
PENALTY NOTICES

ADVICE FOR PARENTS AND CARERS

Derbyshire County Council

***Children and Younger Adults
Universal and Targeted Services***



ADVICE FOR PARENTS AND CARERS

▪ What is the Anti-Social Behaviour Act 2003?

The Act is a law that came into force on 27 February 2004. It gives powers to local authorities, schools and the police to issue Penalty Notices for non-attendance at school. A Penalty Notice will be issued when the Local Authority has reason to believe that a parent has failed to secure their child's regular school attendance.

▪ Reducing Absence

Reducing absence and persistent absence from school is very important. Evidence shows that children who miss school do not achieve as well as those who attend regularly. Missing school can damage children's achievements, disrupt the school's routines and affect other children's learning. It can also leave children at risk of anti-social behaviour and youth crime. Above all, missing out on the opportunities provided in school can have a long-term effect on children's chances in life.

▪ What are my responsibilities as a parent?

You have a legal duty to ensure that your child receives full-time education¹. Unless you can show that you are providing this yourself, you must ensure that your child attends school regularly and on time. You will be committing an offence, therefore, if your child fails to attend regularly and punctually and the school has not given permission for the absence or late arrival.

Remember - only your child's school can authorise absence or late arrival.

If you fail to make sure that your child attends regularly and punctually, you may be prosecuted in Court. The penalties are severe and, in serious cases, may result in a prison sentence.

▪ What is a Penalty Notice?

A Penalty Notice is an alternative to prosecution. It requires the parent to pay a fixed amount as a fine for the child's non-attendance and avoids a court appearance. It is intended to secure better attendance without taking legal action through the courts.

▪ What are the costs?

From 1st September 2012² payment is £120 to be paid within 42 days. The 42 days starts 2 days after the date of issue as shown on the Notice. If the fine is paid within 28 days, payment reduces to £60.

The fine will apply to each parent for each child who fails to attend regularly and punctually.

Please be aware when two parents are issued with a Penalty Notice for the same child both Penalty Notices must be paid.

¹ The law states that education must be "efficient, full-time and suitable to the child's age, ability, aptitude and to any special educational needs the child may have"

² The Education (Penalty Notices) (England) (Amendment) Regulations 2012 No. 1046

For example, in a family where there are two parents who fail to ensure the attendance of their two children, the fine would be £240 for each parent, reduced to £120 for each parent if paid within 28 days.

- **Who is counted as the parent responsible for ensuring attendance?**

The law defines a parent as:

- Any natural parent, whether married or not
- Any parent who, even if not married, has responsibility as a parent
- 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 if the child or young person lives with you and is cared for by you, then you will be regarded as the parent.

- **How are they issued?**

A Penalty Notice will normally be sent by first class post to your home.

- **When are they used?**

Penalty Notices can be used in a wide range of circumstances. In particular, they are used when the Local Authority has reason to believe that a parent has failed to secure their child's regular school attendance.

Before a Penalty Notice is issued the Local Authority checks to see how much school your child has missed.

The Local Authority never takes such action lightly. We would prefer to work with parents or carers to improve attendance without having to enforce it. However, we will use these powers if this is the only way to ensure a child attends school properly.

- **Is a warning given if your child does not attend regularly?**

Yes, you will receive one written warning from the Local Authority. It will tell you how many school sessions your child has missed and give you 15 school days to improve your child's attendance. If there is no improvement, a Penalty Notice will be issued.

- **Can I take holidays in term time?**

Parents are not entitled to take their children on holiday in term time. Such holidays can only be taken with the written approval of the Headteacher. Each case will be considered on its merits and the decision of the Headteacher is final.

You will not receive a written warning from the Local Authority if you have taken a holiday in term time without the school's permission.

Taking or allowing your child to take a holiday in term time without the school's permission is a serious matter.

The Local Authority will issue a Penalty Notice for any period of holiday during term time that has not been authorised by the Headteacher.

Please remember that for holidays taken in term time without the school's approval:

- Each parent will be fined for each child for each period of absence
- A Penalty Notice will be issued regardless of previous attendance
- A Penalty Notice will be issued without warning

▪ Can I appeal?

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

The Local Authority can withdraw a Penalty Notice but **only if**:

- It should not have been issued in the first place (for example, if your child was actually at school) or
- It has been issued to the wrong person

If you believe that either of these is true, you should contact the Local Authority immediately with evidence to support your view. The contact details will be included in the Penalty Notice.

▪ How do I pay?

Details of how to pay will be included in the Penalty Notice. Please remember that there will be no reminder to pay and no opportunity to pay in instalments. Failure to pay will result in prosecution.

▪ What happens if I do not pay?

If you do not pay, the consequences can be serious. You have up to 42 days from receipt to pay the Penalty Notice in full. After this time, if it has not been paid, the Local Authority is required by law under Section 444(1) of the Education Act 1996, to begin proceedings in the Magistrates Court, for the original offence of poor attendance by your child.

If proven, this can attract a range of fines up to £2500, other disposals such as Parenting Orders or Community Sentences, or imprisonment depending on the circumstances. A guilty verdict will also mean that you will have a criminal record.

Payment of the Penalty Notice in full removes the need for any further legal action by the Local Authority.

▪ Can I be prosecuted if I pay but my child still fails to attend school?

You cannot be prosecuted for the period included in the Penalty Notice. However, you can be prosecuted for any further periods of non-attendance not covered by the Penalty Notice, depending on the circumstances. If you are worried about this, it is vital that you work with your child's school and support agencies through the local Multi-Agency Team, including Education Welfare Services.

- **Can I get help if my child is not attending regularly?**

Yes, the Local Authority and your child's school will give you advice and support. If you need help, please do not hesitate to speak to your child's teacher, in the first instance, or with the Education Welfare Officer attached to your local Multi-Agency Team. They will do all they can to help to improve your child's attendance and to support you in making sure that your child is happy in school.