

**HOUNSLOW EDUCATION WELFARE SERVICE  
PENALTY NOTICE  
LOCAL CODE OF CONDUCT**

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**1. Legal background**

**1.1 Sections 444A and 444B of the Education Act 1996** empowers designated Local Authority (LA) officers, Headteachers (Deputy and Assistant Headteachers when authorised by them) and the police to issue Penalty Notices in cases of unauthorised absence from school.

**1.2** The Education (Penalty Notices) (England) Regulations 2007 (as amended) requires the local authority, in consultation with all of the above, to develop a code of conduct for issuing Penalty Notices.

**1.3** Amendments were made to the 2007 Regulations in The Education (Penalty Notices) (England) (Amendment) Regulations 2013 and came into force on 1st September 2013.

**1.4** The definition of a parent includes: all natural parents, whether they are married or not; any person or body who has parental responsibility of a child; and any person, although not a natural parent, who has care of a child. Having care of a child means that a person with whom a child lives and looks after a child, irrespective of their relationship of that child, is considered to be a parent in Education law (see section 5.76 of the Education Act 1996 and the children Act 1989).

**2. Rationale**

**2.1** Regular and punctual attendance at school is a legal requirement, as well as essential if pupils are to maximise their education opportunities. Parents/carers are committing an offence if they fail to ensure the regular attendance of their child at a Hounslow school.

**2.2** Penalty Notices supplement and do not replace the existing sanctions currently available under s444 Education Act 1996 or s36 Children Act 1989 to enforce attendance at school where appropriate. The purpose of the Penalty

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Notice is to prevent the escalation of unauthorised absences and to avoid prosecution under Section 4441(1a) of the Education Act.

**2.3** In the London Borough of Hounslow, Education Welfare has the authority to enforce the law in respect of school attendance for children of compulsory school age who attend a Hounslow School and consider the use of Penalty Notices for all cases of unauthorised absence. Officers must comply with the guidance set out in this code of conduct and to all requirements of the Human Rights Act 1998 and all Equalities Legislation.

**2.4** The issuing of Penalty Notices will be based on clear threshold criteria which will be applied consistently and equitably across Hounslow's schools.

### **3. Who may issue a Penalty Notice?**

A Penalty Notice may only be issued by:

**3.1** Authorised LA staff. In Hounslow this will be officers within Education Welfare.

**3.2** Headteachers and school staff authorised by them may request Education Welfare to issue a Penalty Notice.

**3.3** A police officer during a truancy sweep under the provision of Crime and Disorder Act 1998 may request Education Welfare to write a Penalty Notice.

### **4. Circumstances for issuing a Penalty Notice**

**4.1** A Penalty Notice can only be issued in cases of unauthorised absence. It would be considered appropriate to serve a Penalty Notice in the following circumstances:

**4.2** A child has been referred to Education Welfare and casework is in progress but the parents are not supporting the school or engaging with Education Welfare activity to bring about improved attendance and no other legal sanctions are underway.

**4.3** Where parents persistently fail to ensure their children attend school and attendance is below 90% for an identified target period with no acceptable reason and no other legal sanctions are underway.

**4.4** Where a pupil persistently arrives at school after the registers have closed (coded U) and attendance is below 90%.

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a) Term Time Leave of 3 days or more is taken without agreement with, or notification to the school following previous term time leave and the parents have been warned during the last 6 years that a Penalty Notice will result on the next occasion of Term Time Leave of 3 days or more.

b) Attendance is at 92% or below over the previous 190 days (equivalent to an academic year).

**4.6** The LA is satisfied that there is sufficient evidence to show the parent has committed an offence under section 444(1) of the Education Act 1996.

### **5. Withdrawal of a Penalty Notice**

Once issued, a Penalty Notice may only be withdrawn by the LA in the following circumstances:

**5.1** Proof has been established that the Penalty Notice has been issued to the wrong person.

**5.2** The Penalty Notice ought not to have been issued i.e. where it has been issued outside the terms of this code of conduct or no offence has been committed.

### **6. Representation**

There is no statutory right of appeal against the issuing of a Penalty Notice.

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

**7.1** From 1st September 2013 the Penalty of £60 was imposed per parent per child, if paid within 21 days of receipt of the Penalty Notice. This would increase to £120 per parent per child, if paid after 21 days but within 28 days of receipt. If the Penalty is not paid in full by the end of the 28 days after the date of issue and the attendance is still a concern the LA will consider prosecution.

**7.2** Arrangements for payment will be detailed on the Penalty Notice. Payment by credit/debit card may be taken over the telephone on 0208 583 2753/2768 or online at [www.hounslow.gov.uk/xfp/form/285](http://www.hounslow.gov.uk/xfp/form/285)

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

**7.4** The LA retains any revenue from any Penalty Notice to cover enforcement costs. It is unlikely that revenue will be greater than enforcement costs.

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## **8. Non-payment of a Penalty Notice**

**8.1** Where a Penalty Notice is not paid and attendance fails to improve a prosecution will be considered. Any prosecution is for the offence of failing to secure regular attendance at school and not for non-payment of the fine. Prosecutions are brought under section 4441/1A of the Education Act 1996. In Hounslow the Inclusion Manager and the Executive Director of Children and Adults Services' are responsible for deciding whether or not to prosecute a parent under this section.

**8.2** There will be circumstances where Penalty Notices have been issued and paid, however attendance has not improved and a prosecution may follow.

## **9. Implementation**

**9.1** Education Welfare will consider serving Penalty Notices and will only comply when the circumstances of the pupil's absence meet the criteria.

**9.2** Schools party to this code of practice who feel that Penalty Notices should be issued will ensure their attendance policies are compliant with this code of conduct.

**9.3** Education Welfare will maintain a record of all notifications.

**9.4** Where unauthorised absence continues, a formal warning letter will be issued by the Education Welfare Officer which details the possibility of a Penalty Notice being issued and stating that improvement must be seen within a specified time scale.

**9.5** The maximum number of Penalty Notices that can be issued in respect of an individual child in a twelve-month period is two.

**9.6** Education Welfare will monitor all referred cases and in cases of continued unauthorised absence, where parents have not taken responsibility for ensuring regular/improved attendance and following the issuing of a Penalty Notice Warning Letter, a Penalty Notice will be served.

**9.7** There is a process in place where all Warning Letters and Penalty Notices issued are recorded.

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**10. Truancy patrols**

**10.1** Truancy Patrols will be conducted on a half-termly basis. Where Education Welfare becomes aware of particular circumstances we will seek to cooperate with partners to address the concerns

**10.2** A Penalty Notice will only be issued after due consideration when all facts are known and the threshold for serving the Penalty Notice has been met.

**10.3** Information is given to anyone stopped on a patrol, pupil and/or parent about the possible support and sanctions used to address non-attendance.

**11. Review**

This code of conduct will be reviewed on an annual basis and may be amended depending on the outcome of the previous year's operations.

**12. Further information**

Education Welfare  
Children's and Adults' Services  
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7 Bath Road  
Hounslow  
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