

# Leave of Absence Penalty Notice: Code of Conduct

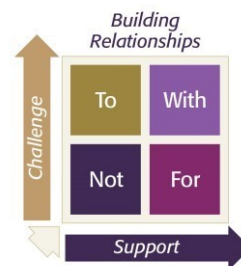
Children & Young People

**Purpose:**

The Purpose of this Code of Conduct is to ensure that children and young people in the City are not taken out of School in term time.

**RESTORATIVE PRACTICE**

All contact and work received by families from the City of Wolverhampton Council within the City will be based around restorative practice principles. This is to ensure we improve the life outcomes for all children, young people and families we work with. In Wolverhampton we intend to use restorative principles and behaviours with colleagues as well as children and families, to help develop positive working relationships.



**REVIEW LOG**

Date	Version	Comments	Approved by
July 2013	1.0	New Policy Introduced	Children, Young People and Families Management Team (17 <sup>th</sup> July 2014)
August 2018	1.1	Policy reviewed and amended to reflect current legislation and guidance on penalty notices.	Children and Young People Management Team (13 <sup>th</sup> September 2018)
May 2021	1.2	Policy reviewed and amended to reflect to update the correct team and job roles. Updated form in Appendix B	Education & Skills Service Manager (24 <sup>th</sup> April 2021)

**CONSULTATION**

The following people have been consulted on this policy:

- Head of Service Inclusion and Empowerment
- Attendance Manager

**KEYWORDS**

Penalty notice, code of conduct, leave of absence, unauthorised absence

**Index**

1.0 Introduction ..... 4

2.0 Legislative Framework ..... 4

3.0 Case Law ..... 5

4.0 Operational Process ..... 6

5.0 Parent(S) who do not Apply for Leave of Absence ..... 6

6.0 Administration and Issue of Penalty Notices ..... 6

7.0 Withdrawal of Penalty Notice ..... 7

**Appendices** Appendix A- Template Letter for Schools to Decline Requests For  
Absence of ..... 8

    Leave ..... 8

Appendix B- Proforma Requesting for A Penalty Notice to be Issued ..... 9

## 1.0 INTRODUCTION

This Code of Conduct has been produced to outline the process that must be followed for issuing Penalty Notices for Leave of Absence from School during term time.

Penalty Notices will be issued where there are 5 or more consecutive days of unauthorised leave of absence.

When a Penalty Notice is imposed, a fee of £60 per parent per child is payable within 21 days of issue of the notice; and £120 if paid between 21 and 28 days of issue of the notice.

If the notice has not been paid in full within 28 days of issue of the notice, the Local Authority must either prosecute for the offence or withdraw the notice.

This prosecution is for the offence of failing to secure attendance at School, **not** for non-payment of the fine.

## 2.0 LEGISLATIVE FRAMEWORK

The Education (Pupil Registration) (England) (Amendment) Regulations 2013.

*“(1A) Subject to paragraph (2), leave of absence shall not be granted unless—*

*(a) an application has been made in advance to the proprietor by a parent with whom the pupil normally resides and;*

*(b) the proprietor, or a person authorised by the proprietor in accordance with paragraph (1), considers that leave of absence should be granted due to the exceptional circumstances relating to that application.”*

The Education Act 1996 states:

Offence: failure to secure regular attendance at school of registered pupil.

(1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence. If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.]

- (2) Subsections (3) to (6) below apply in proceedings for an offence under this section in respect of a child who is not a boarder at the school at which he is a registered pupil.
- (3) The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school: (a) with leave;  
(b) at any time when he was prevented from attending by reason of sickness or any unavoidable cause; or  
(c) on any day exclusively set apart for religious observance by the religious body to which his parent belongs.
- (4) The definition of parent under education law Section 576 of the Education Act 1996 defines “parent” as:
  - (a) All natural (biological) parents, whether they are married or not;
  - (b) Any person who, although not a natural parent, has parental responsibility for a child or young person;
  - (c) Any person who, although not a natural parent, has care of a child or young person.

It is the responsibility of schools to ensure that they are aware of all persons who meet the criteria of parent as indicated above. School must ensure that they have included all parents in the Penalty Notice request.

### 3.0 CASE LAW

The Local Authority is mindful of the Supreme Court decision in the case of *Isle of Wight v Platt*. The Supreme Court makes it clear that regular attendance shall mean attendance in accordance with the school rules (i.e. when the school is open). Therefore, any non-attendance which is not in accordance with the school rules will be deemed unauthorised and it would therefore be appropriate to issue a Penalty Notice.

Lady Hale, Deputy President of the Supreme Court, expressed clear policy reasons for the judgement:

*“Unauthorised absences have disruptive effect, not only on the education of the individual child but also on the work of other pupils”*

The Supreme Court’s decision emphasised the need for parents to ensure their children receive a full and uninterrupted education, which is essential in order to promote a child’s life chances. Full details of the judgement can be found on the Supreme Court website: [www.supremecourt.uk](http://www.supremecourt.uk).

Schools must clearly state in their behaviour and attendance policies that leave of absence in term time will not be authorised unless in exceptional circumstances and this must be made freely accessible to parents.

#### **4.0 OPERATIONAL PROCESS**

- 4.1 Parent(s) make a request for leave of absence to the School, at least four weeks before the leave of absence, using the Information Leaflet- [Are you thinking of taking your child out school in term time?](#)
- 4.2 A leave of absence request is considered and granted entirely at the Head Teacher's discretion.
- 4.3 Head Teacher either accepts or declines the request.
- 4.4 Where the request is declined the Head Teacher notifies the parent in writing that the leave of absence is refused, within seven days of receipt of request.
- 4.5 If the Head Teacher has refused the request but the pupil is absent during this period, the absence should be unauthorised. The Head Teacher will then decide whether to request the Local Authority to issue a Penalty Notice.

#### **5.0 PARENT(S) WHO DO NOT APPLY FOR LEAVE OF ABSENCE**

- 5.1 If a parent does not apply for leave of absence in advance, the absence should be recorded as unauthorised. If the school wish to pursue the matter and request a penalty notice to be issued, a letter must be sent to parent(s) advising that the absence will not be authorised and warning that a penalty notice maybe issued.

#### **6.0 ADMINISTRATION AND ISSUE OF PENALTY NOTICES**

- 6.1 It is at the Head Teacher's discretion whether a case should be referred to the Attendance Team for a Penalty Notice to be issued. At City of Wolverhampton Council, the Attendance Team is responsible for the administration and issuing of Penalty Notices.
- 6.2 A request for a Penalty Notice will be actioned by the Local Authority, if the following information is supplied:
  - The completed request form from the parent(s), date stamped with the date received by the school;
  - The letter from the head teacher to the parent(s) advising the leave of absence has not been authorised [Appendix A](#);
  - The proforma signed and dated by the head teacher asking for a penalty notice to be issued [Appendix B](#); and
  - A copy of the attendance certificate showing the unauthorised leave, with the correct code 'G'.
- 6.3 If parent(s) have not requested the leave of absence the following information is required:

- A letter from the head teacher indicating an unauthorised leave of absence has been taken. The letter needs to indicate how the school became aware and what actions have been taken, for example, a telephone call to the parent(s) or a visit to the home address. The letter also needs to state that the parent(s) may be served with a Penalty Notice.
- The proforma signed and dated by the head teacher asking for a penalty notice to be issued [Appendix B](#);
- A copy of the Attendance Certificate showing the unauthorised leave, with the correct code 'G'

6.4 A request for a penalty notice must be made to the Local Authority within one month of the leave of absence being taken.

6.5 The Local Authority will then issue the penalty notice within one month of the request being received.

6.6 If the Penalty Notice remains unpaid after the maximum 28 days, a letter will be sent to the parent/s advising them that the case will now be passed to Legal Services for prosecution in the Magistrates' Court using section 444 of the Education Act of 1996.

## **7.0 WITHDRAWAL OF PENALTY NOTICE**

7.1 There is no statutory right of appeal against issuing a penalty notice.

7.2 Once issued, a penalty notice can only be withdrawn if the Local Authority is satisfied that:

- The Penalty Notice was issued to the wrong person;
- The Penalty Notice ought not to have been issued, i.e. where it has been issued outside of the terms of this Code of Conduct or no offence has been committed

**Appendix A- Template Letter for Schools to decline requests for absence of leave**

**SCHOOL LETTERHEAD**

Parent/Carer Name  
Address

Date

Dear Parent/Carer

**Re: Leave of Absence in term time request for (child's/children's name)**

Following your request for leave of absence in term time for **(child's/children's name)**. I regret that I am unable to authorise this absence. My reasons are as follows:

- .
- .
- .

Should you however choose to take the requested leave of absence, the school's attendance policy makes it clear that this absence will not be authorised and I will be making a request to the Local Authority to issue a Penalty Notice.

The Penalty Notice is for £60 per parent, per child if paid within 21 days and £120 per parent, per child if paid after this date but within 28 days.

**Parent/Carer's have a duty to ensure their child/children's regular attendance at school and failure to do so is an offence under Section 444 of the Education Act 1996.**

Yours sincerely

**Head Teacher/ Principal**





**Appendix B- Request for a Penalty Notice for unauthorised leave of absence in term time**

<b>School:</b>
<b>Parent/Carer 1</b>  First name:  Last name:  DOB:  Address:
<b>Parent/Carer 2</b>  First name:  Last name:  DOB:  Address:
<b>Pupil First</b>  name:  Last name:  DOB:
<b>Pupil First</b>  name:  Last name:  DOB:

**Pupil First**

name:

Last name:

DOB:

**Information about this leave of absence**

Was permission for this absence requested in advance from parent/carers? Choose an item.

Was permission given? Choose an item.

Dates of unauthorised absence, from: \_\_\_\_\_ to: \_\_\_\_\_ .

Number of school days: \_\_\_\_\_ .

Signed \_\_\_\_\_ Headteacher Date: \_\_\_\_\_ Please

forward this request to [attendanceandexclusions@wolverhampton.gov.uk](mailto:attendanceandexclusions@wolverhampton.gov.uk) together with:

A copy of the request for leave of absence if applicable

A copy of the letter to the parent/carers advising them that the leave was not authorised

A copy of the child/children's attendance certificate showing G codes

