

PENALTY NOTICES

Information for parents



WHAT IS A PENALTY NOTICE? Children must go to school regularly and be on time. It is a legal requirement and essential in giving them the best start in life. Unauthorised absence from school is an offence under section 444 of the Education Act 1996.

Plymouth City Council's Attendance Support Team, along with all Plymouth Schools, are responsible for helping to tackle truancy and reduce unauthorised absences from school. One of the ways they do this is to fine the parents of children who have unauthorised absences from school. This fine is called a Penalty Notice.

HOW MUCH IS A PENALTY NOTICE? A Penalty Notice is £80 if paid within 21 days of receiving it. This rises to £160 if paid after 21 days but within 28 days of receiving it. If the penalty is not paid in full by the end of day 28, the Council must either prosecute for the offence or withdraw the notice. (A notice served by post is deemed to have been received on the second day after posting if it was delivered by first class post). **Any second penalty notice issued to the same parent for the same child within a rolling 3-year period will be charged at a higher rate of £160 with no option to pay the lower rate of £80.**

WHEN COULD I RECEIVE A PENALTY NOTICE?

A Penalty Notice could be issued if:

- Your child has 10 or more sessions of unauthorised absences from school over a rolling ten-week period. The unauthorised sessions can be either consecutive or non-consecutive. **N.B. There are two sessions in each school day.**
- Your child has been late to school after registration has closed 10 or more times over a rolling ten-week period
- Your child is found during a truancy sweep and the absence has not been authorised by the school, and there are already 10 previous unauthorised absences
- You repeatedly fail to provide the school or the local authority with reasons for your child's absences. This can include ignoring the school and Council's attempts to contact you.
- Your child is found in a public place during the first five days of a fixed term or permanent exclusion.
- You take your child on holiday during term time and the absence is not authorised by the Principal/Headteacher

Holidays during term time are not an entitlement - Amendments to The Education (Pupil Registration) (England) Regulations 2006 have made it clear that Headteachers may not grant any leave of absence during term time unless there are **exceptional circumstances**. Only Headteachers can determine the number of school days a child can be away from school if leave is granted, and parents will need to provide evidence that the circumstances are exceptional. Parents must complete the school's absence request form and submit it to the Headteacher for consideration at least 20 school days in advance.

A Penalty Notice will only be issued to the parent(s) if the pupil has had at least 10 unauthorised sessions (equivalent of 5 school days) relating to an **unauthorised holiday during term time** within a rolling 10-week period. The unauthorised sessions can be either consecutive or non-consecutive.

WHO COULD RECEIVE A PENALTY NOTICE? As with prosecutions under section 444 of the Education Act, a Penalty Notice will be issued to each parent liable for the offence.

IMPORTANT: In relation to education, the legal definition of a parent is contained in section 576 of the Education Act 1996 and includes any adult who is a natural parent, someone with parental responsibility or someone who cares for a child. This will include divorced or separated parents of a legitimate child, even if not living with the child and, for educational purposes, any person who has the actual day to day care and custody of the child such as a step-parent or partner.

HOW MANY PENALTY NOTICES CAN A PARENT BE ISSUED?

2 penalty notices can be issued to a parent for the same child within a rolling 3-year period. Any second penalty notice issued to the same parent for the same child within a rolling 3-year period being will be charged at a higher rate of £160 with no option to pay the lower rate of £80.

HOW WILL I RECEIVE THE NOTICE? By certified 1st class post.

WILL I RECEIVE A WARNING FIRST? Yes. The Attendance Support Team for Plymouth City Council will send you a 'Notice to Improve' letter which tells you about your child's unauthorised absences from school and this will give you the chance to contact us to discuss the situation. If your child has more unauthorised absence within 6 weeks of you receiving the Notice, a Penalty Notice may be issued to you.

However, this will not apply to unauthorised absence due to parents taking their child out of school for a family holiday. Headteachers can request that a penalty notice is issued to parents if without a Notice to Improve if they can prove that:

- **the request for absence was denied and that the parent was warned by the school that they could receive a penalty notice**
- **or that the child was absent without authorisation and there is sufficient evidence to show that the absence was due to a family holiday**

WHAT HAPPENS IF I DO NOT PAY? You will be prosecuted. Unlike other penalty notice schemes, the prosecution would not be for non-payment of the notice. You will be prosecuted for the offence for which the notice was issued — failing to ensure your child's regular attendance at school. This means you could receive a much more serious penalty and a criminal record if found guilty.

The fact that you failed to pay the notice could also be used as evidence in any legal proceedings taken against you.

A parent cannot be prosecuted until after the Notice payment deadline has passed (28 days). If a parent pays the penalty within 28 days, they will have discharged their liability for the offence. This means no other legal action can be taken against them for that offence.

Note: any further unauthorised absences will be treated as separate offences and can result in legal action.

CAN I APPEAL AGAINST THE PENALTY NOTICE? There is no statutory right of appeal against the issuing of a Penalty Notice. They can only be withdrawn for the following reasons:

- Where it should not have been issued. For example, where it has been issued outside the Council's Code of Conduct or where no offence has been committed.
- Where it has been issued to the wrong person.

- Where it was materially defective

If a penalty notice is withdrawn for one of the reasons above, a notice of the withdrawal will be sent to you and any amount paid will be refunded. No proceedings shall be continued or instigated against you for the offence for which the withdrawn notice was issued.

THE LEGAL BIT

Section 23(1) of the Anti-Social Behaviour Act 2003 and Section 103 of the Education and Inspections Act 2006 introduced powers to Sections 444 of the Education Act 1996 that enable Local Education Authorities to issue Penalty Notices. Penalty Notices can be used as an alternative to prosecution under Section 444 and enable parents to discharge potential liability for conviction for that offence by paying a penalty.

WHAT YOU SHOULD DO IF YOU ARE CONCERNED ABOUT YOUR CHILD'S ATTENDANCE

In the first instance, it is important to talk to staff at your child's school. They can often identify specific problems that might be causing your child to miss school. They can also offer Individual Attendance Plans, Attendance Contracts and other support plans that will help you and your child feel your views and concerns are being heard.

You can also contact Plymouth City Council's Attendance Support Team. They will support you and advise you of ways that could help to ensure your child's regular attendance at school. They can also put you in touch with other agencies that can provide more support and advice.

IMPORTANT EXCLUDED PUPILS

Section 103 of the Education and Inspections Act 2006, places a duty on the parents of a child excluded from school to ensure that the child is not present in a public place during school hours without reasonable justification during the first five days of each and every fixed period or permanent exclusion.

This means that a penalty notice could be issued to the parent of an excluded child if they are found to be in a public place during the hours of a normal school day.

If you have any questions about Penalty Notices or would like to speak to a member of the Council's Attendance Support Team about your child's attendance, please contact us.

CONTACT

Penalty Notice Officer

Attendance Support Team

Education, Participation and Skills

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TACKLING UNAUTHORISED HOLIDAYS AND ABSENCES

Evidence shows that truancy can lead to anti-social behaviour and youth crime.

This information is available in other languages and formats

Please call 01752 307405