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**PENALTY NOTICES**

**ADVICE FOR PARENTS AND CARERS**

*Derbyshire County Council*

*Children's Services*

## ADVICE FOR PARENTS AND CARERS

### ▪ **What is the Anti-Social Behaviour Act 2003?**

The Act gives powers to local authorities, schools and the police to issue penalty notices to parents or carers for their child's non-attendance at school.

### ▪ **Why have penalty notices been introduced?**

Reducing absence from school is very important. This is because missing school can damage children's achievements, disrupt the school's routines and affect other children's learning. It can also leave children at risk of anti-social behaviour and youth crime. Above all, missing out on the opportunities provided in school can have a long-term effect on children's chances in life.

### ▪ **What are my responsibilities as a parent?**

You have a legal duty to ensure that your child receives full-time education<sup>1</sup>. Unless you can show that you are providing this yourself, you must ensure that your child attends school regularly and on time. You will be committing an offence, therefore, if your child fails to attend regularly and punctually and the school has not given permission for the absence or late arrival.

***Remember - only your child's school can authorise absence or late arrival.***

If you fail to make sure that your child attends regularly and punctually, you may be prosecuted in court. The penalties are severe and, in serious cases, may result in a prison sentence.

### ▪ **What is a penalty notice?**

A penalty notice is an alternative to prosecution. It requires the parent to pay a fixed amount as a fine for their child's non-attendance and avoids court proceedings. It is intended to secure better attendance without taking legal action through the courts.

### ▪ **What are the penalty costs?**

The fine is £120 to be paid within 28 days. The 28 days starts two days after the date of issue as shown on the notice. If the fine is paid within 21 days, payment reduces to £60.

**PLEASE BE AWARE when two parents/carers are issued with a penalty notice for the same child both penalty notices must be paid. The fine will apply to each parent for each child who fails to attend regularly and punctually.**

For example, in a family where there are two parents who fail to ensure proper attendance of their child, the fine would be £120 for each parent.

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<sup>1</sup> The law states that education must be "efficient, full-time and suitable to the child's age, ability, aptitude and to any special educational needs the child may have either by regular attendance at school or otherwise (Section 7 of the Education Act 1996)"

▪ **Who is counted as the parent responsible for ensuring attendance?**

The law defines a parent as:

- Any natural parent, whether married or not
- Any parent who, even if not married, has responsibility as a parent
- 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 if the child or young person lives with you and is cared for by you then you will be regarded as the parent irrespective of what your relationship is with the child.

▪ **How are they issued?**

A penalty notice will normally be sent by first class post to your home.

▪ **When are they used?**

Penalty notices can be used in a wide range of situations, including but not limited to circumstances:

- Where it is clear that parents fail to ensure their child attends school regularly and on time
- Where parents take their child on holiday during term-time without the written permission of the headteacher.

▪ **Is a warning given?**

A formal written warning will usually be given in the first circumstance, but there will be certain circumstances where you will not be given a formal written warning. For example, if you have taken your child on holiday in term-time without the authorisation of the headteacher.

▪ **What happens if I receive a warning letter?**

The warning letter will tell you how many school sessions your child has missed and give you a minimum of 15 school days to improve your child's attendance. If there is no significant improvement, a penalty notice will be issued.

We never take such action lightly and would prefer to work with parents or carers to improve attendance without having to enforce it. However, we will use these powers to ensure that your child attends school.

### ▪ **What does the law say regarding holidays in term-time?**

The law makes it clear that the headteacher should not grant approval for any leave of absence during term-time, including holidays, unless there are exceptional circumstances.<sup>2</sup>

Parents are not entitled to take their children on holiday in term-time. Such holidays can only be taken with the written approval of the headteacher. Each case will be considered on its own merits and the decision of the headteacher is final.

Please remember that holidays taken in term-time without the headteacher's approval may result in:

- Each parent receiving a penalty notice for each child for each period of absence
- A penalty notice will be issued regardless of the child's previous attendance
- A penalty notice will be issued without warning

Taking or allowing your child to take a holiday in term-time without the school's permission is a serious matter. If we find that you have done so, we will not hesitate to issue a penalty notice.

### ▪ **Can I appeal?**

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

We can take back a penalty notice but **only if**:

- It should not have been issued in the first place (for example, if your child was actually at school); or
- It has been issued to the wrong person; or
- It appears to Derbyshire County Council that the notice contains material errors.

If you believe that any of the above circumstances apply, you should contact Derbyshire County Council immediately with evidence to support your view. The contact details will be included in the penalty notice.

### ▪ **How do I pay?**

Details of how to pay will be included in the penalty notice. Please remember that there will be no reminder to pay and no opportunity to pay in instalments. Failure to pay within the timescales as specified in the penalty notice will result in prosecution.

### ▪ **What happens if I do not pay?**

If you do not pay, the consequences can be very serious. You have up to 28 days from receipt to pay the penalty notice in full. After this time, if it has not been paid, Derbyshire County Council is required by law to begin proceedings in the magistrates' court for the original offence of poor attendance by your child.

<sup>2</sup> The Education (Pupil Registration) (England) (Amendment) Regulations 2013

If proven, this can attract a range of fines of up to £2500, and may include other remedies such as parenting orders, community sentences, or imprisonment, depending on the circumstances. A guilty verdict will also mean that you will have a criminal record.

All this can be avoided by payment in full by the due date.

- **Can I be prosecuted if I pay but my child still fails to attend school?**

You cannot be prosecuted for the period included in the penalty notice. However, you can be prosecuted for any further periods of non-attendance not covered by the penalty notice, depending on the circumstances.