

London Borough of Newham Children and Young People's Services: Penalty Notice Code of Conduct

Overview

London Borough of Newham is committed to raising attendance in order to maximise the educational possibilities available to children and young people.

Regular and punctual attendance at school must be a priority for all.

Our main aim is for non-attendance to be resolved through effective partnership working with parents, pupils, schools, our Attendance Targeted Support Service and other agencies. However, where it has not been possible to resolve non-attendance, or where parents actively prevent their children from accessing, or otherwise fail to ensure that they access education, legal sanctions can and will be considered.

Penalty notices are served on parents as an alternative to prosecution where they have failed to ensure that their child of compulsory school age regularly attends the school where they are registered.

Purpose

The purpose of this local code of conduct is to ensure that penalty notices for school absence are issued in a manner that is fair and consistent across The London Borough of Newham.

The code sets out the arrangements for administering penalty notices in The London Borough of Newham and must be adhered to by anyone issuing a penalty notice for school absence in this area.

The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the ['Working together to improve school attendance'](#) guidance.

Consultation

This code has been drawn up in consultation with the head teachers and governing bodies of state-funded schools and the Metropolitan Police.

Legal basis

A National Framework for penalty notices relating to unauthorised school absence has been introduced by the Department of Education as a result of changes to secondary legislation (law). This was following extensive development with schools and local authorities. The National Framework will introduce a national threshold for when a penalty notice must be considered from the 19th August 2024.

Penalty notices may be issued to a parent as an alternative to prosecution for irregular school attendance under s444 of the Education Act 1996. They can only be issued in relation to pupils of compulsory school age in maintained schools, pupil referral units, academy schools, AP academies, and certain off-site places as set out in section 444A(1)(b).

The Education (Penalty notices) (England) Regulations 2007 (and subsequent amendments) set out how penalty notices for school absence must be used.

A penalty notice can only be issued by an authorised officer: that is, a head teacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable.

The national framework for penalty notices is published in statutory guidance 'Working together to improve school attendance'. It provides further national guidance on the operation of penalty notice schemes for school absence in England.

A parent includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996. Penalty notices will usually be issued to the parent or parents with day to day responsibility for the pupil's attendance or the parent or parents who have allowed the absence (regardless of which parent has applied for a leave of absence).

What are the main aims of the new national framework?

Make penalty notices more effective by ensuring they are only used in cases where they are the most appropriate tool to change parental behaviour and improve attendance.

Prioritise the support first approach by expecting support to be used in cases where it is appropriate and using penalty notices in cases where support is not appropriate (e.g. a term time holiday), has not worked or has not been engaged with.

Improve consistency in the use of penalty notices across England by introducing a new national threshold at which they are considered.

Improve the deterrent effect of a penalty notice by increasing the amount and introducing a new national limit of 2 penalty notices within a 3 year period to break cycles of repeat offending.

Associated statutory and non-statutory guidance.

[School attendance and absence: Legal action to enforce school attendance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/school-attendance-and-absence-legal-action-to-enforce-school-attendance)

[Working together to improve school attendance \(applies from 19 August 2024\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/guidance/working-together-to-improve-school-attendance)

[School attendance parental responsibility measures – January 2015](https://www.gov.uk/government/guidance/school-attendance-parental-responsibility-measures)

[The Education \(Penalty Notices\) \(England\) \(Amendment\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2024/1000/contents/made)

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Section 1: Definitions.

1.1 Compulsory school age

Children living in England must start full-time education once they reach compulsory school age. This is on 31 December, 31 March or 31 August following their fifth birthday - whichever comes first. If your child's fifth birthday is on one of those dates then they reach compulsory school age on that date.

For example, if your child reaches compulsory school age on 31 March, they must start full-time education at the beginning of the next term (summer term that year).

Children must stay in full-time education until they reach school leaving age. They can leave school on the last Friday in June if they will be 16 by the end of the summer holidays – 31st August.

1.2 A parent.

A parent means:

- a) All natural parents, whether they are married or not;
- b) Any person who has parental responsibility for a child or young person; and,
- c) Any person who has care of a child or young person i.e. lives with and looks after the child.

The school in partnership with the local authority will decide who comes within the definition of parent in respect of a particular pupil when using the legal measures, but generally parents include all those with day to day responsibility for a child.

1.3 School session.

School sessions cover the published times of the school day when the school is open for pupils.

There are usually two sessions per day – morning and afternoon, split by a lunch break.

Each child will receive a registration mark (see appendix 2) for each session for each day a school is open to pupils.

Section 2: Information about penalty notices.

2.1 What is an education penalty notice (PN)?

Penalty notices are fines of £80/£160 imposed on parents. They are an alternative to the prosecution (legal proceeding) of parents for failing to ensure that their child of compulsory school age regularly attends the school or alternative provision where they are registered.

A penalty notice is an out of court settlement which is intended to change parental behaviour without the need for a criminal prosecution. If repeated penalty notices are being considered for the same parent, a further penalty notice is unlikely to be the most appropriate tool available.

Penalty notices can be used by a school or the local authority where the pupil's absence has not been authorised by the school,

Or

By the Police, where a child is found to be truanting in a public space during school time or where parents allow their child to be present in a public place during school hours without reasonable justification during the first five days of a fixed period or permanent exclusion.

Note: Penalty notices can only be issued by state funded schools. They cannot be issued to by independent schools but parents can be prosecuted for their child's non-attendance at school.

School type	State Funded	Can a penalty notice be issued?
Academy School	Yes	Yes
Alternative Provision	Yes	Yes
Elective Home Education	No	No
Independent School (fee paying)	No	No
Local Authority Maintained School	Yes	Yes
Pupil Referral Unit	Yes	Yes
Special School	Yes	Yes
UTC or Studio School	Yes	Yes

2.2 Department for Education’s new national framework.

In force from 19th August 2024, the national framework for penalty notices is based on the principles that penalty notices should 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.

And

- A penalty notice is most appropriate tool to change parental behaviour and improve attendance for that particular family.

2.3 Penalty notice fine amounts.

The first penalty notice issued to the parent for that pupil will be charged at **£160** if paid within 28 calendar days reducing to **£80** if paid within 21 calendar days.

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 notice being issued, the second notice is charged at a flat rate of **£160** if paid within 28 calendar days.

2.4 How many penalty notices can be issued to a parent?

No more than 2 penalty notices can be issued to the same parent for the same pupil within any 3 year period.

The 3 year period part of the new legislation will commence from 19 August 2024. This means a penalty notice issued in the Summer Term 2024 would not count regardless of the fact it was issued within the last 3 years.

From 19 August 2024 the 3 year rolling period for the same parent for the same pupil starts from the date the first fine was issued, unless this was the date the first fine was issued.

Note: A penalty notice issued for a pupil found in a public place during the first 5 days of an exclusion count towards the escalation process or national limit.

2.5 When may a penalty notice be used?

If any of the circumstances below apply, the head teacher of the school where a pupil is on roll will, after considering all the facts, request a penalty notice to be issued by the local authority. Unless the issuing of a penalty notice in these circumstances would conflict with other attendance interventions (actions) currently being carried out.

a) Unauthorised absence (being absence from school without the school’s permission)

The national threshold has been met when a pupil has been recorded as absent for 10 sessions

(usually equivalent to 5 school days) within 10 school weeks¹, with one of, or a combination of the following register codes:

- **Code G**: the pupil is absent without leave for the purpose of a holiday – unauthorised term time leave (this includes visiting family),
- **Code N**: the circumstances of the pupil's absence have not yet been established,
- **Code O**: the pupil had an unauthorised absence and none of the register codes on Table 3 applied to the reason to this absence (see Appendix xx)
- **Code U**: the pupil attended after the taking of the register ended but before the end of the session, where no other code applies.

The unauthorised absence sessions can be either consecutive or not.

Examples of consecutive and not consecutive unauthorised absence:

- Consecutive days: 10 sessions of unauthorised absence in the same week
Or
- Not consecutive days: 6 sessions of unauthorised absence in 1 week and then 1 per week for the next 4 weeks.

The 10 sessions can be made up of a combination of any type of unauthorised absence.

Examples of unauthorised absence:

- 4 sessions of time off taken in term time plus 6 sessions of arriving late after the register closes, all taken within any 10 school week period.
Or
- 2 sessions of time off taken in term time plus 8 sessions of arriving late after the register closes, all taken within any 10 school week period.

The 10 school week² period may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

b) Truancy – children present in a public place during school time.

Authorised officers from the local authority, schools or the police can issue a penalty notice where they believe that a parent has committed a school attendance offence under section 444 and that the pupil in question is registered at a school.

The local authority in partnership with the local police may carry out 'truancy sweeps' up to once a school term.

Where a child and who is assumed to be their parent/carer are stopped in a public place, during school hours, as part of a truancy sweep, the issuing of a penalty notice will be considered. If the parent cannot provide a satisfactory reason for the child not being in school, which may need to be supported by suitable evidence, the parent will be viewed as condoning absence and therefore a penalty notice maybe issued by a Police Officer.

These can be issued in addition to the penalty notice limit of 2 per a 3 year period.

¹ A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period when the national threshold applies may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

² A school week is any week in which a school meets at least once.

d) Children present in a public place during school hours

Where parents allow their child to be present in a public place during school hours without reasonable justification during the first five days of a fixed period or permanent exclusion.

Note: The parents must have been notified by the school at the time of the exclusion of this and the days to which it applies.

These can be issued in addition to the penalty notice limit of 2 per a 3 year period.

2.6 Local authority discretionary powers to issue a penalty notice

The London Borough of Newham, will exercise our discretionary right to issue a penalty notice, where we believe a penalty notice is appropriate in an individual case, before the threshold is met.

Example.

Where parents are deliberately avoiding the national threshold by taking several term time holidays (leave) below threshold, or for repeated absence for birthdays or other family events.

Note: All local authorities retain discretionary right to consider going straight to prosecution instead of issuing a penalty notice, where either the threshold for a penalty notice has not been met or it is believed that a penalty notice will not be an appropriate action.

Section 3: Setting the criteria (rules) and making decisions.

3.1 Who sets the criteria (rules) for issuing a penalty notice?

Every local authority in England is responsible for drawing up a code of conduct for issuing penalty notices; the Code will set out the occasion when it will be appropriate to issue a penalty notice.

The Department of Education issued a national framework in relation to unauthorised absence which every local authority must include in their local code of conduct.

Local authorities must consult with schools and the police in their area about the criteria to be included in their code of conduct for issuing penalty notices to address specific local issues.

Once agreed and published, schools must issue penalty notices in accordance with that Code.

Therefore, it is possible that approaches may vary between local authorities because each Code is set locally but all will follow the national framework for unauthorised absence.

3.2 How does a school identify if a penalty notice should be considered?

All schools must ensure their registers and the registration marks for each pupil on those registers are reviewed each week, to determine if the unauthorised absence of any child on their roll has meet the national threshold.

Where the national threshold has been met school staff must consider whether they can issue a penalty notice to the parent(s) in question in relation to any or all of those unauthorised absences. Then if they can issue, they should request the local authority to issue a penalty notice or decide not to issue.

For each pupil where the threshold has been met, for each separate instance the school must have evidence to support their decision. This means where the threshold has been met, whether a penalty notice was issued or was not issued.

3.3 Who is responsible for deciding whether or not to issue a penalty notice for unauthorised leave?

By law the decision to authorise the issue of a penalty notice can only be made by:

- a) Head teachers and School Principals.

Note 1: The head teacher may authorise a deputy or assistant head teacher to make the decision to request to issue penalty notices. But a head teacher may not authorise any other member of staff to request to issue penalty notices.

Note 2: A head teacher or deputy or assistant head teacher may only authorise the issue a penalty notice in respect of a child who is a registered pupil at the school at which that head teacher, or deputy or assistant head teacher, as the case may be, works.

Note 3: A head teacher may request their attendance leads (this maybe a local authority commissioned service) to review the registers to determine cases for consider of a Penalty notice, but only the head teacher can authorise (sign off) the actual issuing.

Where a head teacher has not granted permission and there is no other statutory exception for a child to be absent and therefore the absence from school is unauthorised, it would be for the school not the local authority to decide if they wish to use a penalty notice.

3.4 Limitations on issuing penalty notices

Head teachers

A head teacher or deputy or assistant head teacher may only request the issue of a penalty notice in respect of a child who is a registered pupil at the school at which that head teacher, or deputy or assistant head teacher, is employed.

London Borough of Newham

1) Subject to point 2 below, an officer of London Borough of Newham may only issue a penalty notice in respect of a child:

- a) Who is a registered pupil at a school located in Newham; or
- b) For whom London Borough of Newham has made arrangements for an alternative educational provision (whether or not in the area of that authority); or
- c) Who is not, at the time the notice is given, a registered pupil at any school (whether due to permanent exclusion or otherwise) but resides in London Borough of Newham.

2) Where a local education authority has entered into an agreement with another local education authority for an officer of that other authority to issue penalty notices in respect of a child to which paragraph (1)(a) or (b) applies, an officer of that other authority may issue a penalty notice in respect of such child.

However, schools and the police retain the power to do so as set out in primary legislation. If it is a school or the police issuing the penalty notice, they are expected to check with the local authority before issuing in order to prevent duplication and check that a prosecution case is not pending or ongoing.

Section 4: Administration, overseeing the process and how the process works.

4.1 Administration

The local authority is responsible for administering the process. This means the London Borough of Newham issues the notices, as requested by the head teacher, on behalf of the schools located within the borough boundary.

4.2 Overseeing the process

Officers from Newham will review the use of penalty notices across all schools located in Newham, to ensure they are being used appropriately and consistently across all schools in the borough.

4.3 Identification of pupils who meet the threshold for a penalty notice.

On a weekly basis, or more frequently, all schools must ensure their registers and the registration marks for each pupil on those registers to determine if the unauthorised absence of any child on their roll has meet the national threshold.

4.4 How parents can avoid receiving a penalty notice.

A pupil's parents can avoid ever receiving a penalty notice by making sure:

- a) Their child does not take unauthorised leave of absence (time off) during term time;
- b) Their child attends school and arrives every day during term time;
- c) They tell family and friends of their commitment to their child attending school every day, so they cannot take them out of school for social events;
- d) Their child is up early enough in the morning to arrive at school on time;
- e) They have checked the night before that their child has everything ready for school the next day, to avoid running late;
- f) They contact the school, on the first day of absence and explain the circumstances;
- g) They let the school staff know if their child is away for other reasons, especially if the need for absence is known about in advance; and
- h) They talk to their child about any problems at school.

4.5 Absences that will not be considered for a penalty notice

A pupil must attend every day that the school is open, unless;

- a) They are too ill to attend.
- b) A request has been made in advance and been given permission by the school for the pupil to be absent on a specific day due to exceptional circumstances.
- c) The pupil cannot go to school on a specific day because it is a day set aside for religious observance.
- d) The local authority is responsible for arranging a child's transport to school and it is not available or has not been provided yet.
- e) The child does not have a permanent address (this does not include families in temporary accommodation arranged by the local authority) and their parent is required to travel for work. This exception only applies if your child attends their usual school or another school where you are staying as often as possible. This must be 200 half days or more a year if they are aged 6 or older.

In all other instances a penalty notice, other attendance sanction or statutory legal intervention may be applied.

4.6 School action that must be taken before penalty notices are issued.

All schools must publish online, and make available to those without access to their website, their 'Attendance Policy' and this must clearly set out expectations relating to daily attendance and the process for addressing poor attendance including lateness.

No sessions of unauthorised absence are acceptable, as they will be detrimental to a child's education.

However in exceptional circumstances, where an exception may apply, the parent will be asked for evidence to corroborate (confirm) this.

When a member of school staff or a commissioned attendance service (private company or the local authority) becomes aware that the penalty notice threshold has been met, they must consider whether the head teacher can issue one to the parent(s) in question in relation to any or all of those unauthorised absences and, if so, whether to issue/request the local authority to issue a penalty notice or not.

For each case, they should ask:

a) Is support appropriate for this particular cause (or causes) of absence?

If yes, staff should weigh up the specific circumstances of the case and decide which available tool (action) is most likely to change behaviour and improve attendance.

- Continue to, or provide new support without a penalty notice or Notice to Improve (e.g. where a parent is engaging well in the support, or other supportive routes could be tried)

Or

- Issue a 'Notice to Improve' and continue to provide support (e.g. where a parent is not engaging well in support);

Or

- Issue a penalty notice (e.g. where a parent has already had a Notice to Improve and not engaged in support), subject to the further considerations given in b) below.

If no, a penalty notice should be issued (e.g. a holiday/absence in term-time) subject to the further considerations given in (b) below.

b) In all cases, before a penalty notice is issued, the following questions should also be considered:

- Is a penalty notice the best available improvement tool that is most likely to change behaviour and improve attendance for this particular family, or would further support or one of the other legal tools be more appropriate? If legal action is most appropriate, is a penalty notice the most appropriate legal intervention for this individual case?
- Is issuing a penalty notice appropriate in this case after considering any obligations under the Equality Act 2010, such as where a pupil has a disability?
- (For the local authority) Is it in the public interest to issue a penalty notice, bearing in the mind that the local authority as an independent prosecutor would be responsible for deciding whether to prosecute for the original case in cases of non-payment?³

If the answer is yes to the points above, a penalty notice should be issued. If not, another tool should be used to improve attendance. Examples are provided in an appendix to support decision making.

Where extenuating (reason for absence) circumstances are provided by the parent.

The school will fully consider any extenuating circumstances given by the parent to establish if there is a justified reason for the absence(s).

³ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#) sets out the general principles Crown Prosecutors should follow when they make decisions on cases.

- If the reasons are accepted by the school, as justifying the unauthorised absence, no further action in relation to a penalty notice for this period of absence will be taken.
- If the reasons given by the parent, are not deemed, as an acceptable reason for the unauthorised absence(s) by the school, they will issue a written notice to the parent(s) informing them of the consideration to refer to the Local Authority to issue a penalty notice, which includes the reason for the written notice.

Section 5: Providing support and 'Notices to Improve'.

Where the national threshold for a penalty notice has been met and the support being provided to the family is deemed as appropriate by the school that support should continue or start if it is a new attendance concern.

5.1 Determining what support is required or if support is suitable.

Support can be any activity intended to improve the child's attendance not including issuing a penalty notice or prosecution.

Examples of school support include:

- Action taken in school such as written communications to parents,
- Meetings with parent(s) and the pupil to understand barriers,
- Planned targeted support,
- Additional learning support,
- Changing tutor group,
- Assistance with planning a suitable route to school,
- Support with uniform.

Including local authority support:

- Early Help assessment,
- Parenting contracts

5.2 Notice to Improve

A Notice to Improve is a letter to a parent about their child's attendance and this will include:

- a. The pupil's attendance record (certificate),,
- b. The benefits of regular attendance and parents' duty under section 7 of the Education Act 1996
- c. Details of any support provided including whether the parent engaged so far and any new support opportunities being discussed and/or planned,
- d. The risk of a penalty notice being issued or prosecution considered,
- e. A detailed timeframe for the improvement period,
- f. Details of what sufficient improvement will look like – this will include targets set within the attendance contract,
- g. The grounds on which a penalty notice may be issued before the end of the improvement period

The 'Notice to improve' will be sent as paper letter using the Royal Mail postal service and will be signed by school or local authority attendance officers and in some instances will be co-signed by both. Recipients can request an electronic copy sent by email in addition to the paper copy.

Section 6: Contents of penalty notice.

6.1 Who is issued a penalty notice?

A pupil's parents (see section 1 definitions), as they are legally responsible for making sure that their

children of compulsory school age receive a suitable full-time education. This can be by regular attendance at school, at alternative provision, or otherwise (e.g. the parent can choose to educate their child at home).

Where there is more than one person liable for the offence (more than one person with parental responsibility or day to day care), a separate notice may be issued to each person.

6.2 What information must be included on a penalty notice?

A penalty notice must give such details of the alleged circumstances as to explain the offence, as well as the following information

- a) The name and address of the recipient;
- b) The name and address of the child who is failing to:
 - a. Attend school regularly; or
 - b. Attend alternative educational provision regularly.
- c) The name of the school:
 - a. Where the child is a registered pupil, or
 - b. The place where the alternative educational provision is provided for the child or at which he is required to attend; or
 - c. Where the child should have been present but was found instead to be in a public place during school hours on a school day falling within section 103(2) of the 2006 Act,
- d) Name and official particulars of the authorised officer issuing the notice;
- e) Period during which the offence was committed in the case of an offence under section 444 of the 1996 Act, and the date of the offence in relation to an offence under section 103(3) of the 2006 Act, and (in either case) the date of the issue of the notice;
- f) Exact amount of the penalty which is to be paid, if it is paid within 21 calendar days in accordance with regulation 4, and the amount in accordance with that regulation if it is not paid within that period but is paid within 28 calendar days (being the original 21 days plus a further 7 days) from receipt of the notice (expected to be a maximum of two working days from the date of issue);
- g) Name and the address of the local education authority to which the penalty is to be paid in accordance with regulation 6 and to which any correspondence relating to the penalty notice may be sent;
- h) Method or methods by which payment of the penalty may be made;
- i) Date period for paying the penalty, in accordance with regulation 5;
- j) Confirmation that payment within that period will discharge any liability for the offence;
- k) Consequences of the penalty not being paid before the expiration of the period for paying it; and
- l) Grounds on which the notice may be withdrawn.

Section 7: Withdrawing a penalty notice, once issued by the school.

7.1 Condition under which the local authority can withdraw a penalty notice issued by the school?

Once a school has authorised the local authority to issue of a penalty notice, it can only be withdrawn by the local education authority named in the notice being the authority to which payment is to be made for

payment in any case in which,

- a) The local authority determines that
 - It should not to have been issued; or
 - It should not to have been issued to the person named as the recipient; or
- b) It appears to the Local Authority that it contains material errors (false or inaccurate information); or
- c) In order for the local authority to pursue prosecutions under section 444 where there has been no or only part payment of a penalty notice.

Note 1: See 10.2

Note 2: A penalty notice may be withdrawn whether or not the period for payment referred to in the notice has expired, and whether or not the penalty has been paid.

7.2 Withdrawn penalty notice.

Where a penalty notice has been withdrawn, both the following actions will apply.

- (a) The local authority will issue a notice of the withdrawal must be given to the recipient.
- (b) Any amount paid will be repaid to the person who paid it.

Note: Except as provided in paragraph (5), no proceedings will be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued, or, where the notice related to an offence under subsection (1) of section 444 of the 1996 Act, for an offence under subsection (1A) arising out of the same circumstances.

However where a penalty notice was issued, and was withdrawn pursuant to paragraph (1) (b), the law permits school attendance proceedings to be continued or instituted:

- (a) For the offence in connection with which that penalty notice was issued; or,
- (b) Where the penalty notice related to an offence under subsection (1) of section 444 of the 1996 Act, for an offence under subsection (1A) of that section arising out of the same circumstances as the first mentioned offence, if both of the following conditions are met:
 - (i) A further penalty notice in respect of the offence, or in the case of sub-paragraph (b), the first mentioned offence, was issued at the same time as the first penalty notice was withdrawn; and
 - (ii) The penalty has not been paid in full.

Section 8: Escalation process for repeat offences.

The law does not permit a school to issue a third penalty notice within a 3 year period.

8.1 During the 3 year period (since the first penalty notice of that period was issued)

Where the threshold for a penalty notice is met for a third, fourth, fifth (or subsequent) times within the 3 year period, a penalty notice cannot be issued, it is expected that the head teacher will consider the alternative action should be taken instead. This will often include the option to considering prosecution (legal proceedings), but can be another tool such as one of the other attendance legal interventions.

8.2 After the 3 year period since the first penalty notice of that period was issued has ended.

In these cases, once 3 year period has elapsed (ended) since the first penalty notice was issued to the parent a further penalty notice can then be issued if appropriate, but in most cases it will not be the most

effective tool for changing what may have now become an entrenched (long established) pattern of behaviour.

Note: For the purpose 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.

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

Section 9: Payments and Non Payments.

9.1 Payment.

All payments must be made to London Borough of Newham, not the pupil's school.

Note: Full details of how to pay are detailed on the penalty notice.

The first penalty notice issued to the parent for that pupil will be charged at **£160** if paid within 28 days, reducing to **£80** if paid within 21 days.

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 notice, the second notice is charged at a flat rate of £160 if paid within 28 days.

A penalty notice is an out of court settlement which is intended to change parental behaviour without the need for a criminal prosecution. Payment of a penalty notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty notice.

London Borough of Newham retains any revenue from penalty notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

Note: A certificate purporting to be signed by the proper officer London Borough of Newham to the effect that the recipient of a penalty notice has or has not paid the amount due on or before a date stated in the certificate is admissible in evidence in any legal proceedings and is evidence of the matters stated in it.

9.2 Extension of time to pay requests

London Borough of Newham cannot extend the time to pay for a penalty notice as the payments dates are set out in law.

9.3 Non-payment, part-payment and payment plan requests

Payment of a Penalty notice must be for the full amount due £80/£160, lesser payment cannot be accepted.

The law does not permit payment plans as the payment times are time bound.

Where a parent makes a payment below the amount due, the payment will be refunded to them and the penalty notice will be processed as unpaid.

Unless withdrawn, non-payment of a penalty notice will trigger the prosecution process under the provisions of Section 444 Education Act 1996.

Where the non-payment results in the prosecution process being initiated, the parent is being prosecuted for the offence to which the penalty notice relates and not for the non-payment of the penalty notice.

9.4 What happens if full payment is not received by the specified dates?

If a penalty notice is not paid in full by the specified dates, the London Borough of Newham can proceed to prosecution instead of proceeding with the penalty notice.

Note: The London Borough of Newham can also prosecute parents for non-attendance without issuing a penalty notice.

Section 10: Appeals and written representations.

10.1 Do parents have the right to appeal against a penalty notice?

No, there is no statutory right of appeal against the decision to issue a penalty notice.

The authority to authorise absence and penalty notices sits with the head teacher or principal of education establishment.

The Education (Pupil Registration) (England) Regulations does not permit head teachers to give authorisation for absence retrospectively meaning they cannot backdate a decision.

10.2 Challenging the head teacher's decision to issue the penalty notice.

Although there is no statutory right of appeal, a parent can contact the school direct to provide evidence to support the reason for their child's absence from school during the period specified in the penalty notice.

If the head teacher upholds the parents challenge they will request the local authority to withdraw (cancel) the penalty notice meaning payment will not be required.

10.3 Challenging the accuracy of the information on the penalty notice.

London Borough of Newham officers will examine any written evidence (email or letter), from the parent or the school, that includes evidence that supports that an actual error (mistake) had been made with the information included on the penalty notice.

The local authority are not permitted to review the head teacher's decision that resulted in a penalty notice being issued (see notes below).

Important Note: Officers at London Borough of Newham cannot overturn:

- Any decision made by the head teacher regarding authorisation of leave during term time, or
- A registration mark (code – see appendix 2).

Only evidence that shows an error was made in issuing the penalty notice can be considered. Any other evidence will not be considered.

Parents will be required to provide documentary evidence to support an argument and must deal directly with the Local Authority and not the school.

To submit written representations parents/carers email schoolpenaltynotices@newham.gov.uk

Where written representations are submitted, a parent/carer must submit within 14 days of the issue date of the notice to be able to take advantage of any discounted amount that may apply to their penalty notice.

10.4 Verbal disputes (telephone calls or face to face).

The local authority cannot accept representations by telephone or by a visit to council offices. All challenges relating to the head teacher's decision to issue a penalty notice should be made direct to the school. This should be done at the time of receipt of the schools letter informing the parent that term time leave is being refused and if their child does not attend school during that time they may be issued with a penalty notice.

However written representations (see 10.2 above) will be considered if they are challenging the accuracy of the information on the penalty notice – not the head teacher's decision, for example not being able to authorise the leave.

Section 11: Local Authority Responsibilities

11.1 Cross borough arrangements

Pupil changing schools within Newham, in the three year period.

Where a pupil meets the threshold for a penalty notice and they have changed schools (including primary to secondary and infant to junior transition) within Newham in the previous 3 year period (but not prior to 19th August 2024 when new legislation came into force), the current school must complete the [Education Penalty Notice History Check](#) online form, which is held on Newham Connect, to determine if a penalty notice has been issued in the 3 year period.

Pupil changing schools from one local authority area to another in the three year period.

Where a pupil meets the threshold for a penalty notice and they have moved local authorities, the new school must contact the previous school or local authority to determine if a penalty notice has been issued in the 3 year period (but not prior to 19th August 2024 when new legislation came into force).

a) Pupil moves to a school in Newham from a school in another local authority.

The new school in Newham must contact the previous school or local authority where the previous school is located to determine if a penalty notice has been issued in the 3 year period. The request for information should be sent to the local authorities cross border penalty notice email address which looks like this – add the local authority name in place of the XX
crossborder.penaltynotice@XX.gov.uk

b) Pupil moves from their previous school in Newham to a school in another local authority area.

The new school outside Newham must contact the London Borough of Newham to determine if a penalty notice has been issued in the 3 year period. For these checks about penalty notices issued in Newham, the school must contact crossborder.penaltynotice@newham.gov.uk

In cases where the previous local authority is not known or the information cannot be, or is not, provided by the previous local authority, it should be assumed that the parent has not previously received a penalty notice and the escalation process started as per a new case.

11.2 Data collection and monitoring

Data collection

Data relating to the number of penalty notices issued per academic year by:

- School
- Year Group
- Phase of education
- Pupil characteristics
- Postal area
- Number paid within 21 or 28 calendar days (from date of receipt).
- Number unpaid resulting in court action.

This is not an exhaustive list.

The data will be used to inform and support a range of services throughout the Council to develop strategies to support families to improve their child's attendance at school.

Monitoring

The local authority will monitor the use of penalty notices across all schools in Newham, to ensure they are being used fairly, consistently and in accordance with the law.

Where a school in Newham does not issue a penalty notice for a pupil whose unauthorised absence has met the threshold, the local authority may ask the head teacher to provide supporting reason as to why they have not proceeded with a penalty notice.

11.3 Records and retention

London Borough of Newham will keep records of penalty notices issued.

These records will include:

- An electronic copy of each notice issued;
- A record of all payments made and on what dates;
- Whether the notice was withdrawn and on what grounds; and
- Whether the recipient was prosecuted for the offence for which the notice was issued (or, where the notice related to an offence under subsection (1) of section 444 of the 1996 Act, for an offence under subsection (1A) arising out of the same circumstances).

They will be retained in accordance with retention requirements, this will be for at least four years.

11.4 Publicity

This code of conduct and related information will be published on the London Borough of Newham website and the individual websites of each school within the local area (borough boundary).

Hard copies can be requested via schools or by calling:

London Borough of Newham 020 8430 2000.

11.5 Finances

Funds are received by the London Borough of Newham from the payment of penalty notices, in accordance with law, and are used for the sole purpose of administration and direct costs relating to the penalty notice system and prosecution.

If a surplus remains, from school year this can be spent on attendance support.

Schools do not receive any of the monies from Penalty notices.

11.6 Annual review.

This code of conduct will be reviewed and consulted upon annually during the summer term unless statutory changes are required sooner.

Appendix 2.

The School Attendance (Pupil Registration) (England) Regulations 2024 - Table 3

	Reason for absence from school	Code
1	The pupil is absent with leave for the purpose of participating in a regulated performance or undertaking regulated employment abroad.	C1
2	The pupil is absent with leave for the purpose of attending a medical or dental appointment.	M
3	The pupil is absent with leave for the purpose of attending an interview for employment or for admission to another educational institution.	J1
4	The pupil is absent with leave for the purpose of studying for a public examination.	S
5	The pupil is not of compulsory school age and is absent with leave because their timetable does not require them to attend.	X
6	The pupil is of compulsory school age and is absent with leave because, in accordance with an agreement between a parent who they normally live with and the proprietor that the pupil should temporarily be educated on a part-time basis, their timetable does not require them to attend.	C2
7	The pupil is absent with leave for the purpose of attending another school at which they are a registered pupil.	D
8	The pupil is absent with leave for any other purpose.	C
9	The pupil is a mobile child, their parent is travelling in the course of their trade or business and the pupil is travelling with that parent.	T
10	The day is exclusively set apart for religious observance by the religious body to which a parent of the pupil belongs.	R
11	The pupil is unable to attend because of sickness.	I
12	The pupil is unable to attend because of a lack of access arrangements for them within paragraph (12) or (13).	Q
13	The pupil is unable to attend because the school is not within walking distance of the pupil's home and the transport to and from school that is normally provided for the pupil by the proprietor or a local authority is not available.	Y1
14	The pupil is unable to attend because of widespread disruption to travel caused by a local, national or international emergency.	Y2
15	Part of the school premises is unavoidably out of use and the pupil is one of those who the proprietor thinks cannot practicably be accommodated in those parts of the premises that remain in use.	Y3
16	The pupil is unable to attend because they are in criminal justice detention within paragraph (14).	Y5
17	The pupil's travel to or attendance at the school would be— (a) contrary to any guidance relating to the incidence or transmission of infection or disease published by the Secretary of State for Health and Social Care or any body or authority exercising equivalent functions in relation to Scotland, Wales or Northern Ireland; or (b) prohibited by any enactment relating to the incidence or transmission of infection or disease or any instrument made under such an enactment.	Y6
18	The pupil is excluded from the school for any other reason.	E
19	The pupil is unable to attend because of any other unavoidable cause	Y7
20	The pupil is absent without leave for the purpose of a holiday.	G
21	The circumstances of the pupil's absence have not yet been established.	N
22	None of the other rows of this table applies, or this code is required to be used by paragraphs (7) and (9)(b).	O

Appendix 3: Sample Penalty Notice

London Borough of Newham - Education Penalty Notice

Reference Number:

Issued under S.444(1) Education Act 1996: the child's parent(s) is/are guilty of an offence if a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, or fails to attend regularly at alternative provision.

<Parent/Carer name>
<Address>
<Postcode>

Date <Date Posted>

Education Penalty Notice - Offence Details

Pupil's Name: <Childs Name>
Date of Issue (posted): <Date EPN Issued>
Penalty Notice Reference: <EPN reference Number>

You are the registered parent* of <Child's Name> (referred to in this, 'the pupil'), (Date of birth: <Child's d.o.b>) who is a registered pupil at <Full name of child's school>

Between <Offence Start Date and Offence End Date> an offence was committed in relation to <Reason for leave of absence>.

Note 1: A penalty notice is an out of court settlement which is intended to change parental behaviour without the need for a criminal prosecution. Payment of a penalty notice discharges the parent/carers liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the penalty notice.

Note 2: The law requires an education penalty notice is issued per parent, for each child and per offence. Each PN will have its own unique penalty notice reference number.

* A parent means:

- a) All natural parents, whether they are married or not;
- b) Any person who has parental responsibility for a child or young person; and,
- c) Any person who has care of a child or young person i.e. lives with and looks after the child.

The school in partnership with the local authority will decide who comes within the definition of parent in respect of a particular pupil when using the legal measures, but generally parents include all those with day to day responsibility for a child.

Fine Amount

Penalty notice: charged at **£160** if paid within 28 days of the date of issue, reducing to **£80** if paid within 21 days of the date of issue.

Note 3: If you pay the full amount required, within the time limits above, no further action will be taken against you in connection with the offence set out in this notice.

Note 4: If you do not pay the full amount you will be liable for prosecution for the offence and could be subject to a fine of up to **£1,000**, and given a criminal record.

Note 5: Late, part and non-payments - the law does not allow the local authority to amend the due date, payment amount or introduce a payment plan.

How to Pay

Telephone Payment:

Please call our automated 24-hour service on **020 8430 2000 – Option 1**.

Follow the instructions ensuring you have your **Penalty Notice Reference Number (<PN_Ref_No>)** and payment card details ready.

Secure Online Payment:

For online payments visit London Borough of [Newham Education Penalty Notice Payments](#)

Follow the instructions ensuring you have your **Penalty Notice Reference Number (<PN_Ref_No>)** and payment card details ready.

Bank Transfer:

Payee Name: London Borough of Newham

Sort Code: XXXXXX

Account Number: XXXXXXXXXXXX

Your Penalty Notice Reference Number: **Penalty Notice Reference Number («PN_Ref_No»)**

Note 6: Failure to include your **Penalty Notice Reference Number («PN_Ref_No»)** will result in your payment not linking to this penalty notice and further action taken.

Note 7: Ensure you do not pay multiple penalty notices using one reference number, as each penalty notice has a unique reference number. Paying multiple notice with one Penalty Notice Reference Number will result in your payment not linking to this penalty notice and may result in further action taken.



We do not accept American Express or Diners Clubcard

Written representations (challenging the penalty notice)

There is no statutory right of appeal against your child's head teacher's decision to issue a penalty notice.

Note 8: A recipient (the parent issued a penalty notice) only has the right to challenge, in writing, the accuracy of the information included on the penalty notice, NOT the head teacher's decision to issue the penalty notice.

This notice may be withdrawn by the CME and Enforcement Team - Education Access, **but only** if it is shown that it should not have been issued to you because there are "material errors" (factual information) or because you are not the parent/carer of the child.

To submit written representations parents/carers must:

Email schoolpenaltynotices@newham.gov.uk or;

Write to CME & Enforcement Team: Education Access Group, 2nd Floor West Wing, 1000 Dockside Road, E16 2QU.

Where written representations are submitted, a parent/carer must submit within 14 days of the issue date of the notice to be able to take advantage of any discounted amount that may apply to their penalty notice.

Note 9: The decision to authorise absence and penalty notices sits with the head teacher or principal of education establishment not the local authority.

Further information

Information relating to all aspects of education penalty notices can be found in our local Education Penalty Notice Code of Conduct