



## Education Penalty Notices - Frequently Asked Questions....

---

### **Can I be issued with a Penalty Notice if I am not a child's biological parent or I don't have parental responsibility for a child?**

Yes. Under section 576 of the Education Act 1996 (EA 1996), a "parent" in relation to a child or young person is defined as either:

- The biological parents of a child, whether they are married or not and/or
- any person, who has regular care of a child or young person even if they are not the biological parent or don't legally hold parental responsibility for the child or children in question.

Penalty notices can be issued to a child/young person's parents, step parents and/or any adult residing in the family home that has day to day care of the child/young person.

Penalty notices are issued to each parent/carer for each child who had an unauthorised absence from school. This means that each responsible "parent" may receive a penalty notice for each child included in the request.

### **Who Issues the Penalty Notice?**

Penalty Notices can be issued by the Local Authority, Headteachers and the Police.

In Nottinghamshire Penalty Notices are primarily issued by the Local Authority at the request of a named referrer. In most cases the referrer is the School/Academy where the child/young person is on roll.

In Nottinghamshire the agreement set out in our Code of Conduct is that Headteachers may make requests for penalty notices to be issued where a pupil has been absent from school for 7 or more sessions (3.5 days) over a six-week rolling period (excluding school holidays) and where those absences are marked in the register as unauthorised.

### **Who decides how much time a pupil can have off before a Penalty Notice can be issued?**

There is a Local Code of Conduct, agreed between schools and the Local Authority which outlines how Penalty Notices work in Nottinghamshire. This includes the threshold (or the level of unauthorised absence) at which fines can be issued. In Nottinghamshire the agreed threshold is any unauthorised absence in excess of 3 days or six sessions over a six week period.

The criteria set out in the Nottinghamshire Code of Conduct were ratified by Elected Members at a Children and Young People's Committee of the County Council.

The Nottinghamshire Code of Conduct is available on the County Council public website - [School Attendance, Absence and Truancy](#)

### **The Penalty Notice I was sent lists a six weeks period, but my child was not absent for that long? Why does the Penalty Notice mention 6 weeks?**

The Six-week period is stated on page one of the penalty notice document. This does not mean that your child was absent for the full six weeks quoted on the notice but that the child/young person was absent for 7 sessions or more during the period of time cited on the notice.

This will mean that their unauthorised absence during that period has met the threshold for a penalty notice to be issued.

If the fine is not paid within the timescales listed in the Notice, the local authority may decide to prosecute at the Magistrates court for the original offence and will use the six weeks listed on the Penalty Notice as the relevant period of evidence for court.

## **I disagree with the absence being marked as unauthorised. Who can I discuss this with?**

The statutory guidance clearly states that it is solely the decision of the Headteacher at your child/young person's school/academy as to whether the absence is authorised and for how long.

Where an absence is unauthorised by a school, the Headteacher then makes the request to the Local Authority to issue the parents/carers with a penalty notice fine. They make this request because they have decided that based on the information provided to them by the pupil's parents / carers, they do not believe the reason for the absence is exceptional or the absence exceeded the amount of time the Headteacher has permitted the pupil to be absent from school.

The Local Authority is unable to adjudicate on decisions made by individual Headteachers or change the authorisation of any absences from school. This would undermine the authority of the Headteacher of your child's school.

The Pupil Registration (England) Regulations only allow the Local Authority to withdraw fines in very specific circumstances. For example, if the register was found to have been marked incorrectly or a fine was issued to the wrong person.

The pupil registration regulations prevent Headteachers from agreeing a leave of absence in term time unless they determine that the reason for the absence is exceptional.

You should refer to your child's school's Behaviour and Attendance Policy for more information about under what circumstances your school might decide that the reason for an absence is exceptional.

Penalty Notices are issued for unauthorised absences only.

If you believe that the absence within the time-period should be authorised because you believe the reason for the absence was exceptional you should contact the School/Academy directly and discuss the matter with the headteacher.

## **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.**

The Pupil Registration (England) Regulations were changed in 2015. Since then Headteachers cannot agree a leave of absence in term time for the purpose of a family holiday.

Following a Supreme Court judgement in 2017, the legal position is that a pupil must be at school every day they are required to be by their Headteacher if their attendance is to be considered regular.

Therefore, if you take your child out of school without authorisation from the Headteacher for a leave of absence (holiday) in term time you can be liable for a fine even if your child's attendance is not otherwise causing concern for the school.

Following the Supreme court judgement in 2017, this is not a defence you can use if you are issued with a penalty notice fine or should you be prosecuted at court.

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

Penalty notices are issued at £120 (per child, per parent) and must be paid within the statutory 28-day deadline.

Penalty notices are only reduced to £60 if they are paid in full, within 21 days of issue.

Payment deadline dates are stated on page two of the penalty notice document. The payment deadlines are statutory (laid down in legislation) and cannot be altered once a fine has been issued.

Part payments or instalments are also not accepted. Payments must be made in full by the deadline stated on the penalty notice documents otherwise you may be liable for prosecution at court.

## Can I appeal against the Penalty Notice?

There is no appeal process once a penalty notice has been issued.

If you disagree with the reason(s) you have been issued with a penalty notice fine 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 the absence should have been authorised.

The Penalty Notice Process will continue unless a request is made to the local authority by the named referrer to consider withdrawing your penalty notice.

Please be aware that once issued, penalty notice fines can only be withdrawn under specific criteria laid out in the regulations.

## Can I request the withdrawal of penalty notice?

No. As the person receiving the Penalty Notice you cannot request a withdrawal of the fine.

Your child's school could request that the local authority withdraw a fine but there are specific criteria which must be met first.

The only circumstances in which a Penalty Notice will be withdrawn include cases in which:

- it ought not to have been issued; or
- it ought not to have been issued to the person named as the recipient;
- it appears to the authority that the notice contains material errors,
- it interferes with existing intervention strategies or legal proceedings

## For More information

[www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk)

[School Attendance, Absence and Truancy](#)

## Contact information

*Please send any queries to:*

[penalty.notices@nottscc.gov.uk](mailto:penalty.notices@nottscc.gov.uk)

## To pay a Penalty Notice Fine

Phone: 01158043500