

London Borough of Redbridge

Local code of conduct for issuing fixed penalty notices for school absence 2024

1. The purpose of this local code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across London Borough of Redbridge. The code sets out the arrangements for administering penalty notices in London Borough of Redbridge and must be adhered to by anyone issuing a penalty notice for school absence in this area. The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the ['Working together to improve school attendance'](#) guidance.

Consultation

2. This code has been drawn up in consultation with the Headteachers of Redbridge Schools and the Local Authority.

Legal basis

3. Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the Education Act 1996. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, AP academies, and certain offsite places as set out in section 444A(1)(b).
4. The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.
5. A penalty notice can only be issued by an authorised officer: that is, a headteacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable.
6. The national framework for penalty notices is published in statutory guidance 'Working together to improve school attendance'. It provides further national guidance on the operation of penalty notice schemes for school absence in England.
7. A parent includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996. Penalty notices will usually be issued to the parent or parents with day-to-day responsibility for the pupil's attendance or the parent

or parents who have allowed the absence (regardless of which parent has applied for a leave of absence).

Rationale

8. Research published by the Department for Education in May 2022 found pupils with higher attainment at KS2 and KS4 had lower levels of absence over the key stage compared to those with lower attainment.
 - Pupils who did not achieve the expected standard in reading, writing and maths in 2019 had an overall absence rate of 4.7% over the key stage, compared with 3.5% among pupils who achieved the expected standard and 2.7% among those who achieved the higher standard.
 - Pupils who did not achieve grade 9 to 4 in English and maths GCSEs in 2019 had an overall absence rate of 8.8% over the key stage, compared with 5.2% among pupils who achieved a grade 4 and 3.7% among pupils who achieved grade 9 to 5 in both English and maths.
9. For the most vulnerable pupils, regular attendance is also an important protective factor and often the best opportunity for needs to be identified and support provided.
10. Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the DfE's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.
11. The national framework for penalty notices is based on the principles that penalty notices should only be used in cases where:
 - support is not appropriate (e.g. a term time holiday) or where support has been provided and not engaged with or not worked, and
 - they are the most appropriate tool to change parental behaviour and improve attendance for that family.

When may a penalty notice for absence be appropriate?

12. **When the national threshold has been met:**

When a school becomes aware that the national threshold has been met, they must consider whether a penalty notice can and should be issued or not. The national threshold has been met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within 10 school weeks¹, with one of, or a combination of the following codes:

- (a) code G (the pupil is absent without leave for the purpose of a holiday),
 - (b) code N (the circumstances of the pupil's absence have not yet been established),
 - (c) code O (none of the other rows of Table 3 in regulation 10(3) of the School Attendance (Pupil Registration) (England) Regulations 2024 applies), and
 - (d) code U (the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)
13. If in an individual case the local authority (or other authorised officer) believes a penalty notice would be appropriate, they retain the discretion to issue one before the threshold is met. This might apply for example, where parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for birthdays or other family events.
14. If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be most appropriate tool. The national framework for penalty notices sets out that a maximum of 2 penalty notices per child, per parent can be issued within a rolling 3-year period. If the national threshold is met for a third time (or subsequent times) within 3 years, another tool should be used. Schools should refer the case to the Legal Intervention Panel using the Legal Intervention Document. The panel is represented by the Local Authority Education Welfare Service, Legal Intervention Officer and an Early Help representative. Interventions such as a CAF, Parenting Order, Education Supervision Order and Prosecution will be considered.
15. For the purpose of the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward if the parent pleaded or was found guilty) but not those which were withdrawn.

¹ A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period when the national threshold applies may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

Key considerations prior to the issue of a Penalty Notice for school absence

16. The following considerations will be made before issuing (or requesting that another authorised officer issues) a penalty notice to ensure consistency of approach:

- In cases where support is not appropriate (for example, for holidays in term time), consider on a case by case basis:
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this particular family or would one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?
- In cases where support is appropriate, consider on a case-by-case basis:
- Has sufficient support already been provided / offered? Sufficient support will usually include but not exhaustive: School based support, Attendance Contracts, referrals to external agencies, CAF, EWO casework.
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this family or would one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be responsible for any resulting prosecution for the original offence in cases of non-payment?

If the answer to the above questions is 'yes', then a penalty notice (or a notice to improve in cases where support is appropriate) will usually be issued. **Notice to Improve**

17. A notice to improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a notice to improve should usually be sent to give parents a final chance to engage in support. An authorised officer can choose not to use one in any case, including cases where support is appropriate, but they do not expect a notice to improve would have any impact on a parent's behaviour (e.g. because the parent has already received one for a similar offence).

- Notices to improve will be issued by the school or Education Welfare Service with a 4-week review period. The Notice to improve will clearly state the date on when the review period will start.
- Schools will need to state what improvement is expected during the review period. These targets should be SMART and tailored to the particular family that the notice has been issued to. E.g. No further unauthorised absences within the improvement period or a sufficient amount of improvement tailored to the family
- Monitoring of the improvement will be undertaken by the school during the improvement period by weekly monitoring of attendance. If there is no improvement and a PN is to be requested the school must provide evidence of the support offered, copy of the notice to improve and copy of the letter informing the parents that the improvement period has been unsuccessful and that a Penalty Notice will be issued.

How authorised officers will work together

18. Authorised officers should work together to ensure that penalty notices are used when likely to be effective and change behaviour.

19. An authorised officer is a headteacher or someone authorised by them (a deputy or assistant head), a local authority officer or the police. The LA should set out which authorised officers will issue penalty notices in their area.

20. Where the school request that the LA issues the penalty notice, they need to:

- Raise a request using the Online Penalty Notice System
- Provide additional documentation to support the request which must include.



- Attendance Certificate (This must clearly evidence the absences that meet the threshold)
- Communication to parents that a Penalty Notice has been requested.
- Any evidence relating to the absence including parent's communication with the school
- A copy of the Notice to Improve (not required if the PN is for term time holiday only)

21. Whoever is issuing the penalty notice should make a decision as to whether proportionate support has been provided, and whether that support has worked or not. Where there is dispute, authorised officers are expected to defer to the local authority's judgement about whether sufficient support has been provided before issuing a penalty notice.

22. The Local Authority will advise any schools where support has not been provided or believes this has not been evidenced sufficiently. The LA will provide support and guidance to schools via the allocated Education Welfare Officer or Attendance Support Team Officer.

23. The LA will inform the school about whether penalty notices are paid, withdrawn or prosecuted for non-payment. Schools will be informed of Penalty Notices that have been withdrawn on the Online Portal with the reason. Schools will be informed on an annual basis of the Penalty Notices that have been paid and any that were prosecuted for non-payment. Schools will be contacted to provide a witness statement for any cases that are proceeding for prosecution.

24. Where pupils move between local authority areas, London Borough of Redbridge can be contacted on FPN@redbridge.gov.uk to find out if penalty notices have been issued previously.

25. Where pupils attend school in London Borough of Redbridge but live in a different LA, London Borough of Redbridge will contact the home LA where support is been provided by the home LA to inform their decision if a PN is proportionate and appropriate.