

**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**  
**CHILDREN'S SERVICES DEPARTMENT**  
**EDUCATION SAFEGUARDING TEAM**

**Penalty Notice Code of Conduct – August 2024**

- 1 Legal Basis
  - 1.1 **The Anti-social Behaviour Act 2003** contains provision for the issue of Penalty Notices for cases of unauthorised absence from school. **Section 23** of that Act empowers designated Local Authority officers, Head Teachers (including Deputy and Assistant Head Teachers nominated by them) and the Police to issue Penalty Notices.
  - 1.2 **The Education (Penalty Notices) (England) Regulations 2007** (and subsequent amendments) provide for the operation of the Penalty Notice scheme under **Section 444A of the Education Act 1996 and Section 105 of the Education and Inspections Act 2006**.
  - 1.3 **Working together to improve school attendance statutory guidance** provides further guidance on the operation of Penalty Notice schemes in England.
  - 1.4 In consultation with and following agreement from schools, the administration of the Penalty Notice Process will be undertaken by the Local Authority (City of Bradford Metropolitan District Council – CBMDC) ONLY, who will process Penalty Notice requests received from schools and the police without charge.
  - 1.5 **The Local Authority (LA) has primary responsibility for producing and overseeing the Penalty Notice Code of Conduct (“the Code of Conduct”) and ensuring consultation takes place with governing bodies, head teachers and the chief officer of police for the area in adopting the code.**
  - 1.6 The education-related provisions of the Anti-Social Behaviour Act 2003 apply to all parents who fall within the definition set out in Section 576 of the Education Act 1996. This defines ‘parent’ as:
    - All natural parents, whether they are married or not.
    - Any person who, although they are not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person.
    - 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 a parent in education law.

- 1.7 Throughout this document, references to ‘parent’ mean every person coming within the definition, whether acting jointly or separately, and should not be taken to mean that provisions only apply to ‘parent’ in the singular.
- 1.8 In the Supreme Court case of *Isle of Wight Council (Appellant) v Platt (Respondent)* ([2017] WLR(D) 269, [2017] 2 Cr App R 13, [2017] ELR 413, [2017] 1 WLR 1441, [2017] 3 All ER 623, 181 JP 237, [2017] UKSC 28, (2017) 181 JP 237), the court defined “regular attendance” as “in accordance with the rules prescribed by the school”. Bradford Council also recognises and shares the Supreme Court’s view that a sensible approach must be taken that doesn’t result in prosecution for “a very minor or trivial breach of the law”. This code of conduct therefore aims to ensure that penalty notices are issued appropriately to address minor to medium breaches of the law.

## 2 Reasons for Introduction

- 2.1 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.
- 2.2 Regular attendance at school is a legal requirement and **Section 444 (1) and 444 (1A) of the Education Act 1996 and Section 36 of the Children Act 1989** already exist to enforce attendance through the Courts in appropriate circumstances. The legal responsibility for compliance with these Acts rests with the parents and courts have the powers to fine, imprison or impose various orders.
- 2.3 Where difficulties arise with school attendance, professionals must take a support first approach by preventing a penalty notice from being used in cases where a supportive approach (anything short of a penalty notice or prosecution) is more appropriate instead. Family Hubs, SEN support, mentoring, parenting and mental health support through a raft of voluntary agencies as well as support from Social Care exists to support children and enable adults to parent effectively so that children can achieve to their full potential.
- 2.4 Regular attendance at school is a legal requirement and Section 444 (1) and 444 (1A) of the Education Act 1996 and Section 36 of the Children Act 1989 already exist to enforce attendance through the Courts in appropriate

circumstances. The legal responsibility for compliance with these Acts rests with the parents and courts have the powers to fine, imprison or impose various orders.

- 2.5 Penalty notices will 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.
- 2.6 In the small minority of cases where parents are unwilling to ensure their children's regular attendance at school and to engage with support networks, sanctions are necessary. Such sanctions are not intended as punishment but rather as a means of persuading the parents to recognise their responsibilities, comply with the law and ensure their children's access to education.

### 3 Use of Penalty Notices

- 3.1 Penalty Notices will only be issued for cases of unauthorised absence or in the case of pupils been excluded from school and are found in a public place without good reason. When a Penalty Notice is issued for cases of unauthorised absence, the defences in law against the offence remain the same as for the substantive offence under Section 444 (1) and 444 (1A) of the Education Act 1996. Any defence against conviction on this charge is very limited and the matter is dealt with in a Magistrates' Court.
- 3.2 Penalty notices are more effective with less entrenched cases and should not be used for cases meeting the local authority criminal investigation criteria of 80% or less attendance in the last 10 school weeks, or when a continuous period of 20 days of unauthorised leave is taken, or when two or more periods of unauthorised leave totalling 20 days is taken over a 12-month period, unless exceptional circumstances arise.
- 3.3 **The Education (Penalty Notices) (England) (Amendment) Regulations 2024** sets out the maximum number of penalty notices which may be issued by a local authority to each parent in any 36-month (3 Year) period. For these purposes the local authority has set the maximum of 2 penalty notices per child, per parent that can be issued within a rolling 3-year period. A second notice issued in relation to the same child of the same parent within this 36-month period must be charged at the rate of £160 without the opportunity to pay a discounted rate of £80. If a third (or subsequent) offence(s) takes place, another tool must be used, such as a parental prosecution via the magistrates' court or one of the other attendance legal interventions available to the Local Authority.
- 3.4 For the purposes 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:

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 paid, 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 paid, and the local authority prosecuted for the original offence and the Court found the parent guilty.	Yes

- 3.5 The three-year period begins from the date of the first penalty notice issued. For example, if the first penalty notice is issued on 18<sup>th</sup> September 2024, a second penalty notice issued to that parent in respect of that child on or before the 17<sup>th</sup> September 2027 would be charged at £160. A third penalty notice could not be issued within that timeframe and so in cases where the national threshold is met for a third or subsequent time another action should be taken instead.
- 3.6 The Penalty Notice National Framework 2024 does not prevent a penalty notice from being used in other cases where an offence has been committed. If, in an individual case, Bradford Council believes a penalty notice would be appropriate, the council retains the discretion to issue one before the threshold is met. This might apply for example, when a child has been stopped during a school attendance and exclusion sweep without justification, where parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for birthdays or other family events. This will be in exceptional circumstances only, and the issuing of penalty notices in these circumstances can only be authorised by the Education Safeguarding Service Manager – Attendance, Licensing and Prosecutions, or someone of higher rank within the Children’s Services Department.
- 3.7 **N.B.** It is not a defence for the parent to say that s/he was unaware of the absences or the child being out unsupervised during an exclusion from school. Parents are expected to know where their children are at all times and there is no duty, in law, on the school or the LA to advise them of their child’s absence.

#### **4 Specific Conditions:**

- 4.1 **Children Looked After:** CBDMC does not include Children Looked After in the Penalty Notice process. Where there are concerns over attendance with a child in Local Authority care, a review should be held to determine that appropriate provision is in place and whether changes need to be made to better engage the young person with their education.
- 4.2 **Children with Special Education Needs and/or Disabilities (SEND):** For children with identified SEND who may or may not be in receipt of an Education Health and Care Plan, an emergency review should be held before considering a Penalty Notice or other legal action. This is to determine that appropriate provision is in place and whether changes need to be made to better engage the young person with their education.

#### **5 Key considerations prior to the issue of a Penalty Notice**

- 5.1 In the case of absence from school, a penalty notice should be considered if the parent is judged capable of securing better attendance but is not willing to accept that responsibility and it is considered likely to improve the pupil's attendance.
- 5.2 This judgment is based on the parental response to warnings issued by the LA and the school regarding their child's poor attendance and their engagement with the school and/or attempts to improve attendance.
- 5.3 Parents who do not heed warnings or respond to efforts to deal with their child's absences may be adjudged to have failed in their duty and will receive a Penalty Notice for each individual parent and for each child with unauthorised absence.
- 5.4 This Code of Conduct gives due regard to the Human Rights Act, Legislation and Regulations and DfE Guidance.
- 5.5 LA's, schools, and the police must demonstrate regard to the Human Rights Act and ensure they apply their powers fairly and consistently and in the case of penalty notices, the local code of conduct must be seen to fully comply with the Human Rights Act.
- 5.6 The purpose of the local Code of Conduct is to ensure that the powers are applied consistently and fairly and therefore the LA will only issue penalty notices on behalf of schools in the circumstances detailed in Section 6.
- 5.7 Under the Education (Pupil Registration) (Amendment) Regulations 2013 Headteachers may not grant any leave of absence during term time unless there are exceptional circumstances. Headteachers should determine the number of school days a child can be away from school if the leave is granted.

- 5.8 It is for Headteachers to determine if the request is Exceptional. Legislation requires that each request is judged on a case-by-case basis.
- 5.9 The DfE expects that head teachers will use their discretion sparingly. Head teachers should not fetter their discretion by applying policies (for example, blanket bans) which might suggest that each application has not been considered on its individual merits.
- 5.10 The LA must have regard to a parents' ability to pay any Penalty Notices issued and, in situations where there is more than one non-attending child and/or parent in a family, the impact of multiple notices must receive careful consideration. However, financial circumstances alone will not prevent the issue of a Notice. The decision to issue a fine to both parents will reflect the considerations set out in section 6 below.
- 5.11 Before a Penalty Notice is issued it must be evident that the matter is capable of proof in the Magistrates' Court so that in the event of non-payment of the charge the parent/carers can be prosecuted.

## **6 Cases where issuing a Penalty Notice may be considered:**

### **6.1 Poor School Attendance:** (Also see Paragraph 7.1)

The pupil has 10 or more sessions of unauthorised absence in the 10 weeks (100 Sessions) prior to a notice being requested,

**and**

Their attendance has not been below 80% (20 sessions of absence) in the last 10 weeks (100 Sessions) prior to a notice being requested.

**or**

The pupil has been stopped on a School Attendance and Exclusion Sweep (also known as Truancy Patrol) on more than one occasion in a 12 month period, with no justified reason for absence. (See paragraph 7.6)

### **6.2 Unauthorised Leave of Absence during term time:** (Also see Paragraph 7.2).

A leave of absence of five days (10 sessions) or more was taken during term time without the school's consent in the 10 weeks (100 sessions) prior to a notice being requested.

### **6.3 A child of compulsory school age is found unsupervised in a public place during school hours during the first 5 days of exclusion or suspension without good reason.**

Good reason might include attendance at a medical appointment, YJS appointment or other appointment with a statutory or voluntary agency.

### **6.4 In the case of a Non-Court Disposal**

6.5 A penalty notice may be used in circumstances where it is more appropriate to make use of a non-court disposal than to seek legal proceedings via the magistrates' court in the following circumstances:

- Evidence of intervention has been supplied by the child's school and/or the Local Authority.
- The Local Authority is satisfied that an offence has been committed under Section 444(1 or 1A) Education Act 1996.
- There are no "aggravating" factors which would suggest that a Penalty Notice is not appropriate, including the parent having previous school attendance related convictions.
- There is evidence that the child's attendance has improved, but that unauthorised absence is still occurring "infrequently" (for example, less than 5 sessions in the last 5 weeks).

6.6 In such instances, the expectation is that a request for legal action, together with supporting evidence, would have been submitted to the Local Authority to establish that an offence has been committed.

6.7 No warning letter will be issued in this circumstance, as the parent would already have been informed that may be committing an offence, and that legal action may be sought.

6.8 The Local Authority may only make use of the PN as a non-court disposal, according to Section 447 of the Education Act 1996

**7 To assist Head teachers and Police in applying their powers fairly and consistently the LA expect the following check list be applied:**

**7.1 Poor attendance – Consider:**

- Following Stage One of Bradford's staged intervention approach to poor attendance, which sets out the following expectations:
- Has the parent been regularly contacted by the school to establish the reasons for absence or is there established parental non-engagement in response to phone calls, letters or invitations to school-based meetings.
- If unmet needs have been identified, has the use of a Single Assessment or Early Help Assessment and/or a request for support from another service been considered? Our Stage 2 intervention request form can help you consider a list of needs that may be unmet.
- Could there be underlying issues which need to be explored with the parents at a school-based meeting to identify if any support is required. A template school meeting form is available to use.
- When parents are separated and do not live at the same address, establish how much involvement each parent has in caring for the child/ren. If one

parent has little involvement, consider whether it is in the public or family's interest to issue a fine to both parents.

- Parents who live at the same address will be equally responsible for their child/ren's attendance and will each receive a fine for each child.
- Template letters, forms and more information on the Staged Intervention Approach to Poor Attendance are available here: <https://bso.bradford.gov.uk/content/education-safeguarding/attendance/poor-attendance-interventions> ,

## 7.2 Leave of Absence

Consider

- The family's circumstances and the likely benefits to the child and family, considering social, emotional, and cultural reasons.
- The likely detrimental impact on the child's social, emotional, and intellectual development, attainment level and any SEND.
- Meeting parents to explore exceptional circumstances such as bereavement, funerals abroad, unavoidable cause (illness/flight delays) to determine the reasonableness of delay to return and allow parents the opportunity to provide appropriate evidence. This is to reduce the need for subsequent Local Authority Penalty Notice withdrawals based on retrospective evidence provided during a pre-prosecution investigation.
- Siblings in other schools. Liaise with other schools in individual cases to agree a consistent approach in considering term-time holiday request and penalty notices.
- Consider exceptional circumstances put forward by the parent, explicitly setting out considerations taken by the school in a letter to the parent confirming when requests are unauthorised.

7.3 The Local Authority advises schools that no leave of absence should be authorised for children unless exceptional circumstances apply.

7.4 **Penalty Notices can be issued without warning where schools can show that a leave of absence was taken during term time without the consent of the Head Teacher and the parent was made aware in writing of the decision to unauthorise the period of absence, the reasons why (including details of any evidence), and the possible consequences, including the issuing of a fixed penalty notice.**

7.5 **Penalty Notices can also be issued retrospectively should the school become aware that a child is absent due to an unauthorised leave of absence after the child's first day of absence. In this scenario, the school must notify the parent in writing stating why they believe the child has**



**taken an unauthorised leave of absence, and the possible consequences i.e. penalty notice being issued by the Local Authority.**

#### **7.6 For pupils stopped during a School Exclusion and Attendance Sweep (Truancy Patrol)**

Consider

- Ensuring that there are no genuine reasons for the absence nor any underlying issues which may need school-based support.
- Arranging a parent meeting on the first occurrence of established unauthorised absence and warn of the risk of receiving a penalty notice. Penalty notices for pupils stopped twice during a sweep in a 12-month period will act as a trigger to consider a penalty notice.

### **8 School action prior to requesting the issuing of a Penalty Notice - General**

8.1 The School's Governing Body has endorsed the operation of the penalty notice scheme.

8.2 The School's Attendance Policy clearly explains the criteria and process for addressing poor attendance, and the expectation is that all children should attend every day that the school is open except for sickness, unavoidable causes, religious holidays, absences authorised by the school, local authorities' failure to make statutory travel arrangements, or, where the child has no fixed abode, the parent's need to travel for business (subject to certain conditions). Ultimately, no sessions of unauthorised absence are acceptable, and where an exception may apply, the parent will be asked for evidence to collaborate this.

8.3 The School has fully considered any extenuating circumstances and has established there are no justified causes for the absences;

8.4 A written notice has been sent to parents informing them of the consideration to contact the Local Authority to request a penalty notice;

8.5 While the Head teacher can delegate the authority to a member of staff to make penalty notice referrals on their behalf, all referrals must be approved by the School Attendance Lead / Senior Attendance Champion to confirm authorisation to ensure that referrals are made in line with the protocol.

8.6 It is good practice to ensure that parents are reminded on an annual basis of the school's policy on attendance, including the existence of Penalty Notices.

### **9 Procedure for the issuing of Penalty Notices by the Local Authority**

9.1 Schools considering referring cases to the Local Authority for Penalty Notices to be issued for unauthorised absences will need to follow the process below.

9.2 Required documentation:

### 9.3 If Penalty Notice is in relation to poor attendance:

- A fully completed penalty notice request form.
- A Certificate of Attendance for the period of attendance this penalty notice request relates to, signed by the headteacher.
- A certificate of attendance for the last 12 months.
- An Attendance Overview Letter providing parent with an awareness of the schools' concerns and the impact that poor attendance may have.
- A copy of an invite letter to discuss the child's unauthorised absence, together with an attendance improvement plan and/or minutes, notes etc if the parent attended.

### 9.4 If Penalty Notice is in relation to an unauthorised leave of absence:

- A fully completed penalty notice request form.
- A Certificate of Attendance for the period of attendance this penalty notice request relates to, signed by the headteacher.
- A certificate of attendance for the last 12 months.
- A holiday request form or letter from the child's parent.
- Record of discussion with the parent if exceptional circumstances are raised for an unauthorised term-time holiday.
- A refusal of leave letter from the school should be sent outlining:
  - the exceptional circumstances the school has considered.
  - setting out the reasons for refusal.
  - including a statement regarding the consequences of taking an unauthorised holiday, including the issuing of a penalty notice if a pupil continues to be absent during this period.

#### OR

- If the parent has not applied for a leave of absence, but the school ascertains after a period of absence that this should have been unauthorised, a refusal of leave letter explaining how the school came to this decision, whilst also outlining:
  - the exceptional circumstances the school has considered.
  - setting out the reasons for refusal.
  - including a statement regarding the consequences of taking an unauthorised holiday, including the issuing of a penalty notice if a pupil continues to be absent during this period.

9.5 In cases where the child has attended another local authority school in the previous 3 years, an additional check will be carried out. Where the previous local authority area is known, Bradford Council will make contact to check whether a penalty notice has been issued to that parent for that child in the previous 3 years. As per paragraph 3.3, a penalty notice cannot be issued to the parent of a child who has already received two penalty notices in the previous 3 years relating to poor attendance or an unauthorised leave of absence.

**9.6 If a Penalty Notice is in relation to a Suspended or Excluded Pupil found unsupervised in a public place during school hours in the first 5 days of exclusion without good reason:**

- A fully completed penalty notice request form,
- Copy of exclusion letter highlighting the local authority's ability to issue a penalty notice.
- Confirmation that the parent has had the opportunity to provide evidence for any legitimate reasons for being found in a public place.

If a penalty notice remains unpaid, a witness statement must be provided by an appropriate person who witnessed the excluded pupil in a public place during school hours. CCTV / Photographic material may also be collected.

9.7 The above will be used as evidence in court should the penalty fine remain unpaid. The Parent(s) will be prosecuted for an offence under Section 444(1) Education Act 1996 (Poor Attendance) or Section 103(3) Education and Inspections Act 2006 (Excluded Pupil stopped in public place).

9.8 There is no limit to the number of penalty notices that can be issued in relation to a suspended or excluded pupil found unsupervised in a public place during school hours in the first 5 days of exclusion without good reason.

9.9 In cases where the child has attended another local authority school in the previous 3 years, an additional check will be carried out. Where the previous local authority area is known, Bradford Council will make contact to check whether a penalty notice has been issued to that parent for that child in the previous 3 years. As per paragraph 3.3, a penalty notice cannot be issued to the parent of a child who has already received two penalty notices in the previous 3 years.

## **10 Local Authority action on receipt of referral**

### **10.1 Poor Attendance**

10.2 The LA will usually issue a Notice to Improve within 5 working days of receiving a request for distribution to the parents/carers of pupils who have been identified as meeting the criteria. The notice will outline that their child's attendance will be monitored for 40 Sessions (20 school days), and that no more than one session of unauthorised absence should occur following this warning during the monitoring period.

10.3 Warnings will be recorded on a database, potential duplication checked, and cases monitored for actions to take place within the prescribed timescales.

10.4 Should 2 or more unauthorised absence occur during the monitoring period, the decision whether to issue lies with the Service Manager – Attendance, Licensing and Prosecution, Education Safeguarding Team or someone delegated to do so, following consultation with the school.

- 10.5 Should 2 or more unauthorised absences occur before the end of the monitoring period, a penalty notice may be issued before the end of the monitoring period.
- 10.6 The Penalty Notice will clearly set out the circumstances whereby a Penalty Notice can be issued and the consequences for failure to pay within the required time scale.
- 10.7 An offence is committed by an individual parent for each individual child's unauthorised absence. To ensure each parent is aware of their legal duty, each parent will be written to individually and will receive a separate Warning Letter and Penalty Notice for each child they are responsible for.
- 10.8 Where a Penalty Notice is issued, it will be sent by the Education Safeguarding Team via First Class post to the parent's last known address. The database will be checked before the issue of the Notice to avoid duplication.
- 10.9 **Unauthorised Leave of Absence**
- 10.10 Penalty Notices for unauthorised leave of absence during term-time will be issued immediately without any notice. The school's letter confirming the refusal of the request will have acted as a warning and raised parental awareness of the unauthorised holiday and the risk of receiving a penalty notice.
- 10.11 Where a Penalty Notice is issued, it will usually be sent by the Education Safeguarding Team within 4 weeks of the referral being received via First Class post to the parent's last known address. The database will be checked before the issue of the Notice to avoid duplication.
- 10.12 Penalty Notices will be issued to the parents of children registered at Bradford schools, irrespective of their actual home address. This also means that follow-up prosecutions where parents fail to pay the Notice or to improve their children's attendance will extend to families resident outside the district. Bradford Council will notify the 'home' authority of all pupils resident outside of Bradford if a prosecution is undertaken. Penalty Notices will not be issued by Bradford Council to parents whose children are not on roll of a Bradford school.

## **11 Withdrawal of a Penalty Notice**

- 11.1 **There is no statutory right of appeal to the issuing of a penalty notice in relation to education matters.**
- 11.2 The LA will withdraw any Notice issued if one or more of these conditions exist:

(a) that authority determines that—

- (i) it ought not to have been issued; or
- (ii) it ought not to have been issued to the person named as the recipient; or
- (b) it appears to the authority that the notice contains material errors

Where any of the above occurs, written notice of the withdrawal shall be given to the recipient and any monies paid over shall be fully refunded.

## **12 The Decision to Prosecute will be taken in line with the Code for Crown Prosecutors**

- 12.1 The Code is issued by the Attorney General which states that the decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order and therefore careful consideration will be given before agreeing to institute court proceedings under Section 444 of the Education Act 1996
- 12.2 **General Principles:**
- 12.3 Each case is unique and must be considered on its own.
- 12.4 The right person is prosecuted for the right offence which underlines the importance of having up to date information on school records of all those with parental responsibility as well as day-to-day care and supervision. It is essential that schools regularly up-date their contact details.
- 12.5 There is sufficient evidence to provide a realistic prospect of conviction and consideration must be given to what the defence case may be and how that is likely to affect the prosecution case.
- 12.6 Is the evidence reliable? It is therefore essential that schools ensure that they are satisfied with the accuracy of the register and registration codes used.
- 12.7 **There are also Public Interest factors against prosecution which must be considered:**
- 12.8 The offence was committed because of a genuine mistake or misunderstanding.
- 12.9 A prosecution is likely to have a detrimental effect on the victim's physical or mental health.
- 12.10 The defendant is suffering from mental or physical ill-health.
- 12.11 It is considered that there is insufficient evidence to provide a realistic prospect of conviction.
- 12.12 At the point of considering issuing a penalty notice the above principles should be taken into account. However, should these issues only come to the notice of the school or LA once the notice has been issued, a withdrawal will

be considered in discussion with the school's Attendance Lead/Senior Attendance Champion.

- 12.13 When a Notice is withdrawn, no proceedings under Section 444 of the Education Act 1996 shall be instituted against the recipient in respect of the period covered by the original Penalty Notice.

### **13 Payment**

- 13.1 Arrangements for payment will be detailed within the Penalty Notice.
- 13.2 The first penalty notice issued to the parent for a child will be charged at £160 if paid within 28 days reducing to £80 if paid within 21 days.
- 13.3 Where it is deemed appropriate to issue a second penalty notice to the same parent for the same pupil within 3 years of the first offence, the second notice is charged at a flat rate of £160 if paid within 28 days. **There is no reduced sum available in this instance.**
- 13.4 Part Payments or Payment plans are not acceptable, and fines must be paid in full within 21/28 days.
- 13.5 Payment after the deadline may be accepted in exceptional circumstances. In this situation the higher amount of £160 is usually payable and must be paid immediately and in full.
- 13.6 Payment in full of the Penalty Notice discharges the parent's legal responsibility for the period of unauthorised absence outlined in the Notice and the parent cannot be subsequently prosecuted for that period.
- 13.7 Any revenues collected through the system must be ring-fenced to administer the penalty notice system and prosecute for the original offence in cases of non-payment. If a surplus remains after the system has been administered and any non-payers have been prosecuted, this can be spent on attendance support.

### **14 Non-Payment**

- 14.1 The offence detailed in the Penalty Notice must be capable of proof in the Magistrates' Court so that in the event of non-payment of the charge the parent/carer can be prosecuted.
- 14.2 Non-payment of Penalty Notices within the prescribed time limits will result in the initiation of a criminal investigation and possible prosecution under Section 444(1) of the Education Act 1996 for the original offence detailed in the penalty notice.

For more information and guidance consult:

Bradford Council's guidance on Penalty Notices:

<https://bso.bradford.gov.uk/content/education-safeguarding/attendance/penalty-notices>

DfE Statutory Guidance: “Working Together to Improve School Attendance”

<https://www.gov.uk/government/publications/working-together-to-improve-school-attendance>