

## **PENALTY NOTICES**

### **School Non-Attendance - S444 Education Act 1996**

#### **Information for Parents and Carers**

##### **Introduction**

The law gives powers to the Local Authority and other designated bodies to issue penalty notices where a parent/carer 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/carers 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/carers pay the fine they can avoid being prosecuted and receiving a criminal conviction.

##### **Costs of Fine**

Penalty notices are issued at £120 however, if paid within 21 days of being issued the cost is £60.

##### **Method of Delivery**

Penalty notices will always be issued by 1<sup>st</sup> class post to your home and are issued to each parent/carer individually in respect of each child.

##### **Criteria for Penalty Notices**

Lancashire County Council has adopted a code of conduct that sets out the circumstances where penalty notices may be used such as:

- ✓ unauthorised absence (including parentally condoned absence)
- ✓ truancy
- ✓ persistent late\*\* arrival at school
- ✓ unauthorised leave in term time
- ✓ delayed return from authorised leave

In every case a pupil must have had a minimum of 5 school days/10 sessions unauthorised absence in a term or 7 school days/14 sessions unauthorised absence over 2 consecutive terms before a penalty notice is considered.

\* 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.

\*\* persistent lateness refers to pupils who arrive after the school register has closed (marked as U in the register).

## **Warnings**

In cases of unauthorised absence and persistent lateness\*\*, you will receive a written warning of the possibility of a notice being issued. This will include a copy of your child's attendance details. The warning letter will advise you of a 15 school day monitoring period during which your child should have no unauthorised absences from school, otherwise a penalty notice will be issued.

In cases of unauthorised leave, warnings will be issued where sufficient notice of the intended absence has been given. This means that in some cases, penalty notices may be issued without a warning.

## **Appeals**

There is no statutory right of appeal once a penalty notice has been issued. However, on receipt of a warning 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 school.

## **Payment**

Details of payment arrangements will be included on the penalty notice. You need to be aware that 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.

\*\* persistent lateness refers to pupils who arrive after the school register has closed (marked as U in the register)

## 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 head teacher as to whether or not 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 school's refusal to authorise leave or the school's decision to request a penalty notice should be raised with the headteacher informally or with the governing body 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.*

**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 or not they authorise absences for alleged illness. If you disagree with the school's decision, you should raise your concerns with the headteacher informally or with the governing body 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 /to request a penalty notice for the leave taken by my child. 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 or not it will be withdrawn and/or reissued, and if you will still need to pay.*

**How do I pay the fine?**

*You can pay your fine online using MasterCard, Maestro, Visa, Electron and Solo at [www.lancashire.gov.uk/online/pn](http://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.*

**How do I know that the payment I sent in the post was received?**

*The court officer will send you a letter saying that your payment has been received.*

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

*You must send the payslip 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](http://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?**

*You can still pay by post, please write your name and the pupil name that the penalty notice relates to on the back of the cheque or postal order. You can call 01772 534950 if you require assistance.*

**I have more than one penalty notice to pay and I want to pay by post, do I have to send individual cheques/postal orders or can I send one cheque/postal order to pay the fine?**

*You can use one cheque or postal order to pay more than one penalty notice, just make sure you include information with the payment that tells us which penalty notices you are paying.*

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

*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.*

**I gave my fine to someone else to pay for me but they haven't done it and the deadline has now passed. Am I still liable?**

*Yes. You are responsible for the penalty notice issued to you. If the fine is not paid for any reason, the case will still be listed for prosecution. Relying on someone else to pay your fine is not an available defence in court.*

*Revised March 2022*