

PENALTY NOTICES

Information for parents

WHAT IS A PENALTY NOTICE?

Children must go to school regularly and be on time. It is a legal requirement and essential in giving them the best start in life.

Plymouth City Council's Education Welfare Service is responsible for helping to tackle truancy and reduce unauthorised absences from school. One of the ways they do this is to fine the parents of children regularly truanting. This fine is called a Penalty Notice.

HOW MUCH IS A PENALTY NOTICE?

A Penalty Notice is £60 if paid within **21 days of receiving it. This rises to £120 if paid after 21 days but within 28 days of receiving it.** If the penalty is not paid in full by the end of day **28**, the Council must either prosecute for the offence or withdraw the notice. (A notice served by post is deemed to have been received on the second day after posting if it was delivered by first class post).

WHEN COULD I RECEIVE A PENALTY NOTICE?

A Penalty Notice could be issued if:

Your child has 10 or more unauthorised absences from school over a six month period

Your child has been late to school after registration has closed 10 or more times over a six month period

Your child is found during a truancy sweep and the absence has not been authorised by the school, and there are already 10 previous unauthorised absences

You repeatedly fail to provide the school or the Education Welfare Service with reasons for your child's absences. This can include ignoring the Council's attempts to contact you.

Your child is found in a public place during the first five days of a fixed term or permanent exclusion.

You take your child on holiday during term time and the absence is not authorised by the Principal/Headteacher

Unauthorised Holidays during term time are not an entitlement - **Amendments to The Education (Pupil Registration) (England) Regulations 2006** have made it clear that Headteachers may not grant any leave of absence during term time unless there are **exceptional circumstances**. Headteachers will determine the number of school days a child can be away from school if leave is granted and parents will need to provide evidence that the circumstances are exceptional.

HOW WILL I RECEIVE THE NOTICE?

By post.

WILL I RECEIVE A WARNING FIRST?

Yes. The Education Welfare Service will write to you about your child's unauthorised absences from school and give you the chance to contact us to discuss them. If your child has **just** one more unauthorised absence within 15 days of you receiving the letter, the Penalty Notice may be issued.

However, this will not apply to unauthorised absence due to parents taking their child out of school for a family holiday. Headteachers can request that a penalty notice is issued to parents if they can prove that:

- the request for absence was denied and that the parent was warned that they could receive a penalty notice
- or that the child was absent without authorisation and there is sufficient evidence to show that the absence was due to a family holiday

WHAT HAPPENS IF I DO NOT PAY?

You will be prosecuted. Unlike other penalty notice schemes, the prosecution would not be for non-payment of the notice. You will be prosecuted for the offence for which the notice was issued — failing to ensure your child's regular attendance at school. This means you could receive a much more serious penalty and a criminal record if found guilty.

The fact that you failed to pay the notice could also be used as evidence in any legal proceedings taken against you.

A parent cannot be prosecuted until after the Notice payment deadline has passed (**28 days**). If a parent pays the penalty within **28 days**, they will have discharged their liability for the offence. This means no other legal action can be taken against them for that offence.

Note: any further unauthorised absences will be treated as separate offences and can result in legal action.

CAN I APPEAL AGAINST THE PENALTY NOTICE?

There is no statutory right of appeal against the issuing of a Penalty Notice. They can only be withdrawn for the following reasons:

- Where it should not have been issued. For example, where it has been issued outside the Council's Code of Conduct or where no offence has been committed.
- Where it has been issued to the wrong person.
- **Where it was materially defective**

If a penalty notice is withdrawn, a notice of the withdrawal will be given to the recipient and any amount paid will be refunded. No proceedings shall be continued or instigated against the recipient for the offence for which the withdrawn notice was issued.

THE LEGAL BIT

Section 23(1) of the Anti-Social Behaviour Act 2003 & Section 103 of the Education and Inspections Act 2006 introduced new powers to Sections 444 of the Education Act 1996 that enable Local Education Authorities to

issue Penalty Notices. Penalty Notices can be used as an alternative to prosecution under Section 444 and enable parents to discharge potential liability for conviction for that offence by paying a penalty.

IMPORTANT

As with prosecutions under section 444 of the Education Act, a Penalty Notice can be issued to each parent liable for the offence.

WHAT YOU SHOULD DO IF YOU ARE CONCERNED ABOUT YOUR CHILD'S ATTENDANCE

Contact the Education Welfare Service. They will support you and advise you of ways that could help to ensure your child's regular attendance at school. They can also put you in touch with other agencies that can provide more support and advice.

It is also important to talk to staff at your child's school. They can often identify specific problems that might be causing your child to truant. They can also offer 'Pastoral Support Plans' that will help you and your child feel your views and concerns are being heard.

IMPORTANT EXCLUDED PUPILS

Section 103 of the Education and Inspections Act 2006, places a duty on the parents of a child excluded from school to ensure that the child is not present in a public place during school hours without reasonable justification during the first five days of each and every fixed period or permanent exclusion.

This means that a penalty notice could be issued to the parent of an excluded child if they are found to be in a public place during the hours of a normal school day.

If you have any questions about Penalty Notices or would like to speak to an Education Welfare Officer about your child's attendance, please contact us.