

# ***Knowsley Council***

## **Penalty Notice Code of Conduct Absence and Exclusion – September 2024**

### **Local Code of Conduct for issuing penalty notices for school absence 2024**

1. The purpose of this local code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across Knowsley MBC. The code sets out the arrangements for administering penalty notices in Knowsley MBC and must be adhered to by anyone issuing a penalty notice for school absence in this area. The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the ['Working together to improve school attendance'](#) guidance.

#### **Consultation**

2. This code has been drawn up in consultation with the headteachers of state-funded schools and the local police force.

#### **Legal basis**

3. Penalty notices may be issued to a parent (as defined in section 576 of the Education Act 1996) as an alternative to prosecution under s444 of the Education Act 1996 for irregular school attendance. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, AP (Alternative Provision) academies, and certain off-site places as set out in section 444A(1)(b).
4. The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.
5. A penalty notice can only be issued by an authorised officer that is an authorised local authority officer or a police constable.
6. The national framework for penalty notices is published in statutory guidance 'Working together to improve school attendance'. It provides further national guidance on the operation of penalty notice schemes for school absence in England.

7. This Code of Conduct will govern the issuing of Penalty Notices in respect of unauthorised absence from school, leave of absence requests and the failure to ensure an excluded child is not present in a public place without reasonable justification within the first five days of any exclusion period under section 105 of the Education and Inspections Act 2006.
8. A parent 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. Penalty notices will 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).
9. Penalty Notices will involve the recipient paying a fine of £160 within 28 days, reduced to £80 if paid within 21 days. Where an unauthorised absence has been dealt with by way of a Penalty Notice and it has been paid, it is not possible for a parent to be prosecuted for the same period of unauthorised absence under Section 444 of the Education Act 1996 or for the same instance of an excluded child being present in a public place under Section 103 of the Education and Inspections Act 2006.

## **Rationale**

10. Research published by the Department for Education in May 2022 found pupils with higher attainment at KS2 and KS4 had lower levels of absence over the key stage compared to those with lower attainment.
  - Pupils who did not achieve the expected standard in reading, writing and maths in 2019 had an overall absence rate of 4.7% over the key stage, compared with 3.5% among pupils who achieved the expected standard and 2.7% among those who achieved the higher standard.
  - Pupils who did not achieve grade 9 to 4 in English and maths GCSEs in 2019 had an overall absence rate of 8.8% over the key stage, compared with 5.2% among pupils who achieved a grade 4 and 3.7% among pupils who achieved grade 9 to 5 in both English and maths.
11. For the most vulnerable pupils, regular attendance is also an important protective factor and often the best opportunity for needs to be identified and support provided.
12. Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the DfE's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.
13. The national framework for penalty notices is based on the principles that penalty notices should only be used in cases where:
  - support is not appropriate (e.g. a term time holiday) or where support has been provided and not engaged with or not worked, and

- they are the most appropriate tool to change parental behaviour and improve attendance for that family.

### **When may a penalty notice for absence be appropriate?**

14. When a school\* becomes aware that the national threshold has been met, they must consider whether a penalty notice can and should be issued or not. The national threshold has been met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within 10 school weeks<sup>1</sup>, with one of, or a combination of the following codes:
  - (a) code G (the pupil is absent without leave for the purpose of a holiday),
  - (b) code N (the circumstances of the pupil's absence have not yet been established),
  - (c) code O (none of the other rows of Table 3 in regulation 10(3) of the School Attendance (Pupil Registration) (England) Regulations 2024 applies), and
  - (d) code U (the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)
15. If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be most appropriate tool. The national framework for penalty notices sets out that a maximum of 2 penalty notices per child, per parent can be issued within a rolling 3-year period. If a second penalty notice is issued to the same parent for the same child within a rolling 3-year period, the penalty notice will be charged at the higher rate of £160. There is no option for this second offence to be discharged at the lower rate of £80.
16. If the national threshold is met for a third time (or subsequent times) within 3 years, another tool should be used. The school will send a Notice to Improve (Appendix 2) which warns of possible legal action under Section 444 of the Education Act 1996 if the attendance does not improve. It may be recommended that casework with the family be instigated with sporadic absence referrals. This may lead to the parent/guardian being prosecuted.
17. For the purpose of the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward if the parent pleaded, or was found, guilty) but not those which were withdrawn. In summary:

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\*With regards Dual Registration the Main School is the establishment which has responsibility to send parents the Notice to Improve letter and the referral to the LA requesting a Penalty Notice to be issued.

<sup>1</sup> A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period when the national threshold applies 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).

Scenario	Counts towards the limit?
Penalty notice issued by any authorised officer and paid within 21 days	Yes
Penalty notice issued by any authorised officer and paid within 28 days	Yes
Penalty notice issued by any authorised officer but later withdrawn	No
Penalty notice issued by any authorised officer. The penalty notice was not <u>paid</u> and the local authority prosecuted for the original offence but the Court found the parent not guilty.	No
Penalty notice issued by any authorised officer. The penalty notice was not <u>paid</u> and the local authority prosecuted for the original offence and the Court found the parent guilty.	Yes

### Key considerations prior to the issue of a Penalty Notice for school absence

18. The following considerations will be made before issuing (or requesting that another authorised officer issues) a penalty notice to ensure consistency of approach:

- In cases where support is not appropriate (for example, for holidays in term time), consider on a case-by-case basis:
  - Is a penalty notice the best available tool to improve attendance and change parental behaviour for this family or would one of the other legal interventions be more appropriate?
  - Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
  - Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?
- In cases where support is appropriate, consider on a case-by-case basis:
  - Has sufficient support already been provided? Sufficient support will usually include:
    - ◆ Contact Parents by Telephone
    - ◆ Contact Parents by Letter/email
    - ◆ Invite Parent in for a meeting to discuss the absences
    - ◆ Offer an Early Help
    - ◆ Date of early Help Meeting

◆ Offer of Mental Health support if appropriate

- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this family or would one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
- Is it in the public interest to issue a penalty notice in this case given the local authority would be responsible for any resulting prosecution for the original offence in cases of non-payment?

Schools must consider every aspect of pupil's case before considering whether a Penalty Notice would be appropriate. This must include strategic discussions with the assigned Statutory School Attendance Officer (SSAO) and any other attendance-support staff who are involved with or knowledge of the pupil/family.

### **Notice to Improve**

19. A notice to improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a notice to improve should usually be sent to give parents a final chance to engage in support (Appendix 1 & 2). An authorised officer can choose not to use one in any case, including cases where support is appropriate, but they do not expect a notice to improve would have any impact on a parent's behaviour (e.g. because the parent has already received one for a similar offence).
- The Head Teacher of the school issue the notice to improve (1<sup>st</sup> Class post) and, where appropriate, how referrals will work and to what timescales.
  - The Notice of the improvement period will be 6 weeks (30 School Days).
  - The requirement would be no further unauthorised absences within the improvement period.
  - The school issuing the Notice to Improve are expected to monitor the pupil's attendance within the improvement period, if further unauthorised absence occurs then the school can refer to the LA for a Penalty Notice to be issued using the Appendix 3 referral form
  - Cases will always proceed in accordance with this Code of Conduct and regard will be given to any statutory guidance published by the Secretary of State. The School Attendance Service will respond to all requests from police or schools for the issue of a Penalty Notice within fifteen working days.

- 19 All Penalty Notices will be served by first class post which will satisfy evidential requirements and will meet Health, Safety, and information security requirements. The notice is deemed to be received on the second working day after posting unless the contrary is proved.
- 20 The formal Notice to improve letter sent by schools (Appendix 1) should inform the parent of:
- The record of unauthorised absences giving rise to the formal Notice to Improve;
  - The Local Authority's power to issue a Penalty Notice and what the notice means.
  - The procedure for withdrawing a Penalty Notice (and that there is no right to appeal);
  - The penalty for a Penalty Notice being £160 reduced to £80 if paid within 21 days of receipt of the Notice. If the penalty is not paid in full by the end of 28 days, the LA will prosecute for the offence of non-attendance brought under s444 of the Education Act 1996.
- 21 Completion of a referral form (Appendix 3) is required from schools requesting an Education Penalty Notice to be issued. All relevant information is required to be supplied which may impact on whether it is in the public interest to progress to court action if a notice is unpaid and withdrawn. Subject to the criteria being met and it being unlikely to interfere with other intervention strategies in place, an Education Penalty Notice will be issued.

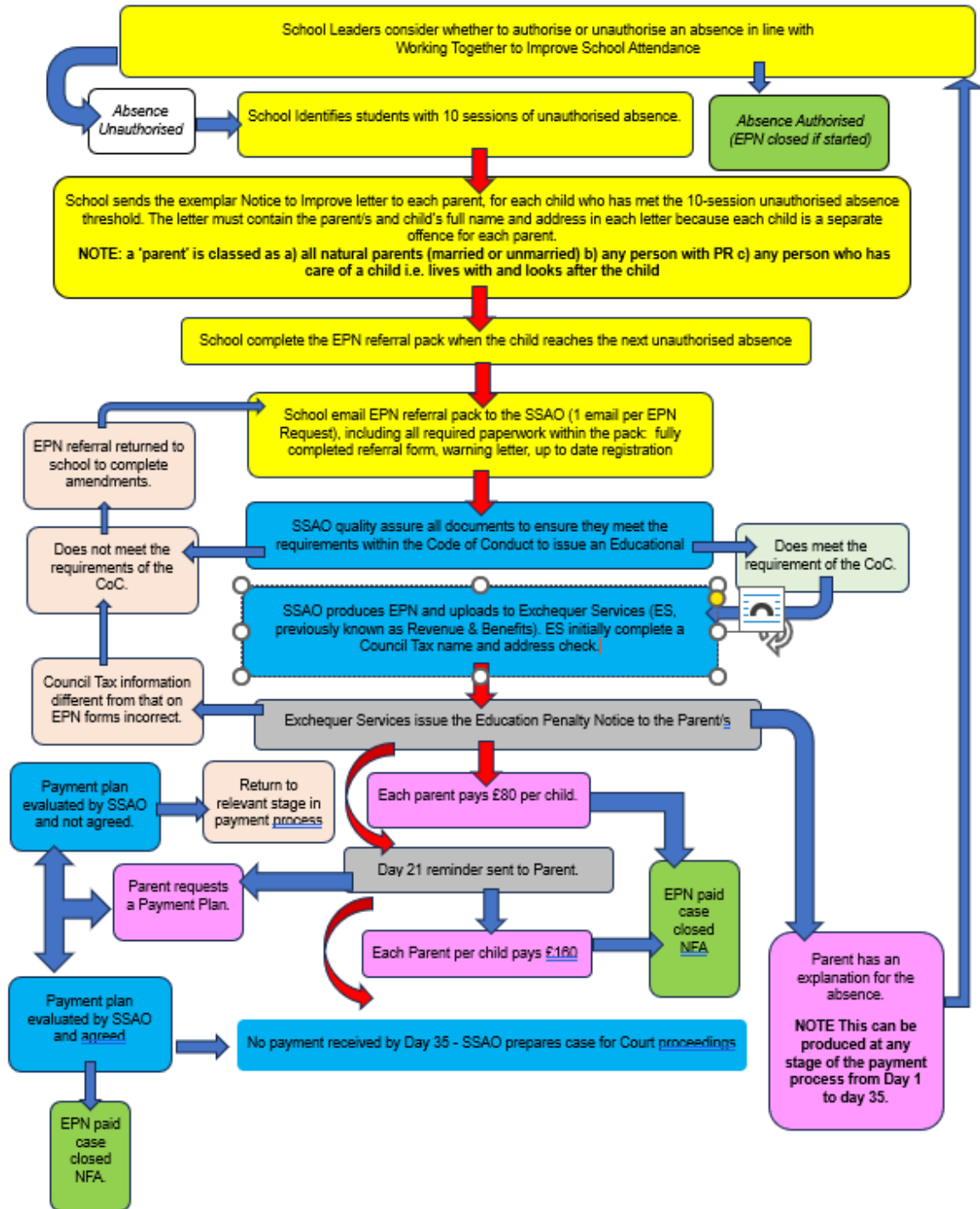
#### **How authorised officers will work together.**

22 Authorised officers should work together to ensure that penalty notices are used when likely to be effective and change behaviour.

23 The LA has identified the Statutory School Attendance Officers, the Assistant School Attendance Service Manager and the School, Attendance Service Manager as the authorised officers who will issue penalty notices in the Knowsley MBC area.

24 Where the school request that the LA issues the penalty notice, they need to:

## Education Penalty Notice Process Flow Chart



- 25 Whoever is issuing the penalty notice should decide as to whether proportionate support has been provided, and whether that support has worked or not. Where there is dispute, authorised officers are expected to defer to the local authority's judgement about whether sufficient support has been provided before issuing a penalty notice.
- 26 The LA will inform the school about whether penalty notices are paid, withdrawn, or prosecuted for non-payment. This information will be shared as part of the Targeted Support Data which is shared with schools on a regular basis.
- 27 Where pupils move between local authority areas, Knowsley MBC can be contacted on cross border. [penaltynotice@knowsley.gov.uk](mailto:penaltynotice@knowsley.gov.uk) to find out if penalty notices have been issued previously.
- 28 Where pupils attend school in Knowsley MBC but live in a different LA, Knowsley MBC will ask the school to provide evidence that the support has been requested from the neighbouring LA when it was accepted by the parent.

School Logo

## School Attendance Notice to Improve

*(Please read this letter carefully)*

[Address Starts Here]

School attendance is hugely important. For your child to gain the full benefit from their education, for their learning, wellbeing, and wider development, they need to attend on time, every day possible.

If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, as the child's parents/guardian you may be guilty of an offence under s.444 Education Act 1996. If your child is a registered pupil at an alternative provision in the circumstances set out in section 444ZA of the Education Act 1996, you as the child's parent/guardian may be guilty of an offence. (parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996)

You, «FORENAME» «SURNAME» are a parent/guardian of «Students Name», (called in this notice "the pupil") who is a registered pupil at «School Name».

The school have offered support to you and your family to try and help improve **Students Name's** attendance, including:

1. **Telephone calls.** The school contacted you every day your child was absent to understand why your child was absent and to offer their support with any issues your child may be having.
2. **An Attendance Overview Letter.** The school wrote to you, letting you know about «Students Name's» attendance, the impact of their continued absence, and inviting you to contact the school to discuss the situation further.
3. **An Attendance Support Meeting Invite.** The school invited you to a meeting to discuss your child's unauthorised absences and to offer support to access Early Help to ensure that their attendance improved. You were notified of the consequences should your child continue to have unauthorised absence and you did not effectively engage with the support offered.

Unfortunately, despite the support that was offered to your family, attendance remains a cause for concern. Between «**WARNING\_START\_DATE**» and «**WARNING\_END\_DATE**» the pupil failed to attend regularly at «**School\_Name**», which resulted in 10 sessions (half days) or more of unauthorised absences being recorded. Please see the attached registration certificate for details.

**You now have thirty school days (6 weeks) in which to improve your child's attendance. During this period your child must not have further unauthorised absences from school. Should there be any further unauthorised absences during this period, a Penalty Notice may be issued. A penalty notice is charged at £160 if paid within 28 days. There is usually the opportunity to pay a reduced amount of £80 if paid within 21 days. If this is the second Penalty Notice within 3 years the fine is fixed at £160 and there is no opportunity to pay the lesser amount.**

**The Notice to Improve period will start on the XXXXX and will last for 30 school days**

More information regarding this notice can be found in the attached leaflet. If you wish to discuss this notice, or discuss what further support is available, please contact our team as soon as possible:

Contact Name  
**Name of Team/Service**  
Address

Telephone:

Yours sincerely

(Name)  
(Job Title)  
(School Name)

School Logo

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*(Please read this letter carefully)*

[Address Starts Here]

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. If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, as the child's parents/guardian you may be guilty of an offence under s.444 Education Act 1996. If your child is a registered pupil at an alternative provision in the circumstances set out in section 444ZA of the Education Act 1996, you as the child's parent/guardian may be guilty of an offence. (parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996)

You, «FORENAME» «SURNAME» are a parent/guardian of «Students\_Name», (called in this notice "the pupil") who is a registered pupil at «School\_Name».

The school have offered support to you and your family to try and help improve «Students\_Name's» attendance, including:

1. **Telephone calls.** The school contacted you every day your child was absent to understand why your child was absent and to offer their support with any issues your child may be having.
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Unfortunately, despite the support that was offered to your family, attendance remains a cause for concern. Between «WARNING\_START\_DATE» and «WARNING\_END\_DATE» the pupil failed to attend regularly at «School\_Name», which resulted in 10 sessions (half days) or more of unauthorised absences being recorded. Please see the attached registration certificate for details.

You now have thirty school days (6 weeks) in which to improve your child's attendance. During this period your child must not have any further unauthorised absences from school. Should there be any further unauthorised absences during this period, the Local Authority will initiate statutory action and you may be prosecuted for your child's unauthorised absences.

The Notice to Improve period will start on the XXXXX and will last for 30 school days.

**NB: Prosecution of the parent(s) for failing to ensure regular attendance at school in accordance with Section 444 of the 1996 Education Act, as amended by section 72 of the Criminal Justice and Court Services Act 2000. Upon conviction, Magistrates may impose a maximum fine of £2,500.**

More information regarding this notice can be found in the attached leaflet. If you wish to discuss this notice, or discuss what further support is available, please contact our team as soon as possible:

Contact Name  
**Name of Team/Service**  
Address

Telephone:

Yours sincerely

(Name)  
(Job Title)  
(School Name)

**Appendix 3 – Sporadic Absence Referral Form**

**All referrals must be typed and sent in electronically to epn@knowsley.gov.uk**

**Checklist Request for Knowsley Council to issue an Education Penalty Notice (EPN)**

Name of School:.....

Pupil: ..... DOB: .....

Parent/Carer 1: .....

Address:..... Postcode.....

Parent/Carer 2:.....

Address: .....Postcode.....

**Period of Absence Dates:**

From..... **(must include 10 sessions prior to the Notice to Improve letter)**

To:..... **(must include sessions of absence after the Notice to Improve letter)**

Date Notice to Improvement letter issued: .....

Are there further sessions of UA following the date of the Notice to Improve letter within a 6-week period? YES/NO

Reasons given for absence e.g. family issues/illness/bereavement/family occasion/punctuality/comboination/no reasons:

.....  
.....  
.....

Please list below school action/ evidence **(if the EPN is unpaid and progresses to court we will require a copy of the evidence)**

Meeting date.....

Letter date.....

Date of Early Help meeting.....

Other.....

.....  
Any other agency involvement (if none involved, please state this) .....

**Checklist:**

Up to date Registration Certificate including period of unauthorised absence relating to EPN

Copy of the Notice to Improve letter

Parents/Carers/ Legal Guardians Full Names (be aware surname may differ)

- Current Address where pupil resides as main address above
- Copy of CPOMS/ Contact Log commentary sheet (if applicable)

**Have the parent/s previously been issued with an EPN for the child named above in the last 3 years (starting 1<sup>st</sup> September 2024) Yes/ No**  
**Dates.....**

**If Parent has received 2 EPNs in the last 3 years has the Notice to Improve Appendix 2 been sent to the parents Yes /No Date..... (please attach)**

EPN Request made by Head Teacher's nominated representative:

Name: ..... Designation: .....

Dated: .....

**Appendix 4 – Holiday Absence Referral Form**

**All referrals must be typed and sent in electronically to epn@knowsley.gov.uk**

**Checklist Request for Knowsley Council to issue an Education Penalty Notice (EPN)**

Name of School: .....  
Pupil: ..... DOB: .....  
Parent/Carer 1: .....  
Address:..... Postcode.....  
Parent/Carer 2:.....  
Address: .....Postcode.....

**Period of Absence Dates:**

From..... (must include 10 sessions prior to the EPN request)

To: .....

Reasons given for absence e.g. Family Holiday, Family Wedding

Please list below school action/ evidence (If the EPN is unpaid and progresses to court we will require a copy of the evidence)

Letter requesting Holiday date.....

Other.....

Any other agency involvement (if none involved, please state this)

**Checklist:**

- Up to date Registration Certificate including period of unauthorised absence relating to EPN
- Parents/Carers/ Legal Guardians Full Names (be aware surname may differ)
- Current Address where pupil resides as main address above
- Copy of letter requesting a Holiday
- Copy of letter declining the Holiday request
- Copy of CPOMS/ Contact Log commentary sheet (if applicable)

**Have the parent/s previously been issued with an EPN for the child named above in the last 3 years (starting 1<sup>st</sup> September 2024) Yes/ No**

**Dates.....**

**If Parent has received 2 EPNs in the last 3 years has the Notice to Improve Letter B been sent to the parents Yes /No Date..... (please attach)**

EPN Request made by Head Teacher's nominated representative:

Name: ..... Designation: .....

Dated: .....

