

**SUFFOLK COUNTY COUNCIL**

**ANTI- SOCIAL BEHAVIOUR ACT 2003**

**PENALTY NOTICE**

**CODE OF CONDUCT**

# CONTENTS

1. Legal Basis
2. Purpose of the Penalty Notice Code of Conduct
3. Criteria for referral for the Penalty Notice Code of Conduct
4. Procedure for issuing Penalty Notice
5. Operation of the Code of Conduct
6. Withdrawal of a Penalty Notice
7. Payment of Penalty Notice
8. Guidance for Educational Establishments

## Appendices

Appendix 1 – Referral form

Appendix 2 – Information leaflet for Parents/Carers

Version 8

Amended: 1<sup>st</sup> September 2014

## Legal Basis

- 1.1 The Anti-social Behaviour Act 2003, Section 23 empowers designated Local Authority (LA) Officers, Head Teachers (and Deputy and Assistant Head Teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.
- 1.2 The Act places specific responsibility on the LA for developing a Code of Conduct, within which all parties will operate.
- 1.3 The issuing of Penalty Notices must conform to the Code of Conduct and with all requirements of Human Rights and Equal Opportunities legislation. The scheme must therefore operate consistently across the Authority.

## Purpose of the Penalty Notice Scheme

- 2.1 **Regular school attendance is vital in ensuring that children maximise the educational opportunities available to them. It is also an important element in safeguarding them from harm.**
- 2.2 Parents have a legal responsibility (Education Act 1996, Section 7) for ensuring their children receive a full-time and efficient education, and LAs have a duty to enforce this where necessary.
- 2.3 'Parent' is defined as someone who has parental responsibility for a child **or** who has the care of that child. (Education Act 1996, Section 576).
- 2.4 The Penalty Notice code of conduct is intended to supplement, not replace, the existing powers of enforcement under the Education Act 1996. Penalty Notices are intended to be early deterrents to unauthorised absence. Their most effective use is likely to be for parents who are able but unwilling to ensure their children's regular attendance at school.

## Circumstances where a Penalty Notice may be issued

- 3.1 The criteria for issuing Penalty Notices will be –
  - i) Where a child of statutory school age has been identified for the first time as having unauthorised absence;
  - ii) In the company of a parent, has been stopped under Section 16 of the Crime and Disorder Act 1998 (i.e. during a 'truancy sweep' conducted by Police and Education Welfare Officers) and the parent has failed to give a satisfactory explanation for the child's absence which the school has confirmed is unauthorised.
- 3.2 Parents who meet the criteria will be issued with a Penalty Notice.

- 3.3 Penalty Notices will not be used in the case of 'Unauthorised' absence' for children looked after by the LA (LAC). A referral needs to be made to the Education Welfare Officer and discussions with all concerned as to addressing the issues.

### **Procedure for issuing Penalty Notices**

- 4.1 Penalty Notices issued under this scheme will be issued on behalf of the LA by Officers of the Education Attendance Service. These Officers will not issue a Penalty Notice unless:
- All terms of the Code of Conduct are applied;
  - All relevant information required is supplied to them by Head Teachers (or Member of staff delegated / authorised by them);
  - Other strategies are not in place or being enforced at the same time.

Lead Attendance Officer or Senior Education Welfare Officer will be aware of all proceedings contemplated or commenced under Section 444 of the Education Act 1996 (the offence of failing to secure the regular attendance at school of a registered pupil).

- 4.2 Head Teachers (or Member of staff delegated / authorised by them) will notify the Lead Attendance Officer or Senior Education Welfare Officer of any child whose parent(s) they believe meet the criteria for the Penalty Notice Code of Conduct. These children may also be identified by Education Welfare Officers.

The Education Attendance Service will issue a Penalty Notice to the parent(s) if satisfied that the criteria are met. Head Teachers will need to demonstrate clearly that leave from school has not been granted.

- 4.3 The Police may refer to the Education Attendance Service any child whose parent(s) they wish to be considered for a Penalty Notice. The Education Welfare Service will examine those cases and issue Penalty Notices where the criteria are met.
- 4.4 Neighbouring LAs where Suffolk children might be registered at school or stopped on truancy sweeps will be asked to refer to Suffolk Education Attendance Service if it considered meet the criteria for a Penalty Notice.
- 4.6 Parents will not receive more than one Penalty Notice per child in any academic year. [See below for action to be taken if further unauthorised absences 5.7]

## Operation of the Code of Conduct

- 5.1 The issuing of Penalty Notices must conform to all requirements of Human Rights and Equal Opportunities legislation. The scheme must therefore operate consistently and equitably across Suffolk and therefore Penalty Notices will only be issued in accordance with Suffolk County Council's Code of Conduct.
- 5.2 Penalty Notices will only be issued for cases of unauthorised absence. In all cases, it is important to ensure that schools have not authorised the absence, and do not so retrospectively (if this occurs the Notice is to be withdrawn).
- 5.3 Penalty Notices will only be sent once the school has completed the referral form (Appendix 1). The details will be provided by the Referrer, who is expected to retain a copy of the form for their records.
- 5.4 Completed Referral forms are to be sent [post, email or fax] to the Lead Attendance Officer. The Lead Attendance Officer will decide that the referral meets the criteria and forward to Business Support for processing. The referral form will be retained by the Officer, with copies of the penalty notice issued.

Referrals will not be actioned if received after 15 working days of the unauthorised absence. The LA will aim to process in 5 working days of receipt of the referra.

- 5.5 Completed Penalty Notices will be stored centrally. All correspondence and outcomes will be recorded on a central database.
- 5.6 Penalty Notices will be sent from Endeavour House with a copy sent via e-mail to the relevant school.
- 5.7 Parents will not receive more than one Penalty Notice per child in an academic year. Where there is more than one person liable for the penalty notice, a separate notice will be issued to each person.

Further unauthorised absences of that pupil should be referred to the Education Welfare Officer for appropriate action.

- 5.8 Penalty Notices will only be issued by post to parents' home by first class post. Penalty Notices will be considered to have been served on the Parent on the second working day after the date of posting. An Information Leaflet will be sent with each penalty notice for criteria. (Appendix 2)
- 5.8 Penalty Notices will be numbered sequentially with prefix SCCPN from 1<sup>st</sup> September 2014.
- 5.9 If the penalty is not paid in full after 28 days (it is not permissible to be paid by

instalments), the Lead Attendance Officer must either institute court proceedings for non-attendance against the parent or mark the notice withdrawn under criteria 'D' (LA does not intend to prosecute and reason stated in the comments).

- 5.10 Prosecution following non-payment of a penalty notice will follow the procedures of a prosecution for irregular attendance (the prosecution is not for non-payment of the notice, rather it is for the offence to which the unpaid notice relates).

### **Withdrawal of Penalty Notices**

6.1 A Penalty Notice will be withdrawn only in the following circumstances;

- the Notice was issued outside the terms of the Code of Conduct; or
- the Notice was issued to the wrong person.

If the Notice is to be withdrawn the Lead Attendance Officer must write to the parent/carer giving notice of the withdrawal and arrangements must be made to repay any monies paid.

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

### **Payment of Penalty Notices**

6.1 The penalty is payable to the LA (details for payment will be contained in the Notice). The amount of the penalty is –

- £60 if paid within 21 days of receipt of the Notice;
- £120 if paid after 21 days but within 28 days of receipt of the Notice.

6.2 Payment of a Penalty Notice cannot be made by instalments.

6.3 Payment of a Penalty Notice discharges the parent's liability for the period to which the Notice relates.

6.4 Non-payment of a Penalty Notice will result in the parent being prosecuted for the child's unauthorised absence during the period of the Notice.

6.5 Penalties will be payable to Suffolk County Council. The LA will retain the revenue collected to cover the cost of issuing Penalty Notices and of prosecuting parents who fail to pay the penalties.

### **Guidance for Educational Establishments**

7.1 The Suffolk County Council Code of Conduct may be accessed by all Schools,

Academies and Free Schools within the county of Suffolk. However the Local Authority is not permitted to issue a Penalty Notice to the parents of pupils who do not reside within the county boundaries.

7.2 Penalty Notice Referrals need to be sent to Lead Attendance Officer by:

- Post: Floor 4, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
- Email: [PenaltyNotice@suffolk.gcsx.gov.uk](mailto:PenaltyNotice@suffolk.gcsx.gov.uk)
- Fax: 01473 216853

7.3 Penalty Notice Referrals must be completed fully including all relevant data on the known parents and pupil.

7.4 Schools need to set and publish their own criteria for making referrals for a Penalty Notice, this in consultation with neighbouring schools to ensure consistency across an area. The criteria will align with the Code of Conduct above and ensure that all pupils / families are responded to equitably.

7.5 Schools should consider the following in setting their criteria:

- Number of unauthorised absences.
- Relevant factors impacting upon the absences.

### **Review of the Penalty Notice Scheme**

The Penalty Notice Scheme will be reviewed at regular intervals (at least every 2 years) with amendments made as applicable at the review.

**Appendix 1: Penalty Notice Referral Form**

**Penalty Notice Referral Form**

Pupil's Legal Surname: _____ Pupil's Name known as: _____ Address: _____ _____ _____ _____ Tel No: _____	Forename: _____ DOB: _____ Ethnicity: _____ First Language: _____ School: _____ Year Group: _____ Unique Pupil Number [UPN] _____
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**Name(s) and DOBs of parent(s)/carer(s) with whom child lives:**

\_\_\_\_\_

\_\_\_\_\_

**Name(s) and address(es), of others with PR:**

(1) \_\_\_\_\_ (2) \_\_\_\_\_

\_\_\_\_\_

**Attendance that relates to this referral:**  
**[Registration Certificate is acceptable]**

WB	Mon	Tues	Wed	Thurs	Fri

I hereby certify that on or between .....day of ..... 20..... to the..... day of .....20..... inclusive, he/she had unauthorised absence from school.

The Suffolk County Council Code of Conduct sets out the procedures and terms under which Penalty Notices can be issued in Suffolk. Authorised persons will issue Penalty Notices in compliance with this Code in order to ensure that the powers are consistently applied.

Where a child has been identified for the first time with unauthorised absence;

**Signed /Name of Referrer:** \_\_\_\_\_

Print Name: \_\_\_\_\_

**Date:** \_\_\_\_\_

For Office Use Only:

Referral received : \_\_\_\_\_ (date) Post / Fax / Email

Penalty Notice issued: \_\_\_\_\_ SCCPN: \_\_\_\_\_



## Penalty Notice Information for Parents and Carers

**Suffolk County Council is committed to providing all children with the best start in life and works hard to improve the attendance of children.**

### Addressing Non-Attendance at School

- Increases children and young people's attainment. Statistics and research tell us that non-attendance impacts upon children's abilities to achieve A – C grades in their public examinations at the end of Year 11.
- Helps to keep children safe
- Reduces anti-social behaviour
- Reduces the risk of children becoming involved in crime and involved in alcohol and substance misuse

### What can I do to help my child attend school regularly?

- *Send your child to school on time every day*
- *If your child is unwell, contact the school on the first day of absence and return your child to school as soon as possible*
- *Make sure your child knows you do not approve of them missing school.*
- **Take holidays only during school holidays.**
- *Make sure your child goes to school with the correct uniform and equipment.*
- *Take an interest in your child's education*
- *Talk to staff as soon as any issues arise.*

### What is a Penalty Notice?

The law says that parents/carers, whose children are of compulsory school age and absent from school without good reason are committing an offence and the parents/carers may be prosecuted in the Magistrates Court.

Section 23 of the Anti-Social Behaviour Act 2003 introduced additional powers under Section 444 of the Education Act 1996 authorising Local Authorities to issue Penalty Notices in cases of unauthorised absence from school.

Schools decide whether they will adopt Suffolk County Council's Penalty Notice Code of Conduct. If the protocol is adopted by the school they can then refer any unauthorised pupil absence to the Lead Attendance Officer at Suffolk County Council. If the referral is appropriate, the Lead Attendance Officer will process the referral and issue a Penalty Notice.

## When will a Penalty Notice be issued?

The Education Attendance Service aim to support schools/ Academies and parents/carers to improve pupil attendance but Suffolk County Council will issue a Penalty Notice once a referral from a school has been received when:

Unauthorised absence has occurred from school

OR

Where a pupil is stopped with parents/carers during a truancy sweep and the absence is not authorised by the school.

Suffolk County Council will issue each parent/carer with a Penalty Notice fine for each child who has unauthorised absence.

There is No Statutory Right of Appeal once a notice has been issued.

There are limited circumstances in which the fine may be withdrawn. Details of which can be found in the Penalty Notice Code of Conduct 2014

<http://www.suffolk.gov.uk/education-and-careers/pupil-welfare-and-support/school-attendance-penalty-notice/>

## How do I pay and what happens if I do not pay?

Details of payment arrangements will be included on the Penalty Notice.

The penalty is £60 if paid within 21 days, increasing to £120 between 21 and 28 days. The penalty must be paid in full and not by instalments.

If you do not pay the penalty in full within 28 days of the issue, the Local Authority is required to start legal proceedings against you in the Magistrates Court for the original offence of failing to ensure your child attends school regularly. This may lead to a fine up to £1000.

Payment of the Penalty Notice discharges parents/carers liability for the period to which the Penalty Notice relates.

**For further Information about the Penalty Notice Code of Conduct or your child's attendance please contact your child's school in the first instance.**

*If you require an interpreting service for this leaflet, Suffolk County Council can support this, please contact us on the following number:*