consider the specific details and relevant context behind each request. Schools know their pupils best and are well placed to make those judgements.

The circumstances in which a penalty notice can be issued are set out in Table 1.

The Power to Issue:

By local agreement between schools, the police and the London Borough of Barnet, the Education Welfare Team (EWT) is the only agency administering penalty notices in respect of school-related issues.

Headteachers decide whether to give leave of absence or not: and, if not, whether then to request a penalty notice.

The Regulations allow head teachers to delegate their decision-making power to request penalty notices to deputy and assistant head teachers or equivalent.

Method of Issue:

All penalty notices are issued by post only.

The Education Welfare Team maintains a record of penalty notices issued within the London Borough of Barnet's finance system. Schools must not keep records of penalty notices on children's academic records.

Timescale for issue:

Schools: To issue request within **three school weeks** of child returning to school.

EWT: To issue penalty notice within **three school weeks** of the request

Parent: To pay penalty notice within **four weeks** of penalty notice invoice

Dispute: to be resolved **within** the four-week payment period for parents.

Failure to pay:

Parents who fail to pay are liable to prosecution in the Magistrates' Court.
A summons must be requested within six months of the first date of absence.

Declining to issue:

The Education Welfare Team may decline to issue a penalty notice if

- The incorrect code has been entered into the register for the period of leave
- If schools cannot substantiate the leave during term time
- If there is an error made on any of the information received from the school

Cancelling penalty notices:

The EWT cancels penalty notices when suitable evidence is provided by the parent or, indeed, by the school itself.

The Education Welfare Team Manager will write off cases where litigation is impractical or not in the public interest.

Income:

Income from penalty notices funds their enforcement. Where income exceeds costs, the surplus passes to the Council's general account. Schools receive no income from penalty notices.

Good Practice for Schools:

Head teachers should ensure that:

- Parents are aware of the school's policy on leave of absence
- Each request for leave of absence is considered on its merits
- Parents are informed of the reasons for refusal of their request
- **Parents failing to request leave of absence should be issued with a penalty notice**
- The child is of statutory school age
- Requests for penalty notices for absences adjacent to school holidays have supporting evidence, such as parents not being contactable, international dial tones, or evidence from individuals, including the child in question.

- Exclusion correspondence reminds parents of their duty to supervise their excluded child during the first five days of exclusion
- Only they, or those authorised by them, may sign the request form
- School registers have the appropriate registration absence code (**G, O U, or E, as appropriate**) as an extract from the register may be required in the event of court action.
- they should liaise with colleagues at the schools attended by siblings.

Head teachers are not compelled to request the issuing of a penalty notice even if they have refused to give leave of absence but should be mindful of the need for a consistent approach across all schools to support colleagues for whom attendance issues are of significant concern.

Good Practice for Parents:

Parents should:

- Follow the school's attendance policy
- Make a request for leave of absence in good time so that it can be considered
- Make travel arrangements AFTER permission has been given
- Keep all travel documents and invoices to account for delays or disruptions
- Make sure that they obtain medical evidence if their child is ill in the periods either side of an official school holiday
- Ensure they can be contacted by school during periods of illness
- Understand that, if school or Education Welfare staff visit the family home and the child is not there when reportedly too ill to attend school, a penalty notice will be issued.

Information for Parents:

A parent is defined by **Section 576 of the Education Act 1996** as any natural parent, person with Parental Responsibility under the **Children Act 1989** or a person with whom the child lives and who looks after the child, irrespective of his or her relationship with the child.

All parents whose children attend a maintained school or academy in Barnet are subject to the rules in respect of penalty notices.

Parents can be issued a maximum of 3 penalty notices each in respect of the same child in any calendar year.

Each penalty notice is £60 if paid within the early-payment period, up to the 21st day after issue, rising to £120 up to the 28th day. If the notice remains unpaid the Local Authority prosecutes the parent in the Magistrates' Court for a non-

attendance offence under The Education Act 1996, section 444, not for non-payment of the penalty notice. If found guilty, parents have a criminal record, are liable to a fine of up to £1000, and may have to pay costs to the Local Authority.

On payment of a penalty notice, the parent cannot be pursued legally for the same period of evidence.

As with prosecution in a magistrates' court, penalty notices can only apply to offences relating to a child of statutory school age enrolled at a maintained school, academy school or a Pupil Referral Unit (PRU).

Disputing a penalty notice:

There is no right of appeal for parents but the Local Authority will examine any evidence provided that shows that a mistake has been made. Parents will be required to provide documentary evidence to support an argument and must deal directly with the Local Authority as the matter will not be the responsibility of the school.

Recipients are advised to contact the Education Welfare Team by e-mail or in writing, using contact details on their invoice with any queries about payment or the reason for the penalty notice.

Penalty notices can only be withdrawn if they are issued in error or there are exceptional circumstances that common law would accept. The Local Authority must refund any payments made in respect of a wrongly-issued penalty notice.

Parents with a credible claim not to have received a penalty notice may have the original replaced by a new notice, allowing time to pay the initial, lower, amount. Generally, however, a notice issued by second-class post is deemed to have been received within three to four days.

Penalty notices are used in the following circumstances at the request of the relevant party, as described below:

		Reason	School action	Requesting party
1	<p>Absence without the school's or academy's permission</p> <p>Registration code: G</p>	<p>A parent removes a child from school for the purpose of a holiday of any duration either without seeking the Head Teacher's permission or in defiance of the Head Teacher refusing such permission.</p> <p>A parent takes a child out of school to visit a home country for personal reasons not deemed to be exceptional.</p> <p>Absence to celebrate birthdays, day trips, shopping, or any other trivial matter, are considered unauthorised absences that can lead to a penalty notice.</p> <p>Absences to attend political protests of any kind should not be authorised.</p>	<p>Head teachers must decide whether or not to authorise requests for leave of absence on a case-by-case basis. There must not be a blanket ban on leave of absence. A decision not to give leave of absence should be explained by letter to the parent.</p> <p>Parents taking their children to countries of origin have no right to do so in term-time. While being mindful of cultural differences, head teachers should consider those parents' legal responsibility to ensure their children attend fully.</p> <p>The right to protest does not override a parent's duty to ensure school attendance.</p> <p>Where a penalty notice is requested, the Head Teacher must ensure that the school's register is coded G.</p> <p>If a penalty notice requested by a school is unpaid and the case is referred to the</p>	<p>Head Teachers, and those delegated by them.</p> <p>The request form must be completed by the Head Teacher or delegated senior colleague</p> <p>Head teachers are not compelled to request the issuing of a penalty notice even if they have refused to give leave of absence but should be mindful of the need for a consistent approach across all schools to support colleagues for whom attendance issues are of significant concern.</p>

			Magistrates' Court, the requesting colleague would be the relevant witness and will write a statement and/or be required to attend court.	
2	Unauthorised lateness to school Registration code: U	A parent regularly fails to ensure a child is in school before the closure of registers.	<p>Schools must advise parents in writing of the possible imposition of a penalty notice if their child has six unauthorised lates (U) in any four-week period.</p> <p>The request for the penalty notice must contain the original warning letter and the attendance register for the review period with the trigger number of U codes.</p> <p><i>There must be liaison between the school and the Education Welfare Officer where the latter is already involved in casework with the parents to avoid legal confusion.</i></p>	<p>Head Teachers, and those delegated by them.</p> <p>The request form must be completed by the Head Teacher or delegated senior colleague</p>

3	<p>Casework by EWT, school or academy.</p> <p>Registration code: O and/or U</p>	<p>A parent fails to improve his or her child's school attendance following casework carried out by an Education Welfare Officer or equivalent member of staff appointed by the principal of an academy</p> <p>.</p>	<p>A penalty notice may be used as a disposal by the Chair of a Court Assessment Meeting in place of prosecution or the use of an Education Supervision Order.</p>	<p>Chair of Court Assessment Meeting (member of the Education Welfare Team)</p> <p>Headteacher, Deputy or Assistant Head.</p>
4	<p>Inadequate parental supervision of excluded pupil</p> <p>Registration code: E, converted to O for court purposes.</p>	<p>A parent fails to ensure that his or her child is adequately supervised during the first five days of an exclusion</p> <p>(E is an authorised absence, where parental supervision is expected)</p>	<p>The Education and Inspections Act 2006, section 103 permits the use of penalty notices where an excluded pupil is found in a public place unsupervised by a parent during the first five days of an exclusion.</p> <p>If an excluded pupil is encountered by more than one agency on the same day, only one offence will have been committed.</p> <p>Where a penalty notice is requested, the Head Teacher must ensure that the school's register is coded E for the period of exclusion</p>	<p>Head Teacher, Principal or delegated colleague,</p> <p>Police Officer, or Community Police Support Officer</p> <p>Education Welfare Officer</p>

Guidance on categories where a penalty notice is applicable

1 Unauthorised absence from school

Most penalty notices are issued in respect of permission not being given for exceptional leave. In effect, this relates largely to term-time holidays, parents' plans to extend the school holidays, often to purchase cheaper flights, or to justify the expenditure.

All parents should request permission from the Head Teacher in advance of their leave, the Head will then decide whether to grant permission. Where there has been no request for leave, the Head must write to the parents detailing whether the leave is authorised and the possibility of a FPN being applied.

2 Unauthorised lateness to school

The Local Authority has set a trigger point for schools to use when seeking a penalty notice for lateness. This trigger point is 6 unauthorised lates in any 4-week period. Parents must be informed individually of this possibility. Schools should remind **all** parents of the time registers are closed, after which the U code becomes effective.

Six unauthorised lates in four weeks is an absence rate of fifteen per cent. This would be an important factor for consideration by magistrates in the event that a penalty notice is unpaid.

The request for the penalty notice must contain the original warning letter sent to parents and the attendance register for the review period with the trigger number of U codes.

3 EWT and school/academy casework.

A penalty notice may be used as a disposal by the Chair of a Court Assessment Meeting (CAM) in place of prosecution or the use of an Education Supervision Order.

No consideration is given in respect of an individual school's policy in this case.

Where academies work independently of the EWT, they should have a process where a senior leader makes a CAM-type decision.

4 Inadequate parental supervision of an excluded pupil

The Education and Inspections Act 2006, section 103 permits the use of penalty notices where an excluded pupil is found in a public place unsupervised by a parent during the first five days of exclusion. A public place includes school premises. Exclusion correspondence should include reference to the possibility of this sanction.

If an excluded pupil is encountered by more than one agency on the same day, only one offence will have been committed.

Police Officers and Community Police Support Officers use their own recording procedures, generating reports (Merlin) that the Education Welfare Team will check against the relevant school register. Penalty notices will be issued once these details are verified.

Dealing with requests for leave of absence:

School staff regularly observe that parents' explanations for their children's absences are difficult to believe. Claims of lost passports, delayed flights and illness are common. Asking for details of original flights and any amendments acts as a useful check before requesting a penalty notice.

Requests for leave due to grave illness of a relative should be treated sympathetically unless the school identifies a pattern of leave at the same time every year or the death of the same relative, leave taken, and reasons provided can be kept as logs to help identify patterns.

Dealing with failure to request leave of absence:

Parents often fail to ask for permission from schools for their children to be absent, perhaps knowing that their request is unlikely to be agreed. All holidays taken in this way are subject to penalty notice regulations.

Parents who claim that they had to leave in an emergency should be asked for proof of the emergency and travel documents that show late (and, therefore emergency) booking. In any event, most parents have access to phones and/or e-mail.

Dealing with sickness absence:

Many schools report spikes in medical absences around school holidays and should consider that these may not be genuine. Schools should bear in mind:

- Lack of response to calls home
- International dialling tones
- Absence of child/family if a home visit is made

- Observations from school community or the child concerned.

Dealing with absence adjacent to religious holidays:

Taking extra time around recognised religious observances is not acceptable and should be coded **G**. Schools should consider the use of penalty notices for those who fail to ask for leave of absence beyond the actual religious observance. There may, of course, be occasions when a request for additional leave is deemed by the head teacher to be valid.

Legal references

Education and Inspections Act 2006

Anti-social Behaviour Act 2003

Education Act 1996

The Education (Penalty Notices) (England) Regulations 2007 as amended

The Education (Pupil Registration) (England) (Amendment) Regulations 2013