



## **Norbreck Primary Academy**

# **Attendance Policy**

<b>Date written</b>	<b>Last review September 2024</b>
<b>Date of next review</b>	<b>September 2026</b>
<b>SLT lead</b>	<b>Headteacher</b>

### **INTRODUCTION AND AIMS OF THIS POLICY**

Norbreck Primary Academy expects every child to have punctual and regular school attendance. This is essential if all of our children and young people are to be given the opportunity to benefit from effective learning and care and achieve their full potential.

It is important that all children should attend school regularly and punctually. School is where they learn and school is where they are safe. Children who fail to attend school regularly can become vulnerable and could place themselves at greater risk than others in many ways such as becoming involved in offending or becoming the victims of crime.

In order to improve levels of school attendance and punctuality, Norbreck Primary Academy is working in partnership with Blackpool Council's Pupil Welfare Service to promote and encourage regular, punctual attendance of all pupils in order for them to achieve their very best at School.

### **Aims**

- To emphasise the importance to all pupils and their families that maximum attendance at school is vital for achieving their full potential.
- To reinforce the notion that every child has a right to access the education to which they are entitled and that parents are responsible in law for the regular and punctual attendance of their child.
- To make explicit to all (pupils, parents/carers, teachers) the school's expectations on attendance levels and support strategies to help pupils maximise their attendance.
- To stress the need for home and school to work in partnership to achieve high attendance.

### **WORKING IN PARTNERSHIP WITH PARENTS/CARERS**

Regular attendance at school is vital. Put simply, absence means missed learning; without it the learning process becomes fragmented and unsatisfactory. Norbreck Primary Academy wants each and every child to have the best possible attendance at school to enable them to reach their full potential. There is a strong link between good school attendance and achieving good results for children. Children who frequently miss school may fall behind in their work which may affect their future prospects. Absence may also have an effect on friendships. Young people who are frequently absent from school are more likely to become involved in or be a victim of crime and anti-social behaviour.

Under the Education (Pupil Registration) Regulations 1995 Norbreck Primary Academy is responsible for making sure the school keeps an attendance register that records which pupils are present at the start of both the morning and the afternoon sessions of the school day. This register will also indicate the reason for an absence and whether it was authorised or unauthorised.

The school sees 97% attendance or above as the target for all pupils. Amendments to the Education (Pupil Registration) Regulations 2006 and September 2013 make clear that Headteachers may not authorise holidays (or other leave of absence) in term time unless there are very exceptional circumstances. The school upholds these regulations and supports the use of financial penalties and court action where necessary.

Norbreck Primary Academy has a positive, proactive approach towards attendance matters and encourages parents/carers to take an active role in their child's education. Parents/carers play a major role in improving levels of attendance and punctuality and reducing absence.

The relationship between home and school is a vital part of a child's positive education and care. All children should have the same opportunity for learning in order to achieve their full potential.

Parent/carers are responsible by law for ensuring that their children attend school regularly and on time. Parent/carers can do a great deal to support the regular and punctual attendance of their children.

Where a pupil's attendance becomes a concern, Norbreck Primary Academy will work with parents and carers to identify any support required to overcome barriers of coming into school. We will do this through a variety of ways including and not restricted to:

- Discussions about attendance overall with our staff members
- Written letters to highlight concerns about attendance
- Formal written letters and notification of further action if required

### **Absence During Term Time**

### **Authorised Absence**

An absence is classified as authorised when a child has been away from school for a legitimate reason and the school has received notification from a parent or carer. For example, if a child has been unwell and the parent messages or telephones the school to explain the absence.

Only the school can authorise any absence. Parents do not have this authority. Consequently, not all absences supported by parents will be classified as authorised.

### **Unauthorised Absence**

Unauthorised absence is where a school is not satisfied with the reasons given for the absence. This includes children who arrive after 9:15am when registers are closed. These absences will affect the child's overall attendance record which is monitored by the Pupil Welfare Service and remains on their school file.

Norbreck Primary Academy follow Blackpool Council's procedures for attendance which recommend that when a child/young person's attendance is below 93%, absences will not be authorised unless there are extenuating circumstances or medical evidence is provided e.g. a Doctor's note, a prescription, sight of a medicine bottle etc.

Unauthorised absence could result in legal action being initiated by the Local Authority.

### **Persistent Lateness and Punctuality**

It is the duty of parents/carers to ensure that children attend school regularly and punctually. This encourages habits of good timekeeping and lessens any possible classroom disruption. School starts at 9:00am when the morning register is taken. Children may enter their classrooms from 8:50am when the school gates open. It is important to be on time, as the first few minutes of the school day are often used to give out instructions or organise school work for the rest of the day. If a pupil misses this short but vital session, their work for the whole day may be affected. Late arrivals are disruptive to the whole class and often unsettling for the child.

Parents who arrive after the gates are closed at 9.00am must bring their child into school through the school office reception. The child will be marked as 'L' (late) in the register if they arrive before the registers close at 9:15am.

If a child arrives at school after 9:15am this will affect their attendance record as they were absent at registration. This applies in all cases for being late, including travel delays. Lateness after 9:15am will be marked as 'U' (unauthorised absence) thereby reducing their attendance rate percentage.

Parents of those children who are regularly late arriving to school may be invited to make an appointment with the Headteacher/Deputy Headteacher to investigate reasons for lateness and suggest solutions to enable more punctual attendance.

### **HOLIDAYS OR LEAVE IN TERM TIME**

In line with guidance from the Department of Education 2013, Norbreck Primary Academy will not authorise any holiday in term time, unless it is for exceptional reasons. Schools are closed for 13 weeks a year. Parent/carers have 175 days in which to take holidays outside of school hours. If parents wish to take a holiday in term-time they can submit an application for consideration. If the Headteacher feels exceptional circumstances apply then the holiday may be authorised. Parents taking their children out of school for a holiday without authorisation may, in conjunction with the Pupil Welfare Officer, be issued with a penalty notice. (see below, Penalty notices).

*'Headteachers should not grant leave of absence unless there are exceptional circumstances. The application must be made in advance and the head teacher must be satisfied that there are exceptional circumstances*

*based on the individual facts and circumstances of the case which warrant the leave. Where a leave of absence is granted, the head teacher will determine the number of days a pupil can be away from school. A leave of absence is granted entirely at the head teacher's discretion.'* (DfE October 2014)

Norbreck Primary Academy expects parents to organise their holidays outside term time. Regular school attendance is a key contribution to a child's life and is linked directly to their attainment at school and into adulthood. Any absence that a child has in their 190 days of schooling results in lost opportunities and gaps in their learning.

Schools must maintain attendance registers and accurately record and monitor all absence and lateness. Norbreck Primary Academy identifies and strives to resolve barriers affecting 100% attendance.

Norbreck Primary Academy is committed to reducing absences, including levels of persistent absence. (A child is classified as having persistent absence if he/she has an absence rate of 10% or more).

Schools are responsible for supporting pupil attendance and respond quickly to difficulties and issues which might lead to non-attendance. Norbreck Primary Academy knows the crucial importance of early intervention. Clear procedures are in place to identify and follow up all absence and lateness.

Parents unwilling or unable to co-operate will be reported to the Pupil Welfare Service.

### **BLACKPOOL COUNCIL SUPPORT – THE ROLE OF PUPIL WELFARE OFFICERS (PWOs)**

Norbreck Primary Academy has support from a PWO who monitors pupil attendance through regular inspection of the school register and liaison with school staff.

Referrals to PWOs are made by schools. However, PWOs do consult with other professionals and can be contacted directly by parents/carers for support.

A parent/carer may be contacted by a PWO if:

- The child has a pattern of irregular attendance (broken weeks);
- The child has had a period of non-attendance with no explanation or justifiable reason;
- The child has been regularly absent and communication between parent/carers and school has met with little or no response/improvement;
- The child is moving to another area and the school does not have a confirmed destination school/provider where the child will resume their education (such pupils are treated as "children missing education");
- A pattern of persistent lateness has developed;
- There are child protection concerns alongside poor attendance patterns;
- There are identifiable welfare issues, which are preventing a child from accessing education.

The main role of a PWO is to work with schools and families to help raise attendance levels for individual pupils, individual schools and for Blackpool as a whole to ensure that all pupils of compulsory school age are in receipt of a suitable education.

PWOs also work with other professionals such as Health and Children's Centre staff to promote regular school attendance for children in their Foundation Stage (Nursery and Reception).

Although there is no legislation for 3 and 4 year olds to attend school regularly, it is known that regular school attendance in these early years is crucial to a child's adopting of positive attendance and punctuality routines and future learning.

PWOs will assist in identifying and removing barriers which may be preventing a child receiving education through a number of ways, initially by undertaking individual casework with children of poor attendance and their parents/carers. The PWO will recognise and take account of individual circumstances and will respond accordingly. Speedy return of the child to regular attendance will always be the prime concern.

In some instances, PWO intervention may be limited to a single PWO home visit in order to remind parent/carers of their legal responsibilities or to help resolve a particular difficulty.

When, in some instances, there may be complex reasons why a child is not attending school the PWO may negotiate a plan of support. This might involve referring for involvement of other agencies through a Common Assessment Framework (CAF) and holding multi-agency meetings. All PWO casework will involve close and continuous liaison with the pupil's school. PWOs will ensure that schools receive regular, written feedback on pupils with whom work is being undertaken.

Where the main causes of non-attendance may be school-related (e.g. alleged bullying or racism, peer pressure, difficulties with a particular lesson or teacher) the PWO will discuss with the school in order to develop strategies to overcome these difficulties.

The PWO will employ a range of strategies with the parent/carers in their casework to bring about the child's regular attendance and will, when necessary if no improvement occurs, refer the matter to the Magistrates Court.

### **BLACKPOOL COUNCIL POLICY ON PROSECUTION**

Section 444(1) and (1)(a) of the Education Act 1996 states that if a pupil fails to regularly attend and attempts by the PWO and school fail to ensure the pupil returns to regular attendance, the PWO, on behalf of Blackpool Council, can consider taking legal action by issuing a summons against the parent/carers to appear before the Magistrates Court under Section 444(1) / (1)(A).

**444(1)(a):** This is an "aggravated" and more serious, imprisonable offence. Parent/ carers being summonsed to Court on this offence will have a criminal conviction recorded against their name.

**Fast Track Initiative to Better Outcomes:** This involves less casework and a series of letters and meetings over 12 weeks to try and improve the pupil's school attendance. If no or little improvement occurs, a referral to the Magistrates Court will be made under Section 444(1).

**If a child/young person pupil still fails to attend school regularly, after a parent/carer has been prosecuted, the PWO will, if deemed appropriate, take further legal action.**

**Education Supervision Order (ESO):** Before initiating a prosecution under section 444(1) or (1)(A) of the 1996 Education Act, a PWO will consider whether it is appropriate to apply for an ESO under section 36 of the 1989 Children Act to the Family Court. The purpose of an ESO is to place a child/young person who is not being properly educated under the supervision of the Children's Services Authority as opposed to the parent/carer.

An ESO aims to ensure that the child/young person receives a suitable education and that they and the parent/carers receive intensive support, advice and guidance from a Supervising Officer who is required "to advise, assist and befriend".

Should an ESO fail to bring about an improvement in the child's school attendance, the PWO can later use this in evidence in the Magistrates Court as a prosecution under Section 444(1) or 444(1)(a) of The Education Act 1996.

**Blackpool Council Policy on the Use of School Attendance Order (SAO):** A SAO (under Sections 437-439 of the 1996 Education Act) will be served on the parent/carers of a child of compulsory school age if the

parent/carers have failed to provide a suitable education and if the Children's Services Authority believes that the child should attend school.

The SAO will specify the school or Pupil Referral Unit which the child should attend. Should the parent/carers fail to comply with the SAO the Children's Service Authority will initiate legal proceedings under Section 443 of the 1996 Education Act, unless the parents/carers can prove that the child is in receipt of suitable education).

### **Penalty Notices:**

**Under The Education (Penalty Notices) (England) (Amendment) Regulations 2024 all state funded schools must consider as soon as practicable, whether a penalty notice is appropriate in each individual case where one of their pupils reaches the national threshold for considering.**

Blackpool Council may issue a Penalty Notice to the parents of an excluded child who is found in a public place during the first five days of exclusion. Penalty Notices may only be issued in accordance with the terms of a local Code of Conduct. The Trustees of **Norbreck Primary Academy have decided that Penalty Notices will be issued in appropriate circumstances.**

#### *Penalty Notice Threshold*

The threshold at which a penalty notice **must** be considered is set at 10 sessions (equivalent to 5 days) of unauthorised absence within a rolling 10-school week period. This may include absences as a result of arriving late after the register closes. The sessions of unauthorised absence do not have to be consecutive. The 10 school weeks may span different terms or school years.

#### *Penalty Notice Amounts*

Penalty notices are issued at £160 and should be paid within 28 days. They can be paid at £80 if paid within 21 days. Any second penalty notice issued to the same parent for the same child within a rolling 3-year period will be issued at a higher rate of £160 to be paid within 28 days with no option for a discounted rate.

#### *Limits on Issue*

Only 2 penalty notices can be issued to the same parent in respect of the same child within a 3-year rolling period. A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. This will often include considering prosecution but may include other tools such as one of the other attendance legal interventions.

The Blackpool procedures for issuing education-related Penalty Notices are attached at Appendix A.

**Children Missing Education (CME):** PWOs and schools have a clear role to play in helping to trace children who go missing from Blackpool schools or who go missing from schools from other authorities who may have moved into Blackpool.

Schools must follow corresponding procedures in relation to those pupils who are removed from school by their parent/carers without a named-school destination being provided and confirmed. Once a child has been confirmed as a registered pupil at another school the previous school will remove them from their school registers from the last day of attendance.

**Truancy Sweeps:** PWOs work closely with the Police in order to ensure that Truancy Sweeps, authorised under Section 16 of the Crime and Disorder Act 1998, are carried out according to the agreed Police and Children's Services protocol. PWOs liaise with Blackpool schools regarding Truancy Sweeps and staff members are encouraged to take part, as are partner agencies.

**Social Care:** If a referral is made and accepted by Social Care, an assessment of children in need will be undertaken in collaboration with other relevant professionals. The assessment will look at all aspects of the child’s developmental needs, including their educational needs. PWOs will bring to the attention of social care staff children who have been referred to them due to attendance difficulties, who, in their professional opinion, may require additional support in accordance with Blackpool’s safeguarding agenda as a child in need.

**Health Service:** Children who are absent from school for extended periods of time due to illness /injury may receive home tuition or tuition in a small group. The nature of the illness/injury must be confirmed by a Specialist/Consultant in these circumstances, stating that at that particular time the child is unfit to attend school.

Each school has access to a School Nurse who holds ‘drop ins’ in schools for parents/carers to discuss any health concerns that they have for their child. Schools and PWO’s can make referrals to the school nurse if a child is regularly absent through illness.

Should the child’s school, parent/carer, PWO, etc consider that perhaps the problem of non-attendance may be linked to a mental health issue then consideration will be given to making a referral to Child and Adolescents Mental Health Service. (CAMHS)

Where a mental health illness is evident the school or the PWO will take advice from CAMHS on the best way to help a child achieve regular attendance.

Absences can have a lasting effect on learning

Missing a week of school means your child will miss around 25 hours of learning  
This creates gaps in their knowledge and could mean they will not meet their full potential



Appendix A

**Blackburn with Darwen, Blackpool and Lancashire County Local Authorities**  
**Joint Code of Conduct for issuing education-related Penalty Notices**  
**Code of conduct for penalty notices for school absence**

## Introduction

This code of conduct has been developed in accordance with the National Framework for Penalty Notices for school absence issued by the Department for Education within statutory guidance *Working together to improve school attendance*. As such, this code of conduct comes into effect from and in relation to unauthorised school absences taking place from 19 August 2024. It includes the codes of conduct in respect of notices for attendance and notices for the whereabouts of excluded pupils. It provides details of the procedural arrangements for the administration of such notices. In addition, the details of the legislation that underpins the issuing of education-related penalty notices can be found in Appendix 1.

## National Framework for Penalty Notices

In order to ensure a consistent approach to school attendance enforcement the national framework for penalty notices for school absence specifies the following:

### *Penalty Notice Threshold*

The threshold at which a penalty notice **must** be considered is set at 10 sessions (equivalent to 5 days) of unauthorised absence within a rolling 10-school week period.

This may include absences as a result of arriving late after the register closes. The sessions of unauthorised absence do not have to be consecutive. The 10 school weeks may span different terms or school years.

### *Penalty Notice Amounts*

Penalty notices are issued at £160 and should be paid within 28 days. They can be paid at £80 if paid within 21 days. Any second penalty notice issued to the same parent for the same child within a rolling 3-year period will be issued at a higher rate of £160 to be paid within 28 days with no option for a discounted rate.

### *Limits on Issue*

Only 2 penalty notices can be issued to the same parent in respect of the same child within a 3-year rolling period. A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. This will often include considering prosecution but may include other tools such as one of the other attendance legal interventions.

### *Recipients of Penalty Notices*

For the purposes of school attendance, a parent is defined under s576 of the Education Act as: all natural parents and any person who although not a natural parent, has parental responsibility or who has care of a child or young person. A penalty notice can be issued to each parent liable for the attendance offence or offences.

### *School Responsibilities*

Under The Education (Penalty Notices) (England) (Amendment) Regulations 2024 all state funded schools **must** consider as soon as practicable, whether a penalty notice is appropriate in each individual case where one of their pupils reaches the national threshold for considering a penalty notice. Schools should not have a blanket position of issuing or not issuing penalty notices and

should make judgements on each individual case to ensure fairness and consistency across the country. Judgements should be made by school taking into account the *Working together to improve school attendance* statutory guidance, using a 'support first' ethos, except where this would not be appropriate for example, for unauthorised leave/holiday.

#### *Local Authority Responsibilities*

Where a request for a penalty notice is made by a school, the Local Authority must consider if the notice should be issued in line with the national framework, the local code of conduct, the public interest and after considering any obligations under the Equality Act 2010. Local authorities must record where a penalty notice has been issued to an individual parent in respect of individual pupils and retain these records for at least 3 years from the date of issuing any notice in order for escalation procedures to be followed.

#### *Non-payment of Penalty*

Non-payment of the penalty within the 28-day time limit will trigger the prosecution process under the provisions of section 444 of the 1996 act or section 103 of the 2006 act, except where the notice is withdrawn (as detailed in the criteria below). As with all prosecutions, the Code for Crown Prosecutors must be followed, and the rules of evidence and criminal procedural rules apply. Therefore the authority must be satisfied that any prosecution meets the “evidential” test and the “public interest” test, as set out in the said Code before proceeding with a prosecution.

#### *Withdrawing penalty notices*

Once issued, a penalty notice may only be withdrawn in accordance with relevant criteria under regulation 8 of The Education (Penalty Notices) (England) Regulation 2007: Where the relevant LA agrees that:

- The penalty notice should not have been issued; or
- The penalty notice is shown to have been issued to the wrong person; or
- It appears to the authority that the notice contains material errors

If an LA ultimately decides not to bring proceedings in respect of the non-payment of a penalty notice, the notice must be formally withdrawn.

The LA may reissue a penalty notice where appropriate.

#### *Penalty Notice Income*

The LA will retain any revenue from the income generated by education-related penalty notices. Any income from penalty notices should be first used for the administration of the penalty notice system and prosecution. If a surplus remains, this can be spent on attendance support.

#### *Local Code of Conduct for Blackburn, Blackpool and Lancashire*

The following sets out the locally agreed protocol for issuing penalty notices pan-Lancashire: To ensure consistent and equitable delivery and the avoidance of duplicate notices being issued, the local delivery of the penalty notice scheme will be managed by the LA. Each LA will only be responsible for considering the issuing of penalty notices for children who are on the role of a school within their authority. Where pupils reside within the Lancashire, Blackpool or Blackburn with Darwen local authority area but are on roll at a school in another authority the LA for the school will decide on the appropriate action to be taken. If required, cross-border discussions will take place between the relevant LAs.

A penalty notice for non-attendance can only be issued in cases of **unauthorised** absence. Any schools submitting requests must adhere to the guidance on the marking of registers within *Working together to improve school attendance*.

Requests for penalty notices **must be** submitted to the LA no later than three school weeks after the original offence was committed. As per the national framework, where the LA is of the opinion that a pupil's level of attendance is so low that initiating proceedings in the magistrates' court would be more appropriate, the LA reserves the right not to issue a penalty notice. Each Local Authority will determine which action should be taken on a case-by-case basis.

#### *Procedure for Issuing Penalty Notices*

The relevant nominated officer(s) for each LA will issue penalty notices for non-attendance on behalf of their respective LA.

Penalty notices will only be issued by first class post (which constitutes good service) and should not be hand delivered, other than in exceptional circumstances. This will ensure that evidential and health and safety requirements are met.

Requests from schools and the police to issue penalty notices will be considered by the LA provided that:

- All relevant information is supplied in the manner specified by the relevant LA.
- The application is accompanied by a completed local authority School Attendance Support Checklist, which demonstrates that where appropriate, support options have been considered and offered. This checklist is not required for requests in relation to unauthorised leave/holidays.
- The circumstances of the pupil's absence meet all the evidential requirements of the national framework for penalty notices for school absence and this code of conduct.
- The issuing of a penalty notice will not conflict with other intervention strategies already in place or other enforcement measures already being processed.<sup>6</sup>

The LA will endeavour to respond to all such requests within 10 school days, providing all criteria are met. They will then either confirm that penalty notice procedures will be implemented or that other, more appropriate, interventions will be explored.

#### *Notices to Improve*

In cases of unauthorised absence, other than notification of intention to take unauthorised leave of absence, the LA will:

- Issue a formal written Notice to Improve to the parent/carer of the possibility of a penalty notice being issued.
- In the same letter, set a period of 15 school days during which the pupil's attendance will be closely monitored.
- Issue a penalty notice through the post if the required level of improvement has not been achieved.

#### *Unauthorised Leave/Holidays*

Notices to Improve will generally not be issued in cases where all or the majority of the absence is due to unauthorised leave. Schools must ensure that they notify parents (in writing) when a leave request is not authorised, and that if the leave is still taken, the school will apply for legal sanctions. Where parents do not give notice of a leave of absence, schools must still inform the parents (in writing) that the absence has not been authorised and that the school intends to apply for legal sanctions.

### *Penalty Notice Outcomes*

Schools will be notified by the LA when a penalty notice has been issued, when a payment has been received and where a payment has not been received within the specified timescales. This will normally be via email from the issuing officer or LA team.

### *Subsequent Offences*

Where two penalty notices have been issued to a parent within a rolling 3-year period, and those penalty notices meet the criteria set out in the national framework, the LA will consider the following options:

- Prosecution under s444(1) Education Act 1996
- Prosecution under s444(1)(A) Education Act 1996 (aggravated offence)
- Application for an Education Supervision Order

Where applicable, schools will be asked to indicate (if known) the previous school of any child who has not been on their roll for the last 3 years, on the penalty notice request.<sup>7</sup>

In cases where the pupil has moved between local authority areas in the previous 3 years, either because the family has moved house or the pupil has moved school, an additional check will be carried out by the responsible officer by contacting the previous LA. Where no response is received within 10 working days, it will be assumed that the parent has not previously received a penalty notice.

Local authorities may make these checks to the LAs included in this code of conduct via the following emails:

[crossborder.penaltynotice@blackburn.gov.uk](mailto:crossborder.penaltynotice@blackburn.gov.uk) [crossborder.penaltynotice@blackpool.gov.uk](mailto:crossborder.penaltynotice@blackpool.gov.uk)  
[crossborder.penaltynotice@lancashire.gov.uk](mailto:crossborder.penaltynotice@lancashire.gov.uk)

### *Reporting and Review*

The three LAs will review the penalty notice procedures at appropriate intervals and:

- Ensure that all relevant statistical information is made available to the Department for Education (DfE)
- Propose amendments to the procedures as and when appropriate

## **Code of conduct for penalty notices for the whereabouts of excluded pupils**

### Rationale – penalty notices for whereabouts of excluded pupils

Parents are expected to make arrangements for the supervision of children who have been excluded from school on any day which is one of the first five school days to which any exclusion relates.

Where the LA is notified that a parent is believed to be failing in their statutory duty to ensure such children are not in a public place, an investigation will be undertaken to establish the basic facts of the case in each instance in order to determine whether an offence is likely to have been committed.

It is expected that in the first instance parents would be reminded of their duty under this legislation and warned as to future behaviour, but subsequently a penalty notice could be issued where the criteria set out in the relevant code of conduct have been met. However, where a child

is reported on more than one occasion during any single episode of exclusion, the LA will only consider a penalty notice for any one offence.

Where there is evidence of repeat episodes which suggest parenting is a significant contributory factor to the pupil's continuing behaviour concerns, schools will be expected to have considered/offered a parenting contract for behaviour before the LA will consider more than three requests for penalty notices in any one academic year.

Circumstances where a penalty notice may be issued for the whereabouts of excluded pupils: To ensure consistent and equitable delivery and the avoidance of duplicate notices being issued, the local delivery of the penalty notice scheme will be managed by the LA.

A penalty notice for the whereabouts of excluded pupils can only be issued in cases where the parents of a formally excluded child fail in their duty to ensure that he/she is not in a public place during school hours (without reasonable justification) on a day which is one of the first five school days of any fixed period or permanent exclusion.

The notice allows a parent to pay a penalty as a way of discharging any liability for the offence on the days specified. However, the parents must have been explicitly notified by the school of this duty/liability at the time of their child's exclusion **and** the specific days to which it relates. Consequently, schools will be required to provide the LA with proof of notification and the means of delivery when making a request for a parent to be issued with a penalty notice for the whereabouts of an excluded pupil. However, a parent has a defence if they can prove reasonable justification. A competent justification which is capable of being regarded as reasonable will depend on the parents "facts" being backed up by proof. It is unlikely that any justification will be held to be reasonable unless it stands up on these facts.

The maximum number of penalty notices for the whereabouts of an excluded pupil that can be issued is restricted to 1 per pupil, per parent **in any one exclusion period**, up to a maximum of five in any one school year. However, after three such requests, no further notices will be issued in one school year until the school provides evidence that a parenting contract (behaviour) has been considered in order to support the parent(s).

There is no restriction on the number of times a formal warning may be given about the possible issue of a penalty notice.

Where pupils reside within the Lancashire, Blackpool or Blackburn with Darwen local authority area but are on roll at a school in another authority the LA for the school will decide on the appropriate action to be taken.

If required, cross-border discussions will take place between the relevant LAs.

Procedure for issuing a penalty notice for the whereabouts of excluded pupils The Court Officer will issue penalty notices for the whereabouts of excluded pupils on behalf of the LA in Lancashire and will automatically consider their use in all cases brought to their attention.

There are provisions in the legislation to enable the following to issue penalty notices, though there is no requirement to do so

- Authorised Local Authority staff
- Head teachers and where authorised, deputy and assistant heads
- The police, community support officers and accredited persons.

Lancashire Constabulary have confirmed that they will not issue penalty notices in respect of excluded pupils under these provisions, nor will they formally request the LA to issue such penalty notices. However, where the police (or community support officers) believe an offence may have been committed under this legislation, they will share information with the relevant LA so that enquiries can be made.

Although headteachers are empowered to issue penalty notices, they may not be sufficiently informed to do so as the offence under section 103 of the 2006 act allows an excluded pupil's presence in a public place where there is reasonable justification for them being there. As such, each individual case must be examined on its own merits. Consequently, schools should report suspected breaches of section 103 to the LA so that the facts of the case can be ascertained before a penalty notice is considered.

The LA will investigate matters such as the method of notification to parents, the number of times an excluded pupil has been apprehended, the parents' actions or inactions that resulted in the excluded pupil being in a public place when they shouldn't have been there, the justification, if any, put forward by the parents and their overall attitude towards their responsibilities. Some sets of circumstances will be more straightforward than others, for example, parents who claim to be unable to control their child or to be physically intimidated by them will need to prove this to be the case, unless it is self-evident. Although it is unlikely that such a justification would be held to be reasonable, it could still count towards mitigation. In such cases, where there is not already an assessment in place, schools will be advised to consider whether it would be appropriate to initiate such a process.

**Updated April 2024**

## **Appendix 1 – Legislation**

In this document "Joint Code of Conduct for issuing education-related Penalty Notices" the 96 Act means The Education Act 1996, the 2006 Act means The Education & Inspections Act 2006, and the Regulations 2007 means The Education (Penalty Notices) (England) Regulations 2007, as amended.

Relevant Sections of legislation referred to in this document include:

### **The Education Act 1996**

Section 4 Meaning of "school"

Section 7 Duty of parents to secure education of children of compulsory school age

Section 8 Definition of compulsory school age

Section 444(1) Offence: Failure to secure regular attendance at school of registered pupil

Section 444A Penalty notice in respect of failure to secure regular attendance at school of registered pupil

Section 444B Penalty notices: supplemental

Section 444ZA Application of section 444 to alternative educational provision

Section 576 Meaning of "parent"

### **Education & Inspections Act 2006**

Section 103 Duty of parent in relation to excluded pupil

Section 104 Notice to parent relating to excluded pupil

Section 105 Penalty notice in respect of presence of excluded pupil in public place

Section 106 Penalty notices: supplemental

## **The Education and Skills Act 2008**

Section 155 Application of section 444 of Education Act 1996 to alternative education provision<sup>12</sup>

### **Additional Interpretations**

“School hours” mean a school session or a break between sessions on the same school day. “A public place” means any highway or any place to which the public have access, and a school is not a public place for this purpose.

“Specific days of exclusion” are the days when this duty on parents applies and will be detailed in the notice given to the parent under section 104 of the 2006 Act. The parent is responsible for the child during the specified days upon receipt of such notice.

“Parent” – throughout this document, references to “parent” means each and every parent coming within the definition of the Children Act 1989, whether acting jointly or separately, and should not be taken to mean that the provisions only apply to a “parent” in the singular “Which constitutes good service” is a legal definition prescribing the approved conditions for effectively issuing formal notices under this scheme.