



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 Kingston Upon Hull City Council. The code sets out the arrangements for administering penalty notices in Kingston Upon Hull City Council 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 which applies from 19th August 2024.

Consultation

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

Legal basis

3. Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the Education Act 1996. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, AP 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, a headteacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable.
6. To ensure a consistent approach the Local Authority Education Welfare Service for Kingston upon Hull (LA) will be responsible for issuing Penalty Notices in Kingston upon Hull.
7. 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.
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).



Rationale

9. 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.
10. 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.
11. 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.
12. 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 particular family.

When may a penalty notice for absence be appropriate?

13. When the national threshold has been met: 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 weeks¹, 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

¹ 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).



August 2024

(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)

14. If in an individual case the LA (or other authorised officer) believes penalty notice would be appropriate, they retain the discretion to issue one before the threshold is met. This may apply, for example, where pupils are absent for several holidays below threshold, or for repeated absence for birthdays or other family events.

Penalty Notice limit and escalation in repeat cases

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 and any second notice within that period is charged at a higher rate -

- The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.
- A second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.
- A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first.

16. If the national threshold is met for a third time (or subsequent times) within 3 years, another tool should be used. This may include prosecution or one of the other attendance legal interventions available to the Local Authority.

17. Once 3 years has elapsed since the first penalty notice was issued a further penalty notice may be issued, but it is at the discretion of the Local Authority whether a penalty notice, or prosecution is the most appropriate action for subsequent offences.

18. 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.

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

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

- (i) 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 particular 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
 - (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting



Local Code of Conduct for issuing Penalty Notices

August 2024

responsibility for any resulting prosecution for the original offence in cases of non-payment?

(ii) In cases where support is appropriate, consider on a case-by-case basis:

- Has sufficient support already been offered and/or provided?
Sufficient support will usually include; *A clear graduated response utilising the ATTEND Framework or an evidence-based assessment and review tool of comparable depth and quality to help identify and remove potential barriers to attendance detailing what actions are expected by all parties. A multi-agency/service approach to supporting attendance.*
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this particular 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
- (For local authorities only) 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?

If the answer to the above questions is 'yes', then a penalty notice (or a notice to improve in cases where support is appropriate) will usually be issued.

(iii) In cases of leave of absence requests (including holidays) -

- All schools have the discretion to grant leave of absence for other exceptional circumstances. *The School Attendance (Pupil Registration) (England) Regulations 2024, Regulation 11 a) "an appropriate person has asked for the leave in advance and (b) the authorised person thinks that leave should be given because of the exceptional circumstances of the request".*
- Leave must be requested in advance.
- Schools must consider each request taking into account the specific facts, circumstances, relevant background and the context for the request.
- If leave of absence is granted it is for the school to determine the length of time the pupil may be absent from school.
- Absence for a holiday or other leisure / recreation purpose is not considered to be an exceptional circumstance.

Notice to Improve

20. 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.



August 2024

21. 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).
22. There will be no restrictions on the number of times a parent/carer may receive a Notice to Improve letter.
23. To ensure a consistent delivery the following criteria will apply:
 - There must have been 10 or more unauthorised absences (5 school days) over a 10-school week period (This can be over two terms from September 2024 and two academic years from September 2025)
 - The liable parent/carer will receive a formal Notice to Improve letter, warning of the possibility of a Penalty Notice being issued and given a maximum of 15 school days to affect an improvement.

Procedure for issuing the Notice to Improve Letter

24. The LA will be responsible for issuing all Notice to Improve Letters in Kingston upon Hull and will seek to respond to all requests made by the school within 10 school days of receipt.
25. The school will complete and submit a referral form to the LA requesting a Notice to Improve Letter to be issued, by sending this to EWSEducation@hullcc.gov.uk or by using Secure Data Transfer.
26. Within 10 school days of receiving the request, the LA shall seek to Issue a Notice to Improve letter to the parent/carer which will include -
 - Details of the support that has been offered by the school to improve attendance.
 - An improvement period of 15 school days within which the pupil must have no further unauthorised absences and/or show a significant improvement in attendance.
 - The possibility of a Penalty Notice being issued, or a prosecution being considered, if attendance does not improve and/or further unauthorised absences continue.
27. A copy of the Notice to Improve letter will be emailed to the school allowing schools to monitor attendance during the 15-school day improvement period.
28. Within 10 school days of the end of the 15 day improvement period, the school will report to the LA by completing and submitting the penalty notice review form, by sending this to EWSEducation@hullcc.gov.uk or Secure Data Transfer.
29. It shall be at the discretion of the LA to decide whether to issue a Penalty Notice if sufficient improvement has not been made. Please refer to paragraph 24 below.

How authorised officers will work together

30. Authorised officers should work together to ensure that penalty notices are used when likely to be effective and change behaviour.
31. An authorised officer is a headteacher or someone authorised by them (a deputy or assistant head), a local authority officer or the police. The LA should



August 2024

set out which authorised officers will issue penalty notices in their area: this will be the responsibility of the LA's Education Welfare Service, as set out in paragraph 6.

32. Where the school or police request that the LA issues the penalty notice, they need to follow the relevant referral process as set out at paragraph 33 below.

Procedure for issuing Penalty Notices

In cases following the Notice to Improve Letter

33. The LA will be responsible for issuing all Penalty Notices in Kingston upon Hull and will seek to respond to all requests made by the school within 10 school days of receipt.
34. Within 10 school days from the end of the 15 day Notice to Improve period, the school will complete and submit the penalty notice review form to the LA requesting a penalty notice, by sending this to EWSEducation@hullcc.gov.uk or by using Secure Data Transfer.
35. Penalty Notices will be issued provided -
- the threshold has been met: 10 or more unauthorised absences (5 school days) over a 10-school week period.
 - all relevant information is supplied from the school,
 - sufficient support has been provided/offered (where applicable)
 - the attendance of the pupil has not sufficiently improved and/or further unauthorised absences have continued
 - issue of a penalty notice does not conflict with other enforcement sanctions i.e. prosecution is not ongoing or being considered
 - legal intervention is deemed appropriate; this shall be at the discretion of the LA.

In cases where support is not appropriate (for example, for holidays in term time)

36. Within 10 school days from the return of the unauthorised absence (holiday) the school will complete and submit a referral form (referral for a holiday penalty notice) to the LA requesting a penalty notice by sending this to EWSEducation@hullcc.gov.uk or by using Secure Data Transfer.
37. Penalty Notices will be issued provided -
- the threshold has been met: 10 or more unauthorised absences (5 school days) over a 10-school week period.
 - all relevant information is supplied from the school,
 - issue of a penalty notice does not conflict with other enforcement sanctions i.e. prosecution is not ongoing or being considered
 - legal intervention is deemed appropriate; this shall be at the discretion of the LA.
38. The LA shall record all Penalty Notices issued to ensure that the appropriate Penalty Notice pathway is being issued in accordance with the escalation process.



Payment of Penalty Notices

39. Arrangements for payment is detailed on the penalty notice.
40. Payment will not be accepted in part or by instalments.
41. Payment of Penalty Notices will be made to the LA. If a Penalty Notice is not made by the expiry of the 28-day period, the LA must decide either to prosecute for the original offence to which the Penalty Notice was issued, or withdraw the Notice.
42. The LA will inform the school about whether penalty notices are paid, withdrawn or prosecuted for non-payment. They will do this by emailing the assigned sender to the original referral and or any other person requested by the Head Teacher.

Arrangements for coordination between Local Authorities

43. Where pupils move between local authority areas, Kingston Upon Hull City Council can be contacted on crossborder.penaltynotice@hullcc.gov.uk to find out if penalty notices have been issued previously.
44. Where pupils attend school in Kingston Upon Hull City Council but live in a different LA, Kingston Upon Hull City Council will work together with other Local Authorities following the DFE Local authority School Attendance Support Teams- working with cross-border pupils Fact sheet.

Appeals

45. There is no statutory right of appeal by parents against a Penalty Notice.

Review

46. The LA will review the Penalty Notice Protocol when changes are made to legislation intervals and amend the general enforcement strategy as appropriate.