

***PENALTY NOTICE
CODE OF CONDUCT***

1 Rationale

- 1.1 Regular and punctual attendance of pupils at school is both a legal requirement and essential in order for pupils to maximise the opportunities available to them. The Redcar & Cleveland Attendance & Welfare Service (AWS) will continue to investigate cases of regular non-attendance from school and, following appropriate casework, instigate legal action if applicable. A Penalty Notice is an alternative to prosecution which does not require an appearance in court whilst still ensuring an improvement in a student's attendance. Payment of a Penalty Notice enables parents to discharge potential liability for conviction. Following the implementation of Section 23 of the Anti Social Behaviour Act 2003 it is possible that certain cases of unauthorised absence can be dealt with by way of a Penalty Notice. Penalty Notices will require the parent of a child of compulsory school age, whose attendance has been unsatisfactory, to pay a fine, currently £60.00 if paid within 21 days or £120.00 if paid within 28 days.
- 1.2 In order to comply with Human Rights legislation it is essential that Penalty Notices be issued in a consistent manner. This Code ensures that the power to use Penalty Notices is applied consistently and fairly and that suitable administrative arrangements are in place.

2 New Legislation

The Education (Pupil Registration) (England) Regulations 2006 previously enabled a Head Teacher to grant leave of absence for the purpose of a holiday, as long as the leave of absence was made in advance and that there were special circumstances for granting the leave however, these regulations have been amended by regulations of the same name which came into force on 1st September 2013. The new regulations remove all references for holidays and the ability to authorise up to 10 school days of leave, so that leave of absence is only granted where a request is made in advance and the leave is classed as exceptional circumstances. There is no statutory definition of what is classed as an exceptional circumstance and it is the decision of the Head Teacher.

2 Procedure for issuing Penalty Notices

- 2.1 Following consultation with Cleveland Police Communities and Partnerships, Head Teachers and Governors and the Local Authority Legal Services Team it has been agreed that within the Borough, Penalty Notices will only be issued by the Attendance & Welfare Service following authorisation from the Team Manager. This will ensure that duplicate notices will not be issued or when proceedings for an offence under Section 444 Education Act 1996, have already been commenced. Requests to issue notices from other authorities will also only be considered and authorised by the Team Manager. The Service will ensure that the issuing of Penalty Notices is closely monitored and that recipients pay the relevant fine to the Local Authority. In any case where the penalty is not paid within the appropriate period, the AWS reserves the right to instigate action through the courts as required by legislation.
- 2.2 No one parent will receive more than three separate Penalty Notices, resulting from the unauthorised absence of an individual child in any twelve month period.
- 2.3 The Attendance & Welfare Service will consider requests to issue Penalty Notices from schools/colleges in Redcar & Cleveland and neighbouring Local Authority's. The Attendance & Welfare Service will action these requests providing:
- a. The circumstances of the case meet the criteria for the issue of a Penalty Notice which are specified in this Code of Conduct, and
 - b. All necessary information is provided to the Attendance & Welfare Service in order to establish that an offence, under Section 444(1) Education Act 1996, has been committed.
- 2.4 Within this Code of Conduct, a parent is defined as per Section 576 Education Act 1996, as follows:
- 'Parent' means all natural parents, whether they are married or not; and includes any person who, although not a natural parent, has parental responsibility (as defined in the Children's Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person.

- 2.5 In cases requiring the issue of a Penalty Notice(s), each parent will receive a separate Penalty Notice for each child. Should a parent fail or refuse to pay any Penalty Notice issued for this reason, then the evidence provided by the school/college will be the only information laid before the court.
- 2.6 Penalty Notices will not be issued during Truancy Patrols as this could be a health and safety risk. Additionally, not all the information will be available to prove the offence at that time.
- 2.7 Where a Year 11 student is not attending school in the spring term a Penalty Notice should be issued as opposed to a prosecution being taken under Section 444 of the Education Act 1996. However, if the penalty is not paid a prosecution may ensue.

3. General criteria for the issuing of a Penalty Notice

For issues of non-school attendance (contrary to Section 444(1) of the Education Act 1996):

- 3.1 A formal warning letter to be issued to parent(s), advising that in order to avoid a Penalty Notice, the student should record no unauthorised absence during a specific fifteen school day period. Parent(s) should receive the warning letter no later than three days before the monitoring period commences.
- 3.2 If unauthorised absence is recorded during the dates specified on the warning letter, the Penalty Notice will be issued to parent(s).

For issues of unauthorised leave of absence:

- 3.3 A separate Leave of Absence policy applies. Consideration is given for issuing Penalty Notices during the following:
- Anytime in September

- For any student whose attendance was below 95%, within the previous 12 calendar months, measured from the date before the first day of the leave of absence (including authorised and unauthorised absence)
- At any time during formal external examinations and assessment periods, including preparation time (school to provide evidence to support)
- If a holiday warning letter has been issued during the previous 12 calendar months, measured from the date before the first day of the leave of absence regardless of overall attendance during the previous 12 month period

4. Procedure for withdrawing Penalty Notices

- 4.1 A Penalty Notice may be withdrawn by Redcar & Cleveland Local Authority in any case in which the authority determines that:
- (a) it should not have been issued, or
 - (b) it should not have been issued to the person named as the recipient, or
 - (c) it contains material errors.
- 4.2 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 Section 444(1) of the Education Act 1996 arising out of the same circumstances.

5. Payment of Penalty Notices

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

6. Appeal

There is no statutory right of appeal once a notice has been issued.