

Fixed Penalty Notice –PARENTS - Frequently Asked Questions

Introduction

Section 23 Anti Social Behaviour Act 2003 gave the Local Authority the power to introduce Education Penalty Notices aimed at reducing the levels of unauthorised absence from schools, where a parent/carer is considered able but unwilling to ensure their child's school attendance. As with all Attendance Enforcement legislation Fixed Penalty Notices are not issued as a punishment to parents but as a means to improve a child's attendance. This is an additional strategy to be used as a sanction when parents do not fulfill their responsibility to ensure their children attend school regularly.

Why introduce Fixed Penalty Notices?

Reducing absence from school is a key priority nationally and locally because missing school damages a pupil's attainment levels, disrupts school routines and the learning of others, and can leave a pupil vulnerable to anti-social behaviour and youth crime. Whilst a FPN is a way of speeding up sanctions for unauthorised absence consideration needs to be given to "every aspect of a pupil's case" before considering whether a FPN would be appropriate. If a parent fails to pay the FPN the case must be progressed to court under a S444(1).

What is a Fixed Penalty Notice?

You commit an offence if your child fails to attend school regularly and those absences are classed as unauthorised. Depending on the circumstances, such cases may result in prosecution under Section 444 of the Education Act 1996. A Fixed Penalty Notice can be used within certain criteria as an alternative to prosecution, which does not require an appearance in Court unless the fine is unpaid after 28 days. Full payment of the penalty means that you can avoid being prosecuted and convicted.

Who can decide that a Fixed Penalty Notice should be issued?

Sunderland's Local Code of Conduct states that the final decision as to the issue of a penalty Notice rests with the Attendance Manager. The Attendance Manager must ensure that a Fixed Penalty Notice is issued fairly and consistently across the City and complies with legislation. Fixed Penalty Notices can only be issued within the parameters of the Local Code of Conduct.

Where can I find a copy of the Local Code of Conduct?

<http://www.sunderland.gov.uk/index.aspx?articleid=8415>

What is the cost?

If paid within 21 days of receipt of a Notice, the cost is £60, but if paid after this and up to 28 days of receipt of the Notice, the cost is £120. Fixed Penalty Notices' must be paid in full.

How are they issued?

Fixed Penalty Notices will always be issued by post.

When will penalty notices be used?

They are used as a measure to address unauthorised absence at an early stage before non-attendance becomes entrenched, but they can also be used as a response to unauthorised term time absence.

What is an unauthorised absence?

An unauthorised absence occurs when a parent fails to give a reason for their child's absence or the Head teacher does not agree to accept a parent's reason for a pupil's absence. The Education (Pupil Registration) (England) Regulations 2006 (Regulation 7) states that only a head teacher or their representative can determine if an absence is to be authorised.

Authorised absence' means that the school has either given approval in advance for a pupil of compulsory school age to be away, or has accepted an explanation offered afterwards as justification for absence.

Is a warning given?

Yes, written warning of the possibility of a Notice being issued will be sent to the parent. This will inform the parent of the extent of their child's absences and give them 15 school days in which to bring about an improvement. In that time, the pupil should have no unauthorised absences from school.

There is no limit to the number of formal warnings which can be issued.

In the case of unauthorised term time leave the warning will be the Head teacher's letter confirming that requested leave of absence has not been authorised. This letter includes a warning that a penalty notice may be issued.

Can a parent receive a Fixed Penalty Notice for more than one child? Multiple Fixed Penalty Notices can be issued to the same parents during the year.

Is there an appeal process?

Fixed Penalty Notice fines are set by government regulation and are not based upon ability to pay. There is no provision for payment instalments nor is there a statutory right of appeal once a fixed-penalty notice has been issued. Fixed Penalty notices can only be withdrawn if they were issued in error or to the wrong person or there is material evidence of error.

How do parents pay the Penalty Notice?

Details of payment arrangements will be included on the Fixed Penalty Notice.

Can a parent be prosecuted if they pay the Penalty Notice but their child is still missing school?

Not for the period stated in the Fixed Penalty Notice, since payment of the penalty discharges their liability for that period. However, it could be the case that a prosecution could be considered for further periods of poor attendance not covered by the Notice, depending on the circumstances.

How many penalty notices can be issued to a parent?

Each parent can receive up to two penalty notices for the same child in any one academic year.

What happens if the Penalty is not paid?

Parents have up to 28 days from receipt to pay the Penalty in full, after which the Authority is required under the legislation to commence proceedings in the local Magistrates' Court for the original offence of failing to ensure the child attended school regularly. If proven, this can attract a range of sentences including fines of up to £1,000. Costs may also be imposed and the parent will be the subject of a criminal record.