

EDUCATION WELFARE SERVICE

Guidance to schools

Information for parents

Notice to Improve or Education Penalty Notices

September 2024

Guidance to schools

National Framework for Penalty Notices for school absence

Following extensive development with schools and local authorities, a new National Framework for Penalty Notices for school absence is being introduced through changes to secondary legislation. The regulations will come into effect from the 19th August 2024.

The National Framework aims to:

- **Make penalty notices more effective** by ensuring they are only used in cases where they are the most appropriate tool to change parental behaviour and improve attendance.
- **Prioritise the support first approach** by expecting support to be used in cases where it is appropriate and using penalty notices in cases where support is not appropriate (e.g., a term time holiday) has not worked or has not been engaged with.
- **Improve consistency in the use of penalty notices across England** by introducing a new national threshold at which they are considered.

Improve the deterrent effect of a penalty notice by increasing the amount and introducing a new national limit of 2 penalty notices within a 3-year period to break cycles of repeat offending.

Specifically, the National Framework includes:

- A single consistent national threshold for when a penalty notice must be considered of 10 sessions (usually equivalent to 5 school days) of unauthorised absence within a rolling 10 school week period.
- A requirement that when the national threshold is met, schools make an assessment on a case-by-case basis whether a penalty notice can and should be issued. The following should be considered:
 - if support or further support is appropriate instead, and
 - whether there is a different tool or legal intervention that is more likely to improve attendance in this particular case.

- The option of using a Notice to Improve where support is appropriate but not working or being engaged with, to give a parent¹ a final opportunity to engage in support before they are issued with a penalty notice if it is appropriate in the individual case.
- An increase to the rate of a penalty notice from £120 to £160 if paid within 28 days, and £60 to £80 if paid within 21 days.
- An additional rung to the ladder of escalation, with any second penalty notice issued to the same parent for the same child within a rolling 3-year period being charged at a higher rate of £160 with no option for this second offence to be discharged at the lower rate of £80.
- A national limit of 2 penalty notices that can be issued to a parent for the same child within a rolling 3-year period, so at the 3rd (or subsequent) offence(s) another tool will need to be considered (such as prosecution or one of the other attendance legal interventions).
- Widening the purposes for which the revenue from penalty notices can be used so that local authorities can spend any surplus on attendance support as well as administering the system and prosecution. In practice, support is defined as any activity intended to improve attendance, not including a penalty notice or prosecution, in line with the *Working together to improve school attendance* guidance.

How the changes will work in practice

National threshold of 10 sessions of unauthorised absence within a rolling 10 school week period and considerations for issuing a penalty notice.

The threshold is 10 sessions of unauthorised absence. This can be made up of a combination of any type of unauthorised absence, such as 4 sessions of holiday taken in term time plus 6 sessions of arriving late after the register closes, all taken within any 10-school week period. The unauthorised absence sessions can be consecutive (e.g., 10 sessions of holiday in one week) or not (e.g., 6 sessions of unauthorised absence in 1 week and 1 per week for the next 4 weeks).

The 10-school week period 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).

After the threshold has been met, schools, and local authorities where appropriate, should continue to monitor the impact of the action, and if it does not lead to improvement, they should review the decision and take alternative action. Where needed, cases can be discussed during Targeting Support Meetings.

A penalty notice can be issued to each parent liable for the attendance offence or offences. They should 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).

In the spirit of the *Working together to improve school attendance* guidance, schools and local authorities should take a collaborative approach to the use of penalty notices and other attendance legal intervention. Where needed, Targeting Support Meetings should be used to discuss cases, agree actions, and monitor impact ensuring joined-up communications to families and swift action and a continuum of support where appropriate.

Schools can refer cases of non-attendance to the Education Welfare Service (EWS), who may decide to issue a Notice to Improve or Education Penalty Notice to parents of pupils concerned. To make use of this particular strategy, schools must ensure that parents are informed annually, in writing, of the possibility of them receiving a Notice to Improve or Education Penalty Notice if their child has unauthorised absence from school. Schools should also include reference to this strategy in their attendance policy. The EWS has produced a model letter, which Headteachers can use as a basis for a letter from school to parents. It gives examples of the ways a parent can help in improving attendance and explains the measures schools may take if attendance is poor.

¹ <https://www.gov.uk/guidance/notice-to-improve>

Frequently asked questions

1) Do we have to issue a penalty notice every time the threshold is met?

No, when a school becomes aware that the national threshold has been met a penalty notice must be considered. A penalty notice should only be issued if it is the best tool for the individual circumstances of the case. Even then, it should only be used when support is not appropriate or where support is appropriate, has been provided and has not worked or not been engaged with.

2) What happens with existing cases and when do the new thresholds and escalation processes apply from?

The new rules only apply to offences committed from 19 August 2024-25. This means that any penalty notice issued for an offence prior to that date must follow the existing rules in rules in the local authority's current code of conduct.

The 3-year rolling period can only be counted from 19 August 2024, therefore, only penalty notices issued from that date will be counted in the escalation process. I.e., a penalty notice issued in the Summer Term 2024 would not count regardless of the fact it was issued within the last 3 years.

Similarly, the 10-school week period can only be counted from 19 August 2024 i.e., offences committed at the end of Summer Term 2024 will not count regardless of the fact they are in the last 10 school weeks.

3) If a pupil misses 10 sessions in a short timeframe, do we have to wait until 10 school weeks have passed to issue a penalty notice?

No, it is a rolling period so a penalty must be considered as soon as the threshold is met. For example, a week of unauthorised holiday will itself normally meet the national threshold and there is no reason to wait to see if any further offences are committed.

4) Should a penalty notice be issued to one parent or all parents?

All parents can commit an offence under section 444 of the Education Act 1996 and therefore all parents liable for the offence may be issued a penalty notice in line with regulation 13 of the Education (Penalty Notices) (England) Regulations 2007.

Usually, in deciding which parents to issue a penalty notice to, the local authority should include all parents involved in failing to secure the pupil's attendance e.g., who they were living with on the dates of the offences or which parents went on the unauthorised holiday.

The meaning of parent in relation to a child 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.

5) Who sends the 'Notice to Improve' letter and does it need to be physical, or can it be digital?

The National Framework does not prescribe the process for issuing a Notice to Improve as local authorities will want to coordinate this in different ways to suit their local contexts. Local authorities are expected to set out in their local code of conduct how the Notice will should be issued including whether it should be issued by the school or local authority, or co-signed by both, and in what format.

Queries about this document should be addressed to: EWS@brent.gov.uk

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