



Local Code of Conduct for Issuing 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 Wandsworth. The code sets out the arrangements for administering penalty notices in Wandsworth and must be adhered to by anyone issuing a penalty notice for school absence in this area from the local authority's Education Welfare Service. 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.
2. This local code of conduct complies with the Education (Penalty Notice) Regulations 2007 as amended by the Education (Penalty Notices) (England) (Amendment) Regulations 2024.
3. This local code of conduct includes penalty notices that are issued when a pupil of compulsory school age is in a public place during school hours without reasonable justification during the first 5 school days of a fixed period or permanent disciplinary exclusion, under section 105 of the Education and Inspections Act 2006.

Consultation

4. A consultation was held so that schools and other relevant bodies had the opportunity to contribute to the drawing up of the Code of Conduct.

Legal basis

5. 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 off-site places as set out in section 444A(1)(b).
6. The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.
7. A penalty notice can only be issued by an authorised officer, who is an authorised local authority officer employed by the Education Welfare Service,

or someone given delegated responsibility to perform this activity, from here on in also known as an authorised officer.

8. There is no right of appeal.
9. 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.
10. The definition of 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

11. 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.
12. 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.
13. Where difficulties arise with attendance, schools, the local authority and wider partners 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.
14. The national framework for penalty notices is based on the principles that a penalty notice should only be used in cases where:

- support is not appropriate (eg a term time holiday) or where support has been provided and not engaged with or has not achieved the desired outcome, and
- where it is the most appropriate tool to change parental behaviour and improve attendance for that particular family.

When may a Penalty Notice for absence be appropriate?

15. 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)

16. During or following a truancy sweep, the local authority can issue a penalty notice where a parent has condoned the school absence.

17. If in an individual case the local authority believes a penalty notice would be appropriate, it retains the discretion to issue one before the threshold is met.

18. 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, it may be that the local authority issues a Magistrates' Court summons, or an Education Supervision Order (ESO) is applied for, or a Parenting Order is applied for, or the family is referred to children's social care under educational neglect, or several of these measures, or something else.

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).

19. 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.

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

20. The following considerations will be made before issuing (or requesting that another authorised officer issues) a penalty notice to ensure consistency of approach.
21. In cases where support is not appropriate (for example, for holidays in term time), consideration is made, on a case-by-case basis, whether:
- A penalty notice is the best available tool to improve attendance and change parental behaviour for this particular family or whether one of the other legal interventions be more appropriate.
 - Issuing a penalty notice is appropriate after considering any obligations under the Equality Act 2010.
 - It is in the public interest to issue a penalty notice given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment.
22. In cases where support is appropriate, consideration is made, on a case-by-case basis, whether:
- A 'support first' approach been followed whereby the right services have been offered to address the underlying reasons for school absence by the right people at the right time in the right place and support has not been accepted by the parent or has not worked despite best endeavours.
 - A penalty notice is the best available tool to improve attendance and change parental behaviour for this particular family or whether one of the other legal interventions be more appropriate.
 - Issuing a penalty notice is appropriate after considering any obligations under the Equality Act 2010.
 - It is in the public interest to issue a penalty notice 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.

Court Warnings

23. A Court Warning will be issued by the local authority preceding a Borough Attendance Panel hearing. A Court Warning is a final opportunity for a parent

to engage in support and improve attendance before a penalty notice (or other sanction) is issued for irregular attendance.

24. 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 Court Warning will 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, where they do not expect this to have any impact on a parent's behaviour (e.g. because the parent has already received one for a similar offence).

25. The process for issuing a Court Warning in Wandsworth is that:

- An authorised officer will issue the Court Warning letter to parents via their home address or by email.
- The length of time for the improvement period will be not less than 20 school days, but this may vary on a case-by-case basis.
- Sufficient improvement at the end of the period under review may be measured by the established severe absence or persistent absence thresholds, with attendance better than 50% or 90%, respectively, or upon meeting set attendance targets on a case-by-case basis.
- Monitoring will be expected to be carried out by schools in conjunction with services working with families, and an authorised officer, in conjunction with Borough Attendance Panel members, will determine if a penalty notice should be considered as a sanction where expected improvements have not been made.

How authorised officers will work together

26. An authorised officer is a paid employee of Wandsworth's Education Welfare Service or delegated person charged with performing this activity.

27. A penalty notice will be considered for irregular school attendance (not term-time leave of absence) as a sanction by members of the Borough Attendance Panel, which is chaired by an authorised officer. The Panel will make a decision as to whether proportionate support has been provided, and whether that support has worked or not.

28. The local authority will inform the school about whether penalty notices are paid, withdrawn or prosecuted for non-payment upon request.

29. Where pupils move between local authority areas, Wandsworth Education Welfare Service can be contacted on crossborder.penaltynotice@richmondandwandsworth.gov.uk to find out if penalty notices have been issued previously.

30. Where pupils attend school in Wandsworth but live in a different LA, authorised officers should liaise using the above cross-border email address.