

## **Frequently Asked Questions – Penalty Notices**

### **What is a Penalty Notice?**

A penalty notice is a fine issued to parents/carers or adults with day-to-day responsibility for a child's attendance at school where there has been a failure to ensure regular school attendance or where a suspended child is seen in a public place or on school grounds in school hours.

### **Who issues the penalty notice?**

The decision to request a penalty notice is made by schools in line with National thresholds and DfE guidance. The school make a request to the council to issue a penalty notice. The role of the council is to ensure it is issued in line with the code of conduct.

### **How many times could I receive a penalty notice?**

In line with statutory guidance, you can only receive 2 penalty notices for offences within a 3-year period. The 3<sup>rd</sup> time an offence is committed the case may be prosecuted at the Magistrates' Court under s.444 of the Education Act 1996 or other legal interventions considered.

### **Can parents just take their child on holiday during term time if they want to?**

School attendance is not just a rule, it is the law – the Education Act places a legal responsibility on parents to ensure regular school attendance. Parents must get authorisation from the Headteacher if they want to take their child out of school during term time. This is the Headteachers discretion and is only likely in exceptional circumstances.

### **Are there any educational consequences to taking a child out of school during term time?**

Barnsley Council wants every child in school every day so that they can achieve their best possible outcomes, any absence from school impacts on your child's educational attainment. A child who takes a week's extra holiday each year at school will have missed at least 70 days – or the equivalent of more than three months of learning – by the end of their time at school.

### **Do separated parents or step parents receive a Penalty Notice for leave of absence in term time?**

Cases involving separated parents will be judged individually on a case-by-case basis but penalty notices can be issued to each parent/carer for each individual child. A parent is defined as anyone with parental responsibility, but also any person who, although not a natural parent, has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of

what their relationship is with the child, is considered to be a parent (Section 576 of the Education Act 1996).

**My child's attendance is normally very good. I think it is unfair that I have been issued with a fine because I took them out of school to go on a family holiday.**

There is no attendance figure stipulated in law which defines regular attendance. The Supreme Court defined regular attendance as being attendance as prescribed by the school, and this means any absence without authority is tantamount to irregular attendance. Past and future attendance at school has no bearing on the matter. Head teachers may not grant a leave of absence during term-time unless there are exceptional circumstances. 'Exceptional circumstances' are not defined in any Department for Education guidance, although it's made clear that family holidays are "unlikely" to be considered as exceptional.

**I am self-employed/my employment only gives me fixed holiday dates, is this exceptional circumstances?**

Some employment may make it more difficult for families to spend time together in the six-week summer holidays. However, there are other school breaks when such family time can be used. There are 13 weeks total within an academic year for families to take any holidays that does not impact on term time and education.

**My child has special educational needs and/or an Education Health and Care Plan so our holidays are booked when airports or resorts are quieter.**

There are occasions where the parents of a child with SEND needs, may make an application for 'Leave of Absence in Term Time' as they feel that the airport they are flying from will be too busy for their child during the school holidays. It remains the Head Teachers discretion in all applications for leave of absence as to whether the request is exceptional circumstances.

Parents are advised that rather than request 'Leave of Absence' during term time, which will impact on their child's education, routine and provision that is in place for them, they should make prior contact with either the Passenger Support Service or Additional Needs Team at the relevant airport. These teams can often support in the provision of or the identification of quiet areas where families can wait until boarding. There are also occasions where these teams can support with Early Boarding which lessens the queuing time, although it is advisable to have prior communication with the airline first. These resources should help families for any holidays taken outside of school time, therefore also reducing the amount of disruption to education and routine by taking a holiday during term time. Further information and advice can be found on the attached link from the National Autistic Society [Holidays – guide for parents and carers](#)

**Is a warning given?**

In cases of unauthorised absence, The Local Authority will send you a formal letter called a Notice to Improve, warning you that a Penalty Notice may be issued if attendance does not improve during a set period of time. This letter will also include details of your child's

absences, the support that has been offered by school and any further opportunities for support for you and your child.

For a leave of absence, the warning of a possible penalty notice is in a letter from school replying to a leave of absence request, or where no request is received the warning is sent in a “reason to believe you are on holiday” letter.

### **What are the costs?**

**First offence** - The first time a Penalty Notice is issued the amount will be: £80 per parent, per child payable within 21 days. This fine increases to £160 per parent, per child if paid after day 21, but before day 28. Any non-payment of the PN will be presented to the Magistrates Court.

**Second Offence (within 3 years)** - the second time a Penalty Notice is issued the amount will be £160 per parent, per child payable within 28 days. Any non-payment of the PN will be presented to the Magistrates Court.

**Third Offence and Any Further Offences (within 3 years)** - the third time an offence is committed a Penalty Notice will not be issued, and the case may be presented straight to the Magistrates' Court under s.444 of the Education Act 1996 or other legal interventions considered. The Magistrates' Court can order fines up to £2500 per parent, per child and will be requested to make an order for legal costs.

### **Can I choose not to pay a Penalty Notice?**

If you do not pay within the specified time stated on the Penalty Notice you will be prosecuted at a Magistrates' Court, which could then incur a higher fine and associated costs.

### **Is there an appeal process?**

There is no appeal process once a penalty notice has been issued. If you disagree with the reason(s) why you have been issued with a penalty notice you should contact the school or academy directly to discuss the circumstances of your child's absence so that the Headteacher can consider whether the reason is exceptional, and if the absence should have been authorised. The Penalty Notice process will continue unless a request is made to the local authority by the school/academy to consider withdrawing your penalty notice. Please be aware that once issued, penalty notice fines can only be withdrawn under specific criteria.

### **Can I request the withdrawal of penalty notice?**

No. As the person receiving the Penalty Notice you cannot request a withdrawal of the Penalty Notice. Your child's school could request that the local authority withdraw a Penalty Notice but there are specific criteria which must be met first. The only circumstances in which a Penalty Notice may be withdrawn include:

- Penalty Notice has been issued outside of the terms of the local code of conduct.

- It ought not to have been issued or issued to the person named as the recipient.
- It contains material errors – for example, where the name is spelt incorrectly.
- Where after the expiry of 28 days the penalty is unpaid and local authority do not wish to bring legal proceedings under s444

### **Can I make a part-payment, or can I have an extension to the payment deadline?**

Payment deadline dates are stated on page one of the penalty notice document. If you require a short-term extension due to financial difficulties, please contact us and your school to request this and any further support you require. Payments must be made in full by the deadline stated on the penalty notice documents otherwise you may be liable for prosecution at court.

### **How do I pay my Penalty Notice?**

You can pay using a Maestro, Mastercard or Visa card online at <https://councilparking.org/barnsleyeducation> or by calling 0333 121 0141. This is available all day every day. You will need your payment reference number. Please ensure you retain the payment reference numbers as proof of payment.

### **Why does it appear on my bank statement as “Council Parking”?**

Barnsley Education Welfare Service use the same payment provider as BMBC Parking Services. You will see the website is Barnsley Education.

### **What happens if I forget to pay in the 28 days?**

A Penalty Notice is a legal proceeding. It is very important that you don't forget to pay otherwise you could face prosecution for the offence of unauthorised absence from school (the charge is not for non-payment of fine). There is no option to pay the fine after 28 days.

### **What happens if I receive court summons, and I never received a fine?**

Court summons are sent to the same address as the fine using the same web system. Barnsley Council are not required to send penalty notices via recorded delivery. If you didn't receive the penalty notice originally you should complete the plea documents with mitigation to outline this and send your plea documents to the court.

### **What is the Single Justice Procedure?**

You will receive this paperwork if you have not paid your penalty notice within the 28 days payment period. These are court documents. Please read and fill in the required parts of the paperwork, sending this to [SY-SheffieldSJP@Justice.gov.uk](mailto:SY-SheffieldSJP@Justice.gov.uk) or the postal address on the form. You will also have to consider your plea, and you have the option to attend court should you wish to do so.

Please find a link below to our useful resources which includes the code of conduct on the issue of PN's

[Useful education welfare resources](#)