



# School Attendance Code of Conduct



Updated August 2023

# Legislation

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Section 23 of the Antisocial Behaviour Act 2003 introduced new powers for designated Local Education Officers, Headteachers (and deputy or assistant headteachers authorised by them) and the Police to issue Penalty Notices for unauthorised absence from school.

The Education (Penalty Notices) (England) Regulations 2004 came into force on 27 February 2004. These were updated with The Education (Penalty Notices) (England) Regulations 2007 which were amended in The Education (Penalty Notices) (England) (Amendment) Regulations 2013.

Penalty Notices must be issued in a manner that conforms to all requirements of the Human Rights Act and all Equal Opportunities legislation.

## **For the purposes of the protocol, the legal definitions of ‘parent’ are:**

- Any natural parent, whether married or living with the child or not.
- Any parent who, although not a natural parent, has parental responsibility as defined in the Children Act (1989) for a child or young person.
- Any person who, although not a natural parent, has care of a child or young person.

[Understanding and dealing with issues relating to parental responsibility - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

## **If a Penalty Notice remains unpaid:**

Prosecutors must take into account the ‘**Code for Crown Prosecutors**’ that sets out a two-stage test that prosecutors should follow when they make decisions on cases:

### **Is there enough evidence against the defendant?**

When deciding whether there is enough evidence to charge, prosecutors must consider whether evidence can be used in court and is reliable. Prosecutors must be satisfied there is enough evidence to provide a ‘realistic prospect of conviction’ against each defendant.

### **Is it in the public interest for the CPS to bring the case to court?**

A prosecution will usually take place unless the prosecutor is sure that the public interest factors tending against prosecution outweigh those tending in favour.

# Rationale

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Regular and punctual attendance at school is a legal requirement under Section 444 of the Education Act 1996. It is essential that parents maximise the educational opportunities available for their children and provide the best possible start in life.

Under previous legislation, parents of a registered pupil whose child failed to attend school regularly and whose absence was unauthorised, committed an offence for which prosecution was the only available sanction. With the Education (Penalty Notices) Regulations 2007, Penalty Notices were introduced as an early intervention strategy as an alternative to the previous sanction by allowing parents an opportunity to discharge potential liability for conviction for the offence.

From 1 September 2013 the fine is £60 to be paid within 21 days and increased to £120 to be paid within 28 days. If the Penalty remains unpaid by the end of 28 days, the Local Authority must consider the commencement of proceedings for the offence to which the Notice relates. The prosecution is not for the non-payment of the notice but is for failure to ensure regular attendance at school.

**Penalty Notices should be used as an early deterrent to prevent patterns of unauthorised absence developing** and to supplement rather than replace the use of the wider powers already available. As with current legislative action, they are to be used for the enforcement of attendance and not for use as a punishment for absence.

Tameside Local Authority authorises the issue of all Penalty Notices. Where if parents fail to follow advice given by the school or where co-operation is absent or insufficient to bring about necessary improvement.

Penalty Notices should be used where a parent is capable of securing an improvement in their child's school attendance but is unwilling to do so.

They can only be used for periods of unauthorised absence and the defences in law replicate those already in place for enforcement actions under the provisions of Section 444 of the Education Act 1996.

A separate Penalty Notice will be issued to each parent for every child who is not attending school. For each child, there should be an advisory letter issued to each parent during an academic year. All Penalty Notices will be issued by first-class post.

The Generic Letter (Appendix 1) should be communicated at least annually to the parents of all pupils in the schools. Schools are expected to monitor the attendance of all pupils on their roll. When a pupil's attendance is a cause for concern, the school should follow their internal monitoring procedures and advise each responsible parent of the unauthorised absence and that their child's attendance is being monitored. The parent should normally also be advised that statutory action may be considered.

**Any such advice should be given in writing and prior to sending such a letter, the school should:**

- Consider the attendance record of any other siblings, including siblings from other schools of statutory school age.
- Consider whether the process conflicts with other intervention strategies in place by the Local Authority or other agencies.

It is important that any school actions are accurately recorded on the pupil's file. This will aid completion of the Penalty Notice or Penalty Notice Warning request form (Appendix 2) and may be used to provide evidence to the courts at a later date.

### **Leave of Absence in Term-Time**

The Education (Pupil Registration) (England) Regulations 2007, amended in 2013, confirm that schools cannot grant term time leave of absence unless:

- a. an application has been made in advance by a parent with whom the pupil normally resides; and
- b. the proprietor of the school, or a person authorised by the proprietor considers that leave of absence should be granted due to the exceptional circumstances relating to that application.

Term time leave of absence is not a parental right and the DfE recommend policies that neither ban all leave of absence in term-time nor bestow a right to all families.

Where a school has refused to authorise leave of absence, they must inform the parents in writing that the request has been refused and the possibility of statutory action being taken. Where permission has not been requested, and the school can demonstrate parents were aware via other forms of communication, such as attendance policies, newsletters or whole school letters sent to parents, then a Penalty Notice may be considered.

It is good practice that relevant schools communicate closely with each other before decisions are made for leave of absence during term-time.

The Local Authority will use its discretion before authorising the issue of Penalty Notices where there appear to be valid reasons to authorise a period of absence for one child and not another.

### **Persistent Late Arrival at School**

When a pupil persistently arrives late, schools should investigate the reason for this and offer support where appropriate to rectify the situation. Where the arrival time is after the close of the registration period (Guidance for Schools and Local Authorities Absence and Attendance Codes state the register of pupils should close 30 minutes after the register was taken) the code U should be recorded. This unauthorised absence can be considered when requesting a Penalty Notice or a Penalty Notice Warning.

# Issuing Penalty Notices

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## **A Penalty Notice may be issued following a Penalty Notice Warning:**

- Where unauthorised absence of a minimum of ten sessions (5 days) occurs over a period of twelve weeks or a term, the Local Education Authority may send a Penalty Notice Warning Letter (Appendix 3) to each responsible parent. If further unauthorised absence occurs following a monitoring period (of not less than 15 school days) the Local Authority may then issue a Penalty Notice. (Appendix 4)
- Where a pupil is stopped on a truancy sweep and there is not a valid reason for the absence from school, the Local Authority may send a Penalty Notice Warning to each responsible parent. If further unauthorised absence occurs following a monitoring period (of not less than 15 school days) the Local Authority may then issue a Penalty Notice. The Local Authority will consult with the school where the pupil is registered to agree this action.

## **A Penalty Notice may be issued without a Penalty Notice Warning:**

Where the unauthorised absence of a minimum of ten sessions occurs on consecutive days or is due to an unauthorised holiday/s within a twelve-week period, then the Local Education Authority may issue a Penalty Notice without sending a Penalty Notice Warning.

Tameside Local Authority will consider requests to issue Penalty Notices or Penalty Notice warnings from Tameside schools only if:

- A Penalty Notice Request form (Appendix 2) is completed with all the necessary information and the supporting relevant documentation is provided.
- The period of absence is not being considered for proceedings according to Section 444 (1) or (1A) of the Education Act 1996.
- The issue of a Penalty Notice does not conflict with other intervention strategies in place by the Local Authority or by other agencies where the circumstances are known to the Local Authority.

To ensure consistent delivery of Penalty Notices and Penalty Notice Warnings, the request form (Appendix 2) will require completion by the school and the following documentation provided:

### **Request for a Penalty Notice:**

- A copy of the pupil's up-to-date attendance record showing at least 10 sessions of unauthorised absence marked with the G code, signed by the Headteacher with the statement, 'This is a true and accurate record of (pupil's name) attendance'.
- A copy of the letter requesting leave of absence from the parent.
- A copy of the decline letter from the school.

NB where no application was received, the school must provide any relevant details.

### **Request for a Penalty Notice Warning:**

- A copy of the pupil's up-to-date attendance record showing at least 10 sessions of unauthorised absence, signed by the Headteacher with the statement, 'This is a true and accurate record of (pupil's name) attendance'.
- A chronology of intervention, i.e., details of meetings and phone calls with the parent(s).
- Copies of any letters sent to the parent(s).

### **Considering Penalty Notice requests:**

The Local Authority will consider each request and may deem it appropriate to take one of the following actions:

- Advise schools to refer to supporting agencies.
- Advise schools to monitor for a further period.
- Issue a Penalty Notice or Penalty Notice Warning.
- Advise the school to instigate legal proceedings.

# Payment of Penalty Notices

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The payment of a Penalty Notice will be £60 if paid within 21 days, increasing to £120 to be paid within 28 days.

## Non-payment of Penalty Notices

If payment is not received within 28 days, the Local Authority will consider prosecution for the unauthorised absence to which the Penalty Notice relates.

Non-payment of a Penalty Notice may result in legal action being taken by the Local Authority.

The instigation of legal proceedings for unauthorised absence from school under Section 444 (1) of the Education Act 1996 may also be considered where it is deemed to be appropriate.

In these circumstances, the school is required to provide the Local Authority with a signed school attendance record and a witness statement to be used as evidence in the prosecution.

The Local Authority may also undertake a Police and Criminal Evidence Act (PACE) caution interview prior to a decision to prosecute being made.

## Procedure for Withdrawal

Once a Penalty Notice has been issued, it can only be withdrawn in the following circumstances:

- It has been established that the notice was issued in error.
- The circumstances of the absence do not comply with the conditions of Tameside Metropolitan Borough Council's code of conduct and the Education (Penalty Notices) (England) Regulations 2007 which were amended in The Education (Penalty Notices) (England) (Amendment) Regulations 2013.
- The parent/carer provides evidence that would constitute a statutory defence.

# School & Local Authority Policy Documents

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All schools should include clear reference to the Local Authority School Attendance Code of Conduct in their attendance policies and this should be brought to the attention of all parents through prospectus material.

The general advice letter (Appendix 1) should be sent to parents at the beginning of the academic year. Where early patterns of unauthorised absence are occurring, the sending of advisory letters is an action that schools should normally undertake.

## **Monitoring & Review**

The Local Authority will monitor and evaluate the outcomes of Penalty Notices in terms of improvement in school attendance, payment, and any subsequent legal action. The use of the notices will be reviewed at regular intervals and the enforcement strategy of the Local Authority may be amended accordingly.

Service reports include data on the deployment and outcomes of their use.



# Appendix 1

## Penalty Notice Generic Letter - School Letterhead

Dear Parent,

### Penalty Notices for Non-School Attendance

#### Information Letter

Section 444(1) of the Education Act 1996 empowers the local authority to issue Penalty Notices in cases of unauthorised absence from school. This means that when a pupil has unauthorised absence of 10 sessions (5 days) or more, in a 12 week period (where no acceptable reason has been given for the absence) or if their child persistently arrives late for school after the close of registration, their parents may receive a Penalty Notice of £120, which is reduced to £60 if paid within 21 days. The Penalty Notice will need to be paid in full before 28 days of the Notice being served. Failure to pay a Penalty Notice may result in prosecution (a separate Penalty Notice may be issued to each parent for each child).

In law, an offence is committed if a parent fails to secure a child's regular attendance at school. Tameside Education Welfare Service, in conjunction with schools and Greater Manchester Police, will use these powers as an early deterrent to prevent patterns of unauthorised absence developing.

Parents may also receive a Penalty Notice without a warning letter for the offence of failing to secure regular school attendance under the following circumstances:

- Their child is stopped on a truancy sweep
- Where the absence is recorded as an unauthorised leave of absence for a minimum of 10 sessions (5 school days) in a 12 week period

The Education and Inspections Act 2006 also makes it an offence if a parent fails to ensure that their child is not in a public place during the first 30 days of a fixed term or permanent exclusion. Penalty Notices may be issued for such an offence.

The issuing of a Penalty Notice is an alternative to issuing proceedings at court. As a proportionate response, the Local Authority is likely to give parents the opportunity to discharge their liability to criminal proceedings by paying a Penalty Notice on the first occasion.

Once a parent has discharged liability by paying a Penalty Notice on at least one occasion and where there are further unauthorised absences, they may not be given the option of paying a further Penalty Notice, but may instead be summoned to appear before Tameside Magistrate's Court to answer an offence under Section 444 of the Education Act 1996: failure to ensure regular attendance. Conviction of an offence under section 444(1) may result in a fine of £1000. Under section 444(1A), convictions may result in a fine of £2,500, a community order, electronic tagging or a custodial sentence and a criminal conviction recorded.

Parents and carers of pupils registered at this school are reminded that they hold legal responsibility for ensuring that their child attends school regularly and punctually.

<<School Name>> School shares the Government's determination to raise levels of pupil attendance and achievement in order to ensure the best possible start in life for our children.

Support and guidance on attendance is always available from our school and if you have any specific queries in relation to this letter, please contact me on the above number.

Yours sincerely,

<<Head Teacher>>

# Appendix 2



ASHTON-UNDER-LYNE · ALDENS HAW · DENTON · DROYLS DEN · DUKINFIELD · HYDE · LONGDEN DALE · MOSSLEY · STALYBRIDGE

## The Education (Penalty Notices) (England) Regulations 2004

The information on this form will be used in the consideration of issuing a Penalty Notice or Penalty Notice Warning for unauthorised absences in term time under the above Act of a registered pupil at the School/College /Academy.

Name of Pupil:	
Date of Birth:	
School:	
Year Group:	
Number of Unauthorised Absences:	
Between the dates of:	
Current Attendance %:	

I am applying for a Penalty Notice / Penalty Notice Warning to be issued to:

Title	Full Name	Address	Post Code	Phone Number	DOB

Siblings: (Please include with other schools where there are siblings)

Full Name	DOB	School	Attendance

Family background, school, other agency involvement: LAC, CP, mental health, anti-social behaviour etc.

Status - SEN/School Action Plus etc.



We are applying for:	
<b>Penalty Notice Warning</b> Please provide: <ul style="list-style-type: none"> <li>• Chronology of intervention</li> <li>• Date of meeting/s or phone call/s with parent</li> <li>• Copies of any relevant letters sent from school</li> </ul>	<input type="checkbox"/>
<b>Penalty Notice for 10 sessions or more of 'G' Code</b> Please provide: <ul style="list-style-type: none"> <li>• Copy of the application for leave of Absence if the parent requested <a href="#">this</a></li> <li>• A copy of the Headteacher's letter declining the leave of absence</li> <li>• If no application was received, please provide details in box <a href="#">below</a></li> </ul>	<input type="checkbox"/>
<b>All Applications must include an Attendance Certificate signed and dated by the Headteacher with the declaration:</b> "My name is (name) and I am the Headteacher of (school name) and I can certify that this registration certificate is a true and accurate record of (child's name) attendance."	<input type="checkbox"/>

Any other relevant information which may be mitigation in court

Has the family previously had a Penalty Notice/Penalty Notice Warning? Yes / No

**Declaration**

The information provided is true to the best of our knowledge and belief. I/we may be required to prepare a Section 9 statement and attend court.

Headteacher: \_\_\_\_\_ Date: \_\_\_\_\_

Attendance Lead: \_\_\_\_\_ Date: \_\_\_\_\_

Please send the form fully completed with all relevant paperwork to:

[educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

Education Welfare Service  
 Tameside Council  
 PO Box 317  
 Ashton-under-Lyne  
 OL6 0GS

Applications will not be considered without all the appropriate [information](#)

# Appendix 3



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

## **SCHOOL ATTENDANCE WARNING**

Section 444(1) Education Act 1996 (as amended)

If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996.

### **PRIVATE AND CONFIDENTIAL**

«Parents\_\_Name»  
«Address\_1»  
«Address\_2»  
«Address\_3»  
«Post\_Code»

Registered Pupil: «Childs\_Name»  
Date of Birth: «DOB»  
School: «School»  
Date of Issue: «Date\_Sent\_Out»

**TAKE NOTICE** that you have failed to cause your child to attend school regularly.

Your child, who is a registered pupil of compulsory school age, has had **10 or more absences** within **12 school weeks** or a term, which are **unauthorised** by the school.

You have therefore rendered yourself liable to a **Penalty Warning** under the provisions of the Education (Penalty Notices) (England) Regulations 2004.

**This warning is issued in the hope that it will not be necessary to take further steps to enforce the law.**

Should there be no improvement in your child's attendance, you may be issued with a **Penalty Notice**.

Note: The payment of the penalty notice is £60 if paid within 21 days, increasing to £120 to be paid within 28 days. Failure to pay this fine may result in prosecution for the offence stated and subject to a fine of up to £1000.

Your child's attendance will be **closely monitored** for a period of **no less than 15 days** and any **further unauthorised absences** will be reported to Tameside Education Welfare Department

If you require further details about this Notice, please email: [educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice Warning will not be placed on hold whilst you await a response.



## FREQUENTLY ASKED QUESTIONS

### Q1. WHY HAVE I RECEIVED A PENALTY NOTICE WARNING?

Penalty Notice Warnings are used as a way of improving attendance. A Penalty Notice Warning can only be issued in cases of unauthorised absence where your child has had 10 sessions (5 days) of unauthorised absence within a 12 week period. These do not need to be consecutive.

### Q2. WHY HAVE MY CHILD'S ABSENCES NOT BEEN AUTHORISED?

The Local Authority issues these Penalty Notice Warnings on behalf of school. It is the Headteacher's responsibility to determine whether an absence is authorised or unauthorised, this is not a parental one. The Headteacher determines whether an absence will be authorised or unauthorised based on a pattern of absence, overall attendance, reasons for absence and whether medical evidence has been provided.

Penalty Notice Warnings can be issued for any unauthorised absence. This includes holidays in term time that do not meet 10 sessions (5 days) of absence, days where your child is absent and the school have not deemed it authorised, and occasions where your child has arrived late to school after the registers have closed. Contacting school to report an absence does not mean the absence will be automatically authorised.

Any queries relating to the authorisation of absences would need to be directed to the attendance team at school.

### Q3. HOW DO I PAY MY PENALTY NOTICE?

You have been issued a Penalty Notice Warning, not a Penalty Notice. There is no Penalty to pay at this stage.

### Q4. WHAT HAPPENS AFTER I HAVE RECEIVED A PENALTY NOTICE WARNING?

Your child's attendance will be formally monitored for a period of no less than 15 school days. If your child has further unauthorised absences during this monitoring period, a Penalty Notice will be issued. Penalty Notices can be issued to each parent for each child as both parents have a legal responsibility to ensure regular school attendance, whether residing together or not.

Once a Penalty Notice is issued, you will have 21 days to pay at £80. This will then increase to £120 for a further 7 days. The payment dates are set within legislation and are included in Tameside MBC's Penalty Notice Code of Conduct and cannot therefore be amended. The Local Authority have no facility to implement a payment plan. If the payment date of £80 has passed, the payment will increase and cannot be reduced.

### Q5. MY DETAILS ARE INCORRECT ON THE PENALTY NOTICE WARNING

If any of the details on this Warning Notice are incorrect, please contact the team via the email provided. The Penalty Notice Warning will be amended and a new copy sent to you. If there is an address discrepancy, please include a copy of your most recent council tax bill with your query. Please ensure you update school with your new address as the information on this Warning Notice is provided by school.

### Q6. WHAT IF I AM NOT THE CHILD'S BIOLOGICAL PARENT?

Section 578 of the Education Act 1996 defines 'parent' as

- all natural parents, whether they are married or not
- any person who, although not a natural parent, has parental responsibility for a child or young person
- any person who, although not a natural parent, has care of a child or young person (having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law).

### Q7. HOW DO I COMPLAIN ABOUT BEING ISSUED WITH A PENALTY NOTICE WARNING?

If you have any complaints regarding being issued with a Penalty Notice Warning, you need to direct these to your child's school following their complaints procedure, details can be found on school's website.

If you require further details about this Notice, please email: [educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice Warning will not be placed on hold whilst you await a response.

# Appendix 4



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

## **PENALTY NOTICE**

**Section 444(1) Education Act 1996 (as amended)**

**If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996.**

### **PRIVATE AND CONFIDENTIAL**

«Title» «Forename» «Surname»  
«Property» «Street»  
«Town»  
«County»  
«Postcode»

Reference Number: «Reference\_Number»  
Registered Pupil: «Value\_I»  
Date of Birth: «Value\_V»  
School: «Value\_II»  
Period of Offence: «Value\_III» to «Value\_IV»  
Date of Issue: «Issue\_Date»

### **YOU MUST NOT IGNORE THIS NOTICE**

Between «Value\_III» to «Value\_IV» in the Borough of Tameside you were the parent of «Value\_I» who was of compulsory school age and a registered pupil at «Value\_II» who failed to attend regularly at that school contrary to section 444(1) of the Education Act 1996.

1. Section 444 of the Education Act 1996 gives power to the Local Authority to issue Penalty Notices in circumstances where it is believed that a person has committed an offence under Section 444(1) of the Act; that is where a child fails to attend regularly at their school.
2. Anyone with parental responsibility or having day to day care of a child can be issued with a Penalty Notice, for each of the children with unauthorised absences. **Penalty Notices may not be issued to both parents of the same child and each Penalty Notice will need to be paid separately.**
3. The payment of the Penalty Notice is £60 if paid within 7 days, increasing to £120 to be paid within 28 days.
4. Failure to pay this Penalty may result in prosecution for the offence stated and subject to a fine of up to £1000.
5. Payment must be made in full; part payments or instalment payments are not permissible.
6. Payment of this Penalty will discharge your liability and no further action will be taken against you in connection with the offence.
7. There is no statutory right of appeal once this Notice has been issued.

**Payment of £60 must be received by «Increase\_Payment\_After»**

**If payment is not received by this date, the amount due will increase to £120 and must be paid by «Block\_Payment\_After»**

#### **ONLINE**

Payment can be made online using most Credit/Debit Cards at:

[www.tameside.gov.uk/fpn](http://www.tameside.gov.uk/fpn)

Quote your Reference Number:  
**«Reference\_Number»**

#### **BY POST**

Cheque or Postal Orders should be crossed 'AC payee' and made payable to 'Tameside MBC'. Write the Penalty Notice number, your name and address on the reverse and send to:

Education Welfare Service  
Tameside Council  
PO Box 317  
Ashton-under-Lyne  
OL6 0GS

**Please Note: NO PUBLIC ACCESS;  
CORRESPONDANCE ADDRESS ONLY**

Please allow 2 working days for 1st class and 5 working days for 2nd class post.

If you require further details about this Notice, please email: [educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice will not be placed on hold whilst you await a response.



## FREQUENTLY ASKED QUESTIONS

### Q1. WHY HAVE I RECEIVED A PENALTY NOTICE?

Penalty Notices are used as a way of enforcing attendance where it is reasonable for school to expect that their use will improve attendance. A Penalty Notice can only be issued in cases of unauthorised absence where your child has had 10 sessions (5 days) of unauthorised absence within a 12 week period. These do not need to be consecutive.

### Q2. WHY HAVE MY REASONS FOR ABSENCE NOT MET EXCEPTIONAL CIRCUMSTANCES? (HOLIDAYS IN TERM TIME)

The Local Authority issues Penalty Notices upon request of the school. It is at the Headteachers discretion whether an absence will be authorised or unauthorised and whether to refer to the Local Authority for a Penalty Notice to be issued. Headteachers are only able to authorise a leave of absence in exceptional circumstances. Any queries relating to the authorisation of absence would need to be directed to the attendance team at school.

### Q3. I DO NOT BELIEVE I HAVE COMMITTED AN OFFENCE

If your child has met the criteria of 10 sessions (5 days) of unauthorised absence in a 12 week period, the offence of failure to ensure regular school attendance has been committed. This is a straightforward liability offence. Attendance outside of the period of offence is not taken into consideration when a Penalty Notice is issued.

### Q4. CAN I APPEAL THE PENALTY NOTICE?

There is no right to appeal a Penalty Notice once issued. A Penalty Notice can only be withdrawn in the following circumstances:

- The Penalty Notice has been issued to the wrong person
- The Penalty Notice has been issued incorrectly, as no offence has been committed, i.e.: the absence was authorised by school
- You may feel you have a good reason for removing your child from school but this would be considered a mitigating circumstance. Instead of paying the Penalty Notice you may elect to have your case heard in the Magistrates' Court where you will have the opportunity to state this information.

### Q5. CAN A PAYMENT PLAN OR REDUCTION BE IMPLEMENTED?

The payment dates are set within legislation and include Tameside MBC's Penalty Notice Code of Conduct and cannot therefore be amended. The Local Authority do have no facility to implement a payment plan. Payment of £80 can be made within 21 days and payment of £120 can be made within 28 days. If the payment date of £80 has passed, the payment will increase and cannot be reduced. The payment system operates for Penalty Notices to be paid 24/7.

### Q6. MY DETAILS ARE INCORRECT ON THE PENALTY NOTICE

If any of the details are incorrect, please contact the team via the email provided. The Penalty Notice will be amended and a new copy sent to you. If there is an address discrepancy, please include a copy of your most recent council tax bill with your query. Please ensure you update school with your new address as the information on the Penalty Notice is provided by school.

### Q7. WHAT IF I AM NOT THE CHILD'S BIOLOGICAL PARENT?

Section 576 of the Education Act 1996 defines 'parent' as

- all natural parents, whether they are married or not
- any person who, although not a natural parent, has parental responsibility for a child or young person
- any person who, although not a natural parent, has care of a child or young person (having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law).

Penalty Notices are issued per parent per child as both parents have a legal responsibility to ensure regular school attendance, whether residing together or not.

### Q8. HOW DO I COMPLAIN ABOUT BEING ISSUED WITH A PENALTY NOTICE?

If you have any complaints regarding being issued with a Penalty Notice, you need to direct these to your child's school, following their complaints procedure. Details can be found on school's website.

### Q9. WHAT HAPPENS IF I DO NOT PAY MY PENALTY NOTICE?

If the Penalty Notice is not paid it will progress to the Magistrates' court for the offence of failure to ensure regular school attendance of your child. You will have the opportunity to state any mitigating circumstances to the Magistrates if you wish, however you may incur further costs.

If you require further details about this Notice, please email: [educationwelfareferrals@tameside.gov.uk](mailto:educationwelfareferrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice will not be placed on hold whilst you await a response.

# Appendix 5



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

## **PENALTY NOTICE REMINDER**

Section 444(1) Education Act 1996 (as amended)

If a child of compulsory age who is a registered pupil at a school fails to attend regularly at the school his/her parent is guilty of an offence under section 444(1) Education Act 1996.

### **PRIVATE AND CONFIDENTIAL**

«Title» «Forename» «Surname»  
«Property» «Street»  
«Town»  
«County»  
«Postcode»

Reference Number: «Reference\_Number»  
Registered Pupil: «Value\_I»  
Date of Birth: «Value\_V»  
School: «Value\_II»  
Period of Offence: «Value\_III» to «Value\_IV»  
Date:

**You have been previously issued a Penalty Notice in relation to your child's school attendance.**

Payment of a Penalty Notice discharges the parent or carer's liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.

**Payment of €60 must be received by «Increase\_Payment\_After»**

**If payment is not received by this date, the amount due will increase to €120 and must be paid by «Block\_Payment\_After»**

**Failure to make the payment by «Block\_Payment\_After»**

**will result in the matter being progressed to the**

**Magistrates Court.**

### **ONLINE**

Payment can be made online using most Credit/Debit Cards at:

[www.tameside.gov.uk/fpn](http://www.tameside.gov.uk/fpn)

Quote your Reference Number:

**«Reference\_Number»**

### **BY POST**

Cheque or Postal Orders should be crossed 'A/C payee' and made payable to 'Tameside MBC'. Write the Penalty Notice number, your name and address on the reverse and send to:

Education Welfare Service  
Tameside Council  
PO Box 317  
Ashton-under-Lyne  
OL8 0GS

**Please Note: NO PUBLIC ACCESS;  
CORRESPONDANCE ADDRESS ONLY**  
Please allow 2 working days for 1st class and 5 working days for 2nd class post.

If you require further details about this Notice, please email: [educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice will not be placed on hold whilst you await a response.





## FREQUENTLY ASKED QUESTIONS

### Q1. WHY HAVE I RECEIVED A PENALTY NOTICE?

Penalty Notices are used as a way of enforcing attendance where it is reasonable for school to expect that their use will improve attendance. A Penalty Notice can only be issued in cases of unauthorised absence where your child has had 10 sessions (5 days) of unauthorised absence within a 12 week period. These do not need to be consecutive.

### Q2. WHY HAVE MY REASONS FOR ABSENCE NOT MET EXCEPTIONAL CIRCUMSTANCES? (HOLIDAYS IN TERM TIME)

The Local Authority issues Penalty Notices upon request of the school. It is at the Headteachers discretion whether an absence will be authorised or unauthorised and whether to refer to the Local Authority for a Penalty Notice to be issued. Headteachers are only able to authorise a leave of absence in exceptional circumstances. Any queries relating to the authorisation of absence would need to be directed to the attendance team at school.

### Q3. I DO NOT BELIEVE I HAVE COMMITTED AN OFFENCE

If your child has met the criteria of 10 sessions (5 days) of unauthorised absence in a 12 week period, the offence of failure to ensure regular school attendance has been committed. This is a straightforward liability offence. Attendance outside of the period of offence is not taken into consideration when a Penalty Notice is issued.

### Q4. CAN I APPEAL THE PENALTY NOTICE?

There is no right to appeal a Penalty Notice once issued. A Penalty Notice can only be withdrawn in the following circumstances:

- The Penalty Notice has been issued to the wrong person
- The Penalty Notice has been issued incorrectly, as no offence has been committed i.e.: the absence was authorised by school
- You may feel you have a good reason for removing your child from school but this would be considered a mitigating circumstance. Instead of paying the Penalty Notice you may elect to have your case heard in the Magistrates' Court where you will have the opportunity to share this information.

### Q5. CAN A PAYMENT PLAN OR REDUCTION BE IMPLEMENTED?

The payment dates are set within legislation and included in Tameside MBC's Penalty Notice Code of Conduct and cannot therefore be amended. The Local Authority has no facility to implement a payment plan. Payment of £80 can be made within 21 days and payment of £120 can be made within 28 days. If the payment date of £80 has passed, the payment will increase and cannot be reduced. The payment system is open to Penalty Notices to be paid 24/7.

### Q6. MY DETAILS ARE INCORRECT ON THE PENALTY NOTICE

If any of the details are incorrect, please contact the team via the email provided. The Penalty Notice will be amended and a new copy sent to you. If there is an address discrepancy, please include a copy of your most recent council tax bill with your query. Please ensure you update school with your new address as the information on the Penalty Notice is provided by school.

### Q7. I DID NOT RECEIVE THE ORIGINAL PENALTY NOTICE BUT RECEIVED A REMINDER

All Penalty Notices are sent through an online system via priority mail (first class) and should be received within 2 working days. The same system is used to generate all Penalty Notices, Reminders and Court paperwork. If you have any issues with not receiving your post, you will need to direct this to your local postal service for investigation. Proof of postage can be provided upon request within one month of your Penalty Notice issue date.

### Q8. WHAT IF I AM NOT THE CHILD'S BIOLOGICAL PARENT?

Section 578 of the Education Act 1996 defines 'parent' as

- all natural parents, whether they are married or not
- any person who, although not a natural parent, has parental responsibility for a child or young person
- any person who, although not a natural parent, has care of a child or young person (having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law).

Penalty Notices are issued per parent per child as both parents have a legal responsibility to ensure regular school attendance, whether residing together or not.

### Q9. HOW DO I COMPLAIN ABOUT BEING ISSUED WITH A PENALTY NOTICE?

If you have any complaints regarding being issued with a Penalty Notice, you need to direct these to your child's school, following their complaints procedure. Details can be found on school's website.

### Q10. WHAT HAPPENS IF I DO NOT PAY MY PENALTY NOTICE?

If the Penalty Notice is not paid it will progress to the Magistrates' court for the offence of failure to ensure regular school attendance of your child. You will have the opportunity to state any mitigating circumstances to the Magistrates if you wish, however you may incur further costs.

If you require further details about this Notice, please email: [educationwelfare referrals@tameside.gov.uk](mailto:educationwelfare referrals@tameside.gov.uk)

A member of our team will aim to respond to you within 5 working days.

Please be advised your Penalty Notice will not be placed on hold whilst you await a response.