

Is there an appeal process?

There is no statutory right of appeal. Once a Penalty Notice has been issued, it can only be withdrawn if it can be shown that it was issued in error.

What happens if I don't pay the Penalty Notice?

Failure to pay can result in prosecution under Section 444 of the Education Act 1996 for the offence of failing to ensure your child's regular attendance at school. You have up to 28 days from receipt of the Penalty Notice to pay in full. If full payment is not received within this time the Local Authority may commence proceedings in the Magistrates Court. If proven, this can result in further fines. You will have a criminal record if found guilty of the offence.

Can I be prosecuted if I pay the Penalty Notice but my child is still absent from school?

You cannot be prosecuted if you pay the Penalty Notice as payment of the fine discharges your liability for the period which the Penalty Notice covers. However, depending upon the circumstances, a prosecution might be considered for further periods of unauthorised absence not covered by the previous Penalty Notice. It is vital that you work closely with your child's school and any support agencies such as the Attendance and Inclusion team to improve attendance.

EDUCATION PENALTY NOTICES

WHAT YOU NEED TO KNOW



You and the law on School Attendance
Education Act 1996 Sections 437-444

Applies from 19th August 2024

HOW DO I CONTACT THE EDUCATION WELFARE SERVICE?



attendance@swindon.gov.uk

WHAT IS AN EDUCATION PENALTY NOTICE?

Education Penalty Notices were introduced in 2003 as an alternative to prosecution where a parent/carer has failed to ensure that their child of compulsory school age regularly attends the school where they are registered. **Regular attendance is defined as “a child must attend school on every day that the school requires him or her to do so.”**

WHO ISSUES PENALTY NOTICES?

The Local Authority issues them through the Attendance and Inclusion Service to parents. They are issued at the request of the school.

HOW MUCH IS A PENALTY NOTICE?

The penalty is £80 (**per parent, per child**) if paid within 21 days. It rises to £160 if paid between 22 and 28 days. Failure to pay within 28 days may result in prosecution. If a second penalty notice is issued to the same parent for the same pupil within 3 years of the first notice, the second notice is charged at a flat rate of £160 if paid within 28 days. A third penalty notice cannot be issued within a 3 year period instead an alternative legal action would be considered.

WHY HAVE WE BEEN GIVEN A PENALTY NOTICE?

A Penalty Notice is issued **per parent, per child**. Penalty Notices are used where a pupil has 10 or more unauthorised absences within the previous 10 school week period, including but not limited to:

- Unauthorised holiday (G)*, a parent has taken their child on a term time holiday without authorisation from the school.
- Unauthorised leave of absence (O)* for recreation, leisure or visiting relatives.
- A pupil regularly arrives late for school after the register has closed (U)*
- Other sessions that have not been authorised by the school (O)*
- The pupil is present in a public place during school hours whilst excluded from school.

* Attendance codes used in a child’s attendance certificate

IS A WARNING GIVEN?

A warning about the possibility of receiving a Penalty Notice is provided by the child’s school.

I AM A STEP-PARENT/OTHER CARER/GRANDPARENT. WHY HAVE I BEEN ISSUED WITH A PENALTY NOTICE?

In education law the definition of a parent is broad as it not solely dependent on the person being the child’s biological parent or legal guardian. Section 576 of the Education Act 1996 defines “parent” as:

- All natural (biological) parents, whether they are married or not;
- Any person who, although not a natural parent, has parental responsibility for a child or young person;
- Any person who, although not a natural parent, has care of a child or young person.
- This definition includes step-parents, carers, a partner of a parent, grandparents and other relatives. It is for the school and the Local Authority to decide who comes within the definition of parent in respect of a particular pupil when using the legal measures.

I HAVE A QUERY REGARDING MY PENALTY NOTICE THAT HAS BEEN ISSUED, WHO SHOULD I CONTACT?

If you want to discuss payment or anything regarding the administration of your Penalty Notice, contact the Attendance and Inclusion Service at fpn@swindon.gov.uk

HOW IS IT PAID?

Information on how to pay and the specified deadline is included with the Penalty Notice.

CAN I PAY BY INSTALMENTS?

All Penalty Notices should be paid in full within the specified deadlines on the Penalty Notice. How and where you can pay is explained in the Penalty Notice information.

WHERE DOES THE MONEY GO?

When the Penalty Notice is paid, the sums received are used by the Local Authority to issue and enforce the Penalty Notices and prosecute recipients who do not pay. Any surplus should be used by the Local Authority to improve attendance support.

Any remaining surplus at the end of the year must be paid to the Secretary of State.