

# **PENALTY NOTICES**

## **NON-SCHOOL ATTENDANCE**

### **CAMBRIDGESHIRE COUNTY COUNCIL LOCAL AUTHORITY CODE OF CONDUCT**

#### **Introduction**

1. Under Section 23 of the Anti-Social Behaviour Act 2003 local education authority officers, headteachers and the police have the discretionary power to issue Penalty Notices to the parents of who children who truant.
2. The new power provides an alternative to prosecution of parents under Section 444 of the Education Act 1996 and enables parents to discharge potential liability for conviction for that offence by paying a penalty of £60 if paid within 21 days or £120 if paid within 28 days.
3. Should the Penalty Notice remain unpaid or have been paid only in part at the end of the 28 day period Cambridgeshire County Council must prosecute the parents for the offence to which the notice relates, or, in specified circumstances (see section 29 below), withdraw the notice.
4. Penalty Notices may only be issued in Cambridgeshire in accordance with the terms of this Code of Conduct. The purpose of the Code of Conduct is to ensure that the power is applied fairly and consistently across the County Council and that suitable arrangements are in place for the effective and efficient administration of the scheme.
5. In implementing this Code of Conduct the County Council will liaise when appropriate with neighbouring education and police authorities.
6. This Code of Conduct has been drafted in accordance with the Education (Penalty Notices) (England) Regulations 2004: Statutory Instrument 2004 No 181 and guidance issued by the Department for Education and Skills.
7. In preparing this Code of Conduct the County Council has consulted with Cambridgeshire headteachers and the Chief Officer of Cambridgeshire Constabulary.

#### **Circumstances in which Penalty Notices may be issued**

8. A Penalty Notice may be issued in cases of non-school attendance. Such a notice is intended to offer a rapid intervention, which may be used to address non-school attendance before it becomes entrenched.

9. Penalty Notices may only be issued in relation to absence from school, which is unauthorised. The County Council's recommended criteria for authorising/not authorising absence can be found in the Local Authority School Attendance Policy. (All Cambridgeshire schools are encouraged to adhere to the criteria detailed within this policy.)
10. Penalty Notices may only be issued in relation to a child whose attendance at school has been below 85% over the previous 4-week period. This is in particular, in relation to Year 11 pupil where a Penalty Notice Meeting had been set up and failed to meet target set. Penalty Notice meetings should only be used for Year 11 cases after end of March. Earlier Year 11 referrals/ considerations should follow the Parenting Contract meeting process instead of PN meetings.
11. The key consideration in deciding whether to issue a Penalty Notice should be whether it is considered likely to be effective in helping the child to whom it relates to return to regular attendance.
12. Before issuing a Penalty Notice due consideration should be given to other strategies which may help return the child concerned to regular school attendance. Such strategies might include:
  - a) writing to the child's parents to remind them of their legal responsibilities;
  - b) meeting with the child's parents;
  - c) ensuring a first-day response to any absence;
  - d) setting targets for improvement;
  - e) referral to the Education Welfare Officer;
  - f) involvement of other services/agencies.
13. The usual response to a first offence would be to warn the parent rather than to issue a Penalty Notice. Authorised officers do, however, have the discretion, in exceptional circumstances, to issue a Penalty Notice for a first offence. Such exceptional circumstances could be where the unauthorised absence had been for an extended period of time and condoned by the parent.
14. Headteachers and police officers should only issue a Penalty Notice following consultation, discussion, reflection and joint decision with a County Council Education Welfare Officer.
15. The Education Welfare Officer will not agree to sanction the issuing of a Penalty Notice unless he/she considers that with regard to the offence to which it relates there is sufficient evidence to secure a conviction under Section 444 of the Education Act 1996. Evidence could be letters sent to parent, minutes of meetings and record of telephone conversations.
16. A maximum of three Penalty Notices may be served on any one parent over a 12-month period.
17. There is no statutory right of appeal against the issuing of a Penalty Notice. A parent should therefore, if possible, be given warning of the possibility of a notice

being issued in order to allow him/her to make representations should he/she wish to do so.

### **Authority to Issue a Penalty Notice**

18. An Education Welfare Officer may issue a Penalty Notice to the parent of a child who is a registered pupil at a school in Cambridgeshire or who is a registered pupil at a school in an authority, which has an agreement to that effect with Cambridgeshire County Council.
19. A headteacher or an authorised deputy or assistant headteacher may issue a Penalty Notice to the parent of a child who is registered at his/her school, in consultation with a CCC Legal Panel.
20. A police officer, including a community support officer or other accredited person, may issue a Penalty Notice.
21. Headteachers and police officers should comply with the terms of this Code of Conduct when issuing a Penalty Notice and should provide a copy of any notice issued to the relevant Education Welfare Officer.

### **Form and Content of Penalty Notices**

22. A Penalty Notice should give the following particulars alleged to constitute the offence to which the notice relates and should contain:
  - a) the name and address of the person to whom the notice is issued;
  - b) the name and address of the child who is failing to attend school regularly and the name of the school at which he/she is a registered pupil;
  - c) the name, title and official details of the authorised person issuing the notice;
  - d) the date of the offence and of the issue of the notice;
  - e) the amount of the penalty which is to be paid and details of the timescales and any variation involved;
  - f) the address of the County Council office at which the penalty is to be paid and to which any correspondence relating to the notice may be sent;
  - g) the method/methods by which payment may be made;
  - h) the specified period within which the penalty should be paid;
  - i) a statement that full payment within the specified period will discharge any liability for the offence;
  - j) an explanation of the consequences should the penalty not be paid in full before the expiry of the specified period;
  - k) an explanation of the grounds on which the notice may be withdrawn.
23. Should there be more than one person liable for the offence a separate notice should be issued to each person.

24. Should the offence involve more than one child a separate notice should be issued for each child.

### **Service of Penalty Notices**

25. A Penalty Notice may be served by:
- a) giving it to the recipient; or
  - b) leaving it at the recipient's usual or last-known address; or
  - c) sending it to the recipient at that address by first-class post.
26. Service by post is deemed to have been effected, unless the contrary is proved, on the second working day after posting the notice by first-class post.

### **Failure to Pay a Penalty Notice**

27. Should the recipient of a Penalty Notice fail to pay the full amount before the expiry of the period for paying it the County Council will either begin proceedings against the parent under Section 444 of the Education Act 1996 or withdraw the notice in accordance with specified conditions (see section 29 below).
28. A certificate signed by the Attendance & Behaviour Manager to the effect that the recipient of a Penalty Notice has or has not paid the amount due on or before the date specified should be retained and presented as evidence in any subsequent Section 444 Education Act 1996 proceedings.

### **Withdrawal of a Penalty Notice**

29. A Penalty Notice may be withdrawn by the County Council, regardless of whom within the authority issued it, if it is deemed that:
- a) the notice ought not to have been issued (i.e. where it has issued outside of the terms of this Code of Conduct or where no offence has been committed); or
  - b) the notice ought not to have been issued to the person named as the recipient.
30. Should a Penalty Notice be withdrawn:
- a) notice of the withdrawal should be given to the recipient;
  - b) any amount already paid by the recipient should be reimbursed;
  - c) any proceedings under Section 444 of the Education Act 1996 instituted against the recipient should be discontinued.

## **Retention of Receipts and Revenue Collection**

31. The County Council will retain all revenue from the issuing of Penalty Notices in order to cover the costs of issuing and enforcing notices and the cost of prosecuting those recipients of the notices who fail to pay.
32. The County Council will produce an annual audit statement as part of its usual audit procedures in order to show that income received from Penalty Notices does not exceed enforcement costs as defined above. Any surplus acquired will be surrendered to a consolidated fund.

# PENALTY NOTICE

## SECTION 444A

### EDUCATION ACT 1996

Please read the notes overleaf.

#### PART 1

If a child of compulsory school 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 of the Education Act 1996.

To: (Title) .....

(Forenames) .....

(Surname) .....

Date of birth (if known): .....

Of: (Address) .....

.....

(Postcode) .....

You are a parent of (name and address of pupil) (called in this notice "the pupil") who is a registered pupil at (name of school).

Between (date) and (date) the pupil failed to attend regularly at the school.

This notice gives you the opportunity to pay a penalty fine instead of being prosecuted for the offence given above. The amount of the penalty is £60/£120 in accordance with the table overleaf. If you pay this penalty within the time limits set out below, no further action will be taken against you in connection with the offence as set out in this notice.

Payment should be made within 21 days. If paid after 21 days but within 28 days the penalty is doubled to £120. Payment should be made to an Education Welfare Officer at one of the following addresses:

*(Insert address at which payment should be made)*

Payment may be made by post or in person. (Offices are open from 9 a.m. to 5 p.m. Monday to Thursday and from 9 a.m. to 4 p.m. on Friday). Cheques should be made payable to Cambridgeshire County Council. Should you wish to make payment in person, you are required to telephone the appropriate office in order to make a mutually convenient appointment.

Late or part payments will not be accepted and no reminders will be sent. If payment is not received by (insert date 28 days from date of issue), you may be prosecuted for the offence and could be subject to a fine of up to £2,500 and/or up to 3 months in prison.

This notice is issued by: (name) .....

(title) .....

Organisation: .....

Date: .....

## PART 2

Please complete the following and return this notice to one of the addresses overleaf.

Name: .....

Address: .....

.....

I attach payment in the sum of: .....

Signed: .....

Date: .....

.....

Received the sum of £..... in relation to a Penalty Notice issued  
on ..... in respect of ..... (name of child)

Dated.....

Signed.....

Name..... (Please print)

Title.....

(A copy of this receipt should be sent to all parties subject to the Notice and a copy retained on file)

## Notes

### 1. Contact Details

If you have any queries about this notice please contact the relevant Education Welfare Officer at one of the addresses shown in Part 1 of the Notice.

### 2. Amount of penalty

The amount of the penalty is as follows:

When paid <b>within 21 days</b>	<b>£60</b>
When paid <b>within 28 days</b>	<b>£120</b>

### 3. Code of Conduct

This notice is issued in accordance with a Code of Conduct drawn up by the Local Authority. Any enquiries regarding this Code of Conduct should be addressed to the relevant Education Welfare Officer at one of the addresses overleaf.

### 4. Withdrawal

This notice may be withdrawn should it be shown that it should not have been issued to you or has not been issued to you in accordance with the Code of Conduct. Should you believe that the notice was wrongly issued you should contact the relevant Education Welfare Officer as soon as possible (no later than within 10 days of the notice having been issued), stating why you believe the notice to have been incorrectly issued. Your query will be considered and you will be contacted to notify you whether the notice is to be withdrawn. Should it be decided not to withdraw the notice and you fail to pay the sum specified you will be liable to prosecution for the offence that your child has failed to attend school regularly.

### 5. Payment

You should complete the notice above (**Part 2**) and send or deliver it to one of the addresses given. Please telephone the appropriate office to make an appointment should you wish to make payment in person.

### 6. Prosecution

Should you not pay the penalty notice and should the notice not be withdrawn you will be prosecuted for the offence of failing to ensure your child's regular attendance at school. You will receive a separate summons for this which will give you notice of the time and date of the court hearing. You will be given the opportunity to defend yourself and you are advised to seek legal representation; in some circumstances you may be entitled to legal aid.

## Appendix 1

Suggested letter, which schools may wish to consider using to notify parents of the new discretionary power given to headteachers to serve Penalty Notices in relation to non-school attendance.

Dear Parent

### **Penalty Notices in Relation to Non-School Attendance**

You may be aware that legislation has given headteachers (as well as police officers and Education Welfare Officers) the power to serve Penalty Notices on parents who permit their children to truant or who take their children out of school without the school's prior authorisation. I of course do appreciate the fact that the vast majority of our parents fully support their children's regular attendance at school but I am writing in order to ensure that this discretionary power is properly explained to all parents so that any unnecessary misunderstandings can be avoided.

A Penalty Notice involves a fine of £60 if paid within 21 days, rising to £120 if paid within 28 days. Should a parent on whom a notice is served fail to pay the full amount of the fine within the specified time he /she will be liable to prosecution in a Magistrates court where on conviction a sentence of a fine of up to £2,500 or up to three months in prison may be imposed. Penalty Notices may only be served in accordance with the terms of the County Council's local Code of Conduct, a copy of which is retained by the school.

In making any future decision as to whether it is appropriate for the school to utilise this discretionary power I will consult with the Education Welfare Officer and will consider the seriousness of an individual child's non-attendance and the response of his/her parent.

I would like to reiterate my appreciation of the efforts of the vast majority of our parents who successfully ensure their children's regular attendance.

Yours sincerely

Headteacher

*Schools may wish to amend the language and tone of this letter in order to meet their own particular circumstances.*