



Attendance and Inclusion
Swindon Borough Council
Civic Offices,
Euclid St,
Swindon
SN1 2JH

12th July 2024

Dear Parent/Carer

CHANGES TO SCHOOL ATTENDANCE - PENALTY NOTICES FROM 19 AUGUST 2024

We are writing to you because the Department for Education (DfE) has introduced some new guidance for schools and local councils for managing school attendance. They have also introduced a new national framework for penalty notices (fines) in relation to school non-attendance and have amended the law. These changes come into effect from the 19th August 2024 and all schools and councils across the country will be expected to follow the new statutory guidance.

WHAT IS A PENALTY NOTICE?

A penalty notice allows parents to discharge an offence in relation to school non-attendance, by paying a one-off penalty without the matter being referred to court where they could receive fines of hundreds of pounds and a criminal record.

WHEN CAN A PENALTY NOTICE BE USED?

A school should consider next steps once 10 sessions (5 school days) of unauthorised absence happens in a rolling period of 10 school weeks. Unauthorised absence means any absence from school which has not been agreed by the school or when parents have **not** provided any explanation. A school week means any week in which there is at least one school session and can be across school terms or academic years. This can be any form of unauthorised absence including arriving late after closure of the register and days of unauthorised absence which add up to 10 half days or 5 full days within a 10-week period.

Once the threshold has been met the school will consider whether support may be appropriate to help your child to attend school. We would like to encourage all parents to continue to work with schools if attendance is becoming a concern. However, when schools and councils believe that they have exhausted all offers of support, and a parent/carers is not engaging with the attempt to improve their child's attendance at school a penalty notice may be issued.

CAN I HAVE A HOLIDAY IN TERM TIME?

Pupils should not be taken out of school during term time unless it is unavoidable. Generally, a need or desire for a holiday or other absence for the purpose of leisure and recreation would not constitute an exceptional circumstance. The guidance is clear that headteachers should not be considering a holiday as an exceptional circumstance.

If a request for leave for the purposes of a holiday is declined and the pupil is absent for 5 days or more then the school is expected to notify Swindon Borough Council. We will issue a penalty notice with no requirement for any support to be offered as specified in the statutory guidance. In every case, the notification for the penalty notice comes in from the school to Swindon Borough Council for the process to be completed. Penalty notices can also be issued where a pupil is absent for repeated incidents of unauthorised leave(holiday) in term time that fall below the 5-day threshold.

WHO CAN RECEIVE A PENALTY NOTICE?

Penalty notices are issued to parents/carers of statutory school age children only. They can be issued to each parent or carer who is deemed liable for the child's absence from school. This may include parents who do not live with the child. Please note that in education law this responsibility can extend to step-parents or other adults who live in the same place as the child.

Penalty notices will be issued to **each** parent for **each** child of statutory school age. So, for example two parents of two children will receive four penalty notices.

IS THERE A LIMIT ON THE NUMBER OF PENALTY NOTICES I MIGHT GET?

In all circumstances, the maximum number of penalty notices that can be issued will be **two** penalty notices **per parent per child in a rolling three-year period**.

The new regulations come into force on 19 August 2024 and will apply to unauthorised absence from the beginning of the autumn term 2024.

Any penalty notices that might be issued in the future which relate to unauthorised absence taken during the academic year 2023/2024 will **not** be counted as part of the two penalty notices within three years regulation.

HOW MUCH WILL THE PENALTY NOTICE BE?

FIRST OFFENCE PENALTY NOTICE

£160 per parent per child

Reduced to £80 if paid within 21 days

SECOND OFFENCE PENALTY NOTICE (within 3 years)

£160 per parent per child paid within 28 days

THIRD OFFENCE AND FURTHER OFFENCES (within 3 years)

The third or subsequent time an offence is committed for unauthorised absence Penalty Notice will not be issued, and the case will be presented straight to the Magistrates' Court.

Swindon Borough Council will be publishing its updated code of conduct for penalty notices and all the necessary updated information on the Swindon Borough Council website in time for the start of the new term in September 2024.

For more information please go to the gov.uk web page below:

Working together to improve school attendance - GOV.UK (www.gov.uk)

Please also see the list of Frequently Asked Questions attached

School Attendance Support Team – Swindon Borough Council JULY 2024

FREQUENTLY ASKED QUESTIONS

- **I've already applied for authorisation of leave this term for a holiday in September 2024. If the school don't authorise the leave, will I have to pay £80 or £60, as I applied this academic year?**

The new law will require any unauthorised absence from 19th August 2024 to be dealt with under the new regulations so it would be £80 for each child and each parent if paid within 21 days of receiving the penalty notice.

- **What if I have a family emergency or bereavement?**

Unexpected family emergencies do happen unfortunately and can be very upsetting. However, parents/carers must notify the school themselves of the absence as soon as possible. Schools are not allowed to authorise leave retrospectively. Notifying the school does not mean the absence will be authorised. However, in the case of a family emergency or bereavement, parents are strongly encouraged to request authorisation from the school and keep absence from school to a minimum. The final decision about authorisation sits with the Headteacher.

- **What if I receive a penalty notice and don't pay it?**

The law states that the local authority must withdraw the penalty notices and prosecute the parents in court where they could receive a £1000 fine, a parenting order, a criminal record and various costs awarded against them.

- **What happens if I pay a penalty notice for unauthorised leave next term but then take the children on another holiday the following year?**

The new framework means that for a second offence within a three-year period, the discount of £80 per parent for each child will not apply and the fine would be £160 per child per parent. A third period of unauthorised absence within a three-year period means that the local authority will be unable to issue another penalty notice and may instead refer the matter directly to Court.

- **I want to visit family abroad for six weeks next year. If the school do not authorise the absence, will I be issued with a penalty notice?**

Any level of absence can have a serious impact on children's education, but lengthy absence can be particularly devastating. For that reason, it is unlikely that a penalty notice will be issued, and the matter may be referred directly to the Court instead.

- **I am struggling to get my child to school. What help is available to me?**

In the first instance please contact your school for advice and guidance. If you are working with any other professionals e.g. family support worker, social worker, school nurse they too can offer help and support. All schools have a named Education Welfare officer from whom they can seek additional advice to support you.

- **What happens to the money for penalty notices when they are paid?**

Monies collected should first be used for administration of the penalty notice system and prosecution. Any surplus left after this should be ringfenced and spent on attendance support and cannot be used for wider council funding.

Penalty Notice Fines for School Attendance are changing from 19th August 2024

With the introduction of the new National Framework for Penalty Notices issued by DfE, the following changes will come into force for School Penalty Notice Fines issued after 19th August 2024.

National Threshold

There will be a single consistent national threshold for when a penalty notice must be considered by all schools in England of 10 sessions (usually equivalent to 5 school days) of unauthorised absence within a rolling 10 school week period.

These sessions do not have to be consecutive and can be made up of a combination of any type of unauthorised absence, such as late arrivals after the register closes.

The 10-school week period can span different terms.

Please note: The DfE does not regard the desire for a holiday or other absence for the purpose of leisure and recreation to be an exceptional circumstance.

First Offence

The first time a Penalty Notice is issued for unauthorised absence the amount will be:

£160 per parent, per child paid within 28 days.

Reduced to £80 per parent, per child if paid within 21 days.

Per Parent*, Per Child

Penalty Notice Fines are issued to each parent*, for each child that was absent.

For example: 3 siblings absent for term time leave, would result in each parent receiving 3 separate fines.

Second Offence (within 3 years)

The Second time a Penalty Notice is issued for unauthorised absence the amount will be:

*Parent

Section 576 of the Education Act 1996 defines "parent" as:

- All natural (biological) parents, whether they are married or not
- Any person who, although not a natural parent, has parental responsibility for a child or young person
- Any person who, although not a natural parent, has care of a child or young person

Third Offence and Any Further Offences (within 3 years)

The third time an offence is committed a Penalty Notice will not be issued and the case may be presented straight to the Magistrates' Court. Prosecution can result in Criminal records and fines of up to £2,500.

Cases found guilty in Magistrates' Court may show on the parent's future DBS certificate due to 'failure to safeguard a child's education'.