

**North Somerset Council**  
**Code of Conduct for Penalty Notices**  
**for unauthorised or irregular attendance at school or Alternative**  
**Provision**  
**Revised January 2020**

**1. Rationale**

- 1.1 Regular and punctual attendance of pupils at school, or alternative provision is a legal requirement and essential for pupils to maximise the educational opportunities available to them. The North Somerset Education Welfare Service investigate cases of irregular attendance from school and following appropriate casework, instigate legal action if appropriate. Penalty Notices offer a means of swift intervention which the Council use to deal with issues of recent attendance issues or unauthorised term time holidays.
- 1.2 Through section 444A and section 444B of the Education Act 1996, it has become possible that certain cases of unauthorised absence can be dealt with by way of a Penalty Notice. Penalty Notices require the parent of a child of compulsory school age, whose attendance has been unsatisfactory, to pay a penalty, currently £60.00 if paid within 21 days or £120.00 if paid within 28 days.
- 1.3 This Code of Conduct aims to ensure Penalty Notices are issued in a consistent manner by North Somerset Council.

**2. Procedure for issuing Penalty Notices**

- 2.1 In North Somerset, Penalty Notices are issued by the Education Welfare Service (EWS) by post; following agreement by the Head Teacher of the school that the pupil is on roll with, the Education Welfare Officer and the authorised officer. EWS will ensure that the issuing of Penalty Notices is closely monitored where recipients pay the relevant penalty. In any case where the penalty is not paid within the appropriate period and where withdrawal of the Penalty Notice is not appropriate, the Education Welfare Service will instigate action through the courts as required by legislation. Prosecution in such cases would be for the child's non-school attendance rather than for a non-payment of the fine.
- 2.2 No one parent will receive more than 3 separate Penalty Notices resulting from the unauthorised absence of an individual child in any twelve-month period.
- 2.3 The Penalty Notice issued must be addressed to each parent who is liable for the offence or offences.
- 2.4 Penalty Notices will only be issued once agreed by the school and the EWS. The Education Welfare Service will action these requests providing that:
  - the circumstances of the case meet the criteria for the issue of a Penalty Notice as specified in the Code of Conduct, and

- all necessary information is provided to the Education Welfare Service in order to establish that an offence, under section 444(1) of the Education Act 1996 for truancy or section 103(3) of the Education and Inspections Act 2006 for exclusion, or section 444A or section 444B has been committed.

### **3. General criteria for the issuing of a Penalty Notice**

**3.1** A Penalty Notice for truancy will only be issued to a parent/carer if the pupil has at least ten sessions lost to unauthorised absence recorded within the previous six months.

**3.2** Good practice and where circumstances allow, the issue of a Penalty Notice for truancy will be preceded by the dispatch of a formal warning letter to the parent/carer. This letter will:

- Raise concern regarding the level of the unauthorised absence and giving advice regarding contact with the school and the Education Welfare Service
- Advise the parent of the powers of the LA to issue Penalty Notices
- Notify the parent that continued unauthorised absence may lead to the issue of a Penalty Notice if there is no or limited improvement in school attendance made.
- Notify the parent of the child who has been stopped by the Police during school time other than on an organised truancy sweep and has 10 or more unauthorised absences that if their child is stopped on a future occasion, the police will request the LA that a Penalty Notice be issued.
- Where a parent does not put in a request for a term time holiday and subsequent evidence is then found, that a child was away on holiday, the school should put this in writing to the parent and can then request a Penalty Notice be issued.
- Schools may still request an immediate Penalty Notice be issued where a parent puts in a late request for a term time holiday and where the school have not had a reasonable amount of time to issue a warning letter.

When a young person is stopped by the Police, during school time, outside of a truancy sweep and it is established that the young person has 10 or more unauthorised absences over a 6-month period, then a Penalty Notice warning letter may be sent to the parent(s).

#### **4. Procedures for issuing a Penalty Notice for an excluded pupil found in a public place during the school day without reasonable justification**

- 4.1 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 fixed period or permanent exclusion. Penalty Notices can be issued to any parent or carer whose child is found in a public place under these circumstances.
- 4.2 In cases where a Police Officer or Police Community Support Officer stops an excluded pupil in a public place during the school day and the pupil has no reasonable justification to be there, a request can be made by the officer for the Education Welfare Service to issue a Penalty Notice.
- 4.3 The Education Welfare Service will undertake necessary checks within 5 working days to establish whether the pupil was excluded at the time, the parent/carer had been informed of their responsibilities and the attendance register shows an exclusion symbol for the date in question. If all these are satisfied, then a Penalty Notice will be issued.
- 4.4 Good practice should be adopted where schools and the Police are advised of the outcome of their referral for a Penalty Notice.

#### **5. Circumstances when Penalty Notices will be issued**

Within North Somerset, the issuing of Penalty Notices is considered appropriate:

- 5.1 In cases of unauthorised absence for a period of 10 or more sessions, continuous or aggregated within the previous six months.
- 5.2 For pupils stopped during truancy sweeps or by the Police for truancy, but only after due consideration of the minimum evidential requirements have been met as agreed within the Code of Conduct and not as an on-the-spot action. The evidential requirement for penalty notices for pupils caught on truancy sweeps or for truancy outside of an organised sweep, will include at least one previous contact with that pupil or pupil and parent and when the school register was found not to be marked as authorised (in addition to the 10 sessions lost criteria).
- 5.3 Following notification from a school to the Local Authority that a parental request for a holiday in term time has not been authorised and is for a period 10 or more sessions, continuous or aggregated with the previous six months.
- 5.4 For pupils who are stopped by the Police in a public place during the first five school days of an Exclusion, whether for fixed period or permanently from school or, where that exclusion is for a fixed period of five days or less, any of the school days to which the exclusion relates as specified in section 103(2) of the Education and Inspections Act 2006 and is stated in the notice under section 104 to be a day on which the parent is subject to this subsection.

Within this Code of Conduct, a parent is defined as per Section 576 Education Act 1996.

## **6. Procedure for withdrawing Penalty Notices**

A Penalty Notice may be withdrawn by North Somerset Council in any case in which the authority determines that:

1. it ought not to have been issued, or
2. it ought not to have been issued to the person named as the recipient

Where a penalty Notice has been withdrawn in accordance with the above, a notice of the withdrawal shall be given to the recipient and any amount paid by way of penalty in pursuance of that notice shall be repaid to the person who paid it. No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under s.444 (1A) of the Education Act 1996 arising out of the same circumstances.

## **7. Payment of Penalty Notice**

The arrangements for the paying of penalties will be detailed on the Penalty Notices.