

PENALTY NOTICES

S103(3) Education and Inspections Act 2006

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/carer¹ is considered to have failed in their legal duty to ensure their child is not in a public place² during school hours, during a period of exclusion from school.

Explanation of Penalty Notices

When a child has been excluded from school, their parent has a legal duty to ensure that the pupils is not present in a public place at any time during school hours during the first five days of the exclusion. If the child is present in a public place, the parent has committed an offence.

Depending on the circumstances, such cases may result in prosecution under S103(3) Education and Inspections Act 2006.

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 1st 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
- ✓ persistent late arrival at school (after the register has closed)
- ✓ unauthorised leave in term time
- ✓ delayed return from authorised leave
- ✓ being present in a public place at any time during school hours on a school day during the period of exclusion

¹ The expression "parent", in relation to a child or young person, includes any person who is not a parent of the child

² Public place means any highway or any place to which the public have access, and a school is not a public place for this purpose

Appeals

There is no statutory right of appeal once a penalty notice has been issued. However on receipt of a 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 was not present in a public place during the first five days of an exclusion from school.

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 £1,000. Other disposals such as Parenting Orders can be imposed depending upon the circumstances. Costs may also be imposed.

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

PENALTY NOTICE FREQUENTLY ASKED QUESTIONS

My husband/wife/partner 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 failing to ensure their child is not in a public place during the first 5 days of an exclusion. 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 he/she is not the natural father/mother of my child – does he/she still have to pay?

Yes. 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 him or her, 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 failing to ensure their child is not in a public place during the first 5 days of an exclusion, and 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 him or her, or who has care of the child. This means a number of people may be liable for a penalty notice.

I am Auntie/Uncle/Grandma/Grandad/Family Friend – 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 parent of the child but who has parental responsibility for him or her, 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 am currently in contact with the school about their decision to exclude 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.

My child was in a public place for a good reason on the dates alleged – how can I appeal against the penalty notice?

There is no statutory right of appeal for a penalty notice, however if you believe your child was in public for good reason then you should contact the school in the first instance. They may request that you provide evidence regarding the reason why your child was in public during the first 5 days of the exclusion.

If the school notify the LA that they have reviewed your representations/evidence and now believe that the child was in public with good reason, then the penalty notice will be withdrawn. However, as above 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 evidence is accepted that your child was in public for good reason and you have already paid the fine, 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. 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. 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.