

PENALTY NOTICES

School Non-Attendance - S444 Education Act 1996 Information for Parents¹

Introduction

The law gives powers to the Local Authority and other designated bodies to issue penalty notices where a parent is considered to have failed in their legal duty to ensure their child's regular attendance at school. Reducing absences from school is a key priority nationally and locally because missing school damages a pupil's attainment levels and disrupts school routines and the learning of others.

Explanation of Penalty Notices

Parents commit an offence if a child fails to attend school regularly and the absences are classed as unauthorised. Depending on the circumstances, such cases may result in prosecution under Section 444 of the Education Act 1996.

A penalty notice is an alternative to prosecution. Where parents pay the fine, they can avoid being prosecuted and receiving a criminal conviction.

Costs of Fine

First offence: £160 payable at a reduced rate of £80 if paid within 21 days.

If a parent commits a second offence in respect of the same child within a rolling 3-year period: £160 with no discount option.

Method of Delivery

Penalty notices will always be issued by first class post to your home and are issued to each parent individually in respect of each child.

Criteria for Penalty Notices

The National Framework for Penalty Notices and the penalty notice regulations state that schools must consider requesting a penalty notice when a pupil has 10 sessions (equivalent of 5 days) of unauthorised absence in a rolling 10-school-week period.

Unauthorised absences are:

- General unauthorised absence – marked O on the register.
- Arriving late after the register has closed – marked U on the register.
- Unauthorised holiday/leave – marked G on the register.

Alternatives to Penalty Notices

Upon receipt of a request for a penalty notice the Local Authority will determine whether a penalty notice should be issued or if an alternative legal intervention should be instituted.

This means that in some cases a penalty notice will not be issued, and parents may be prosecuted instead:

- The Local Authority may not by law issue a further penalty notice where a parent commits a third offence within a rolling 3-year period, and will therefore consider prosecution.
- The Local Authority may decide not to issue a penalty notice in circumstances where the level of unauthorised absence (across all unauthorised absence types) is severe or excessive and will consider prosecution instead.

¹ The expression "parent", in relation to a child or young person, includes any person who is not a parent of the child but who has parental responsibility for them, or who has care of the child.

Notice to Improve

Where the majority of the absences are marked O or U you will receive a written Notice to Improve warning of the possibility of a penalty notice being issued. This will include a copy of your child's attendance details. This will advise you of a monitoring period during which your child should have no further unauthorised absences from school, otherwise a penalty notice will be issued.

Notices to improve are not issued where the absence is due to an unauthorised holiday/leave.

Appeals

There is no statutory right of appeal once a penalty notice has been issued. However, on receipt of a Notice to Improve or penalty notice, you can make representations should you wish (see frequently asked questions for more information). Penalty notice timescales cannot be extended or put on hold whilst representations are being considered by the Local Authority or school.

Payment

Details of payment arrangements will be included on the penalty notice. Payment in part or by instalment is not an option with penalty notices. No reminders will be sent.

Consequences of Non-Payment

You have up to 28 days from receipt of the notice to pay the penalty in full, after which the authority is required in most instances to commence proceedings in the local magistrates' court for the original offence of failing to ensure your child attends school regularly.

In the event of non-payment of a penalty notice, further correspondence regarding court proceedings will be issued. In some instances, attendance at court may not be necessary; the court paperwork you receive will explain the procedures and what to do next.

If you are convicted, this can attract a range of sentences including fines up to £2,500 and/or up to three months imprisonment. Other disposals such as Parenting Orders or Community Sentences can be imposed depending upon the circumstances. Costs may also be imposed.

Payment of the notice discharges your potential liability for conviction for that period. However, it could be the case that a prosecution might be considered for further periods of poor attendance not covered by the notice, depending on the circumstances.

If you have concerns regarding your child's attendance, you should contact the school to discuss what help might be available.

PENALTY NOTICE FREQUENTLY ASKED QUESTIONS

My husband/wife/partner/any other person has also received a penalty notice for the same offence – does that mean we both have to pay the fine?

Yes. All parents of a child may be served a penalty notice for not ensuring their regular attendance at school. Each penalty notice is individually issued per parent, per child and all must be paid to avoid prosecution.

My partner has been issued with a penalty notice, but they are not the biological parent of my child – do they still have to pay?

Yes. The expression "parent", in relation to a child or young person, includes natural parents and any person who is not a natural parent of the child but who either has acquired legal Parental Responsibility for them, or who has care of the child i.e. lives with and has day to day contact with the child.

Three penalty notices have been issued in respect of my child – one to each natural parent and one to a step-parent – is this right?

Yes. As above, all parents may be served a penalty notice for not ensuring their regular attendance at school and the expression "parent", in relation to a child or young person, includes any person who is not a natural parent of the child but either has acquired legal Parental Responsibility for them, or who has care of the child. This means a number of people may be liable for a penalty notice for the same offence.

I am not the child's parent – why have I been issued with a fine?

As above, the expression "parent", in relation to a child or young person, includes any person who is not a natural parent of the child but who either has acquired legal Parental Responsibility for them, or who has care of the child i.e. lives with and has day to day contact with the child.

You have received the penalty notices because you have been determined as a parent under the Education Act in respect of the child.

I have received a penalty notice for unauthorised leave, but I feel the leave should have been authorised as the circumstances are exceptional/my child's attendance is otherwise excellent/my child is a high achiever/this is the first time I have removed my child from school – can I appeal the penalty notice?

There is no statutory right of appeal for a penalty notice.

It is at the discretion of the headteacher as to whether an absence is deemed exceptional and recorded as authorised in accordance with the Department for Education Guidance on applying the Education Pupil Registration Regulations. Any questions about the decision not to authorise leave should be raised with the school directly. Complaints about school decisions can be directed via the governing body or through the school's complaints procedure.

The Local Authority School Attendance Legal Team cannot answer questions regarding the school's decision-making processes – any such enquiries will be directed back to the school.

My child was off sick why have I been fined?

The attendance printout will show you the absences that have been marked as unauthorised and that have triggered the penalty notice. It is a decision for the school as to whether they authorise absences for alleged illness. Any questions about the decision not to authorise absence should be raised with the school directly. Complaints about school decisions can be directed via the governing body or through the school's complaints procedure.

The Local Authority School Attendance Legal Team cannot answer questions regarding the schools decision-making processes – any such enquiries will be directed back to the school.

I am currently in contact with the school about their decision not to approve my child's absences/leave. Will the penalty notice go on hold whilst the matter is dealt with?

The Penalty Notice Regulations do not allow for the payment timescales to be delayed or extended. As the penalty notices have already been issued, whilst you pursue the matter, you would still be required to pay the penalty notices within the specified timescales to avoid being taken to court. If the decision not to authorise the absence for which the fine was issued is subsequently overturned, a refund can be issued.

I believe that the penalty notice contains mistakes; do I still have to pay?

If you believe that the fine contains material errors, you must not ignore it as you will still be liable. You should contact the issuing officer (the court officer) as soon as possible, who will be able to investigate the matter and advise as to whether it will be withdrawn and/or reissued, and if you will still need to pay.

How do I pay the penalty notice fine?

You can pay your fine online using MasterCard, Maestro, Visa, Electron and Solo at www.lancashire.gov.uk/online/pn. You will need the penalty notice as you will be asked for the penalty notice number.

Alternatively, you can complete the slip at the bottom of the notice and send or deliver it to the Local Authority at the address given with a cheque or postal order for the relevant amount.

Do I need to send anything with my payment when paying by post?

You must send the pay slip from the bottom of the penalty notice or write your name and the pupil's name on the back of your cheque or postal order. If we cannot identify who has paid and which pupil the payment relates to, the offence will not be discharged, and you will be taken to court. You may find it more convenient to pay online at www.lancashire.gov.uk/online/pn. You will need your penalty notice as you will be asked for the penalty notice number.

What if I lose the penalty notice?

Email salt@lancashire.gov.uk with your child's details and you will be provided with details so you can pay online. If your penalty notice deadline has passed, you will not be able to make payment and you will be advised on next steps.

I have missed the deadline on the penalty notice. Can I still pay?

No. The Penalty Notice Regulations do not allow for late payments and fines should be paid in full within the specified deadlines on the penalty notice.

I cannot afford to pay the fine, can I pay in instalments?

No. The Penalty Notice Regulations do not allow for part payments and fines should be paid in full within the specified deadlines on the penalty notice.

Revised September 2024