Schools Attendance Support Service – updated September 2026

PENALTY NOTICE CODE OF CONDUCT

1. 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 Sandwell. The code sets out the arrangements for administering penalty notices in Sandwell 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

2. This code has been drawn up in consultation with the headteachers and governing bodies of state funded school and the local police force.

Legal Basis

3. The regular, punctual attendance of pupils at the school where they are registered is both a legal requirement and essential for students to maximise the educational opportunities available to them.

4. 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, alternative education provision academies, and certain off-site places as set out in section 444A(1)(b).

5. The Education (Penalty Notices) (England) Regulations 2007 (as amended) set out how penalty notices for school absence must be used.

6. A penalty notice can only be issued by an authorised officer, that is, a headteacher or a deputy or assistant head authorised by them, an authorised local authority officer or a police constable. In Sandwell, penalty notices will be issued by authorised local authority officers at the request of a Head Teacher, someone authorised by them, or at the request of a police officer.

7. 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.

8. Schools and the local authority will decide which parent(s) to involve in attendance legal intervention according to the circumstances of each individual case.

9. 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.

Rationale

10. 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.

11. For the most vulnerable pupils, regular attendance is also an important protective factor and often the best opportunity for needs to be identified and support provided.

12. Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the DfE's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.

13. 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 (for example, where a term time holiday has been taken) or where support has been provided and not engaged with or not worked, and
    - ~ they are the most appropriate tool to change parental behaviour and improve attendance for that family.

Circumstances where a penalty notice for absence may be appropriate

National Threshold of 10 sessions in 10 school weeks

14. The national threshold is met when a pupil has been recorded as absent for 10 sessions (usually equivalent to 5 school days) within 10 school weeks, with one of, or a combination of the following codes:
    - ~ Code G: the pupil is absent without leave for the purpose of a holiday
    - ~ Code N: the circumstances of the pupil's absence have not yet been

established
- ~ Code O: none of the other rows of Table 3 in Regulation 10(3) of the School Attendance (Pupil Registration) (England) Regulations 2024 applies)
- ~ Code U: the pupil attended after the taking of the register ended but before the end of the session, where no other code applies)

15. A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period may span different terms or school years – for example: 2 sessions of unauthorised absence in the summer term in one school year and a further 8 within the autumn term of the next school year.

16. When a school becomes aware that the national threshold has been met, they must consider whether a penalty notice can and should be issued or not and where appropriate, a referral made to the Council's Schools Attendance Support Service.

Truancy Sweep

17. During or following a truancy sweep, a penalty notice may be issued in relation to the absence and the local authority will retain the discretion to issue a penalty notice before the national threshold is met.

Excluded pupils

18. Where parents allow their child to be present in a public place during school hours without reasonable justification during the first 5 days of a fixed period or permanent exclusion.

Repeated penalty notices

19. If repeated penalty notices are being issued and they are not achieving the desired change in behaviour, they may not be most appropriate tool. The national framework for penalty notices sets out that a maximum of 2 penalty notices per child, per parent can be issued within a rolling 3-year period.

Key considerations prior to the issue of a penalty notice for school absence

20. The following considerations will be made before issuing a penalty notice to ensure consistency of approach.

21. Where children do not have current attendance concerns and where support is not appropriate (for example, where the parent takes the child on an unauthorised leave of absence in term time), consideration will be given to:
    - ~ Is a penalty notice the best available tool to improve attendance and change parental behaviour or would one of the other legal interventions be more appropriate?
    - ~ Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010

- ~ Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?

22. In cases where support is appropriate to address historic / ongoing irregular attendance concerns, consideration will be given to:
    - ~ Has sufficient support been provided? Support is defined as any activity intended to improve the pupil's attendance and should be tailored to the individual circumstances relating to the pupils absence. Where appropriate schools should work closely with the appropriate partner agencies.
    - ~ Is a penalty notice the best tool available likely to improve attendance and change parental behaviour for this family or would one of the other legal interventions be more appropriate?
    - ~ Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010
    - ~ Is it in the public interest to issue a penalty notice in this case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment?

23. If the answer to the above questions is 'yes', then a penalty notice (or a notice to improve in cases where support is appropriate) will usually be issued, providing it is in the public interest to do so.

Notice to improve

24. A notice to improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a notice to improve should usually be sent to give parents a final chance to engage in support.

25. A notice to improve may be issued by either the school or the local authority.

26. The school and/or the local authority will determine whether a notice to improve is appropriate or not. It may not be appropriate where it is not expected to have any impact on a parent's behaviour (e.g. the parent has already received one for a similar offence).

27. A notice to improve must state the timescales for the improvement period which should be no more than 20 school days. School will monitor attendance during the improvement period following a notice to improve being issued.

28. Where there has been sufficient and/or sustained improvement of attendance, it is not expected that further legal intervention will be necessary at that stage. If there has been no or insufficient improvement of attendance, further consideration will be given to the issue of a penalty notice.

Penalty notices issued for absences from 2024/25 school year onwards

29. For issuing penalty notices for absences occurring after the start of the 2024/25 school year, the "proceeding 3-year period" means the period of 3 years ending with the date on which the penalty notice is issued.

30. Where no penalty notice has been issued to the parent in respect of an individual child in the preceding 3-year period, the amount of the penalty is £80 where the amount is paid within the period of 21 days beginning with the date on which the notice is issued, rising to £160 between days 21 and 28.

31. Where a penalty notice has been issued to the parent in respect of an individual child in the preceding 3-year period, the amount of the penalty is £160 and is payable within 28 days.

32. Where 2 previous penalty notices have been issued and the national threshold is met for a third time (or subsequent times) within the rolling 3-year period, a penalty notice will not be issued. Instead, an alternative strategy or legal intervention will be used having considered any previous penalty notices which were unpaid and any subsequent prosecution of offences.

33. 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
    - ~ issued in respect of an excluded pupil
    - ~ issued in respect of an absence prior to the start of the 2024/25 school year

Withdrawing a penalty notice

34. A penalty notice may be withdrawn if
    - ~ it ought not to have been issued or issued to the person named as the recipient;
    - ~ the notice contains material errors;
    - ~ the issuer did not comply with this code of conduct; or
    - ~ after the expiry of the last date for payment the penalty notice is unpaid and the local authority has neither instituted proceedings for the offence to which the notice relates nor is contemplating such proceedings.

35. Where a penalty notice has been withdrawn, notice of the withdrawal shall be given to the parent and any amount paid by way of penalty in pursuance of that notice shall be repaid to the person who paid it.

36. No proceedings shall be continued or instituted against the parent for the offence about which the withdrawn notice was issued or for an offence under S444 of the Education Act 1996 arising out of the same circumstances, except where it was withdrawn due to a material error and a further penalty notice was issued at the same time as withdrawal of the original notice.

Payment of penalty notices

37. The arrangements for the paying penalties will be detailed on the penalty notice. The local authority will retain any revenue to cover enforcement and administration of justice costs as detailed in legislation.

There is no statutory right of appeal to the local authority against the issue of a penalty notice. The local authority issue penalty notices at the request of the Headteacher/Principal. Any dispute/challenge about penalty notices must be referred to Headteacher/Principal.

How authorised officers will work together

38. Authorised officers should work together to ensure that penalty notices are used when likely to be effective and change behaviour.

39. On receipt of the relevant referral form(s) from the school or the police, the local authority will continue to issue penalty notices on their behalf.

40. An authorised local authority officer will decide whether proportionate support has been provided, and whether that support has worked or not.

41. The local authority will inform the school if, and why, a referral is not being progressed. It will also inform the school about whether penalty notices are paid, withdrawn or the case is to be prosecuted for the original offence. They will do this half termly by way of email.

42. Where pupils move between local authority areas and it is necessary to establish whether a penalty notice has previously been issued, Sandwell can be contacted by email at crossborder_pn@sandwell.gov.uk

43. Where pupils attend school within Sandwell but live in a different local authority area, Sandwell will accept referrals from Sandwell schools for children on their roll.