



## **PENALTY NOTICE CODE OF CONDUCT**

### **1. Rationale**

- 1.1. Regular and punctual attendance of pupils at school is both a legal requirement, and essential in order for students to maximise the opportunities available to them. The Torbay Education Welfare Service will continue to investigate cases of regular non-attendance from school and, following appropriate casework, instigate legal action if applicable. Penalty Notices offer a means for swift intervention which the Council will use to combat truancy problems before they become entrenched. This Code provides that the power to use Penalty Notices is applied consistently and fairly and that suitable administrative arrangements are in place.
- 1.2. Following the implementation of the Anti Social Behaviour Act 2003 it is possible that certain cases of unauthorised absence can be dealt with by way of a Penalty Notice. Penalty Notices will require the parent of a child of compulsory school age, whose attendance has been unsatisfactory, to pay a fine, currently £50.00 if paid within 28 days or £100.00 if paid within 42 days.
- 1.3. In order to comply with Human Rights legislation it is essential that Penalty Notices be issued in a consistent manner. This Code of Conduct will govern the issuing of Penalty Notices for Torbay Council.

### **2. Procedure for issuing Penalty Notices**

- 2.1. In Torbay, Penalty Notices will be issued by the Education Welfare Service, having been authorised by a senior member of the Education Welfare Service (EWS). The Service will ensure that the issuing of Penalty Notices is closely monitored and that recipients pay the relevant fine. In any case where the penalty is not paid within the appropriate period, the Principal Education Welfare Officer will instigate action through the courts as required by legislation.
- 2.2. No one parent will receive more than three separate Penalty Notices resulting from the unauthorised absence of an individual child in any twelve month period.
- 2.3. The Education Welfare Service will receive requests to issue Penalty Notices from schools/colleges in Torbay, the Devon and Cornwall Constabulary and neighbouring LEAs. The Education Welfare Service will action these requests providing:
  - The circumstances of the case meet the criteria for the issue of a Penalty Notice which are specified in this Code of Conduct, and
  - All necessary information is provided to the EWS in order to establish that an offence, under Section 444(1) Education Act 1996, has been committed.
- 2.4. In cases requiring the issue of a Penalty Notice(s), each parent will receive a separate Penalty Notice for each child. Should a parent fail or refuse to pay any Penalty Notice issued for this reason, then the evidence provided by the school/college will be the only information laid before the court.
- 2.5. Penalty Notices will not be issued during Truancy Patrols as this could be a health and safety risk. Additionally, not all the relevant evidence will be available to prove the offence at that time.

### **3. General criteria for the issuing of a Penalty Notice**

- 3.1 A Penalty Notice will only be issued to a parent(s) if the pupil has at least ten, half-day unauthorised absences recorded against their name within the previous six months. The ten unauthorised absences will include the absences to be included within the Penalty Notice.
- 3.2 Whenever practicable, the issue of a Penalty Notice will be proceeded by the dispatch, by post, of a formal warning letter to the parent(s). Only one formal warning letter will be sent to a parent in any twelve month period. This warning letter will:
  - State the record of unauthorised absences which gives rise to the formal warning,
  - Notify the parent that a Penalty Notice will be issued unless the condition at 3.3 is met.
- 3.3 The condition to be met in order to avoid the issue of a Penalty Notice is that the pupil should record no unauthorised absences during the fifteen school day period commencing three school days following the despatch of the formal warning letter.
- 3.4 Within this Code of Conduct, a parent is defined as per Section 576 Education Act 1996

### **4. Circumstances where a Penalty Notice is appropriate**

The issuing of Penalty Notices is appropriate:

- 4.1 In cases of absence from school/college when the pupil has been taken on a holiday during term time and the absence has not been authorised by the school,
- 4.2 When pupils are identified as truants in the course of a truancy patrol; enquiries will be undertaken with the school/college of any pupil stopped.
- 4.3 In the early stages of casework, an Education Welfare Officer might form an opinion that the issuing of a Penalty Notice is appropriate e.g. in cases where a parent continually fails to provide an explanation for a pupil's absence in accordance with the school's procedures.
- 4.4 Following notification from a school to the LEA that a pupil has had a record of unauthorised absence from school and the circumstances appear to have been avoidable. (*e.g. too tired after a late night, a birthday treat, family friends/relatives visiting*).
- 4.5 When a pupil on the 'Fastrack to Prosecution' scheme fails to achieve the required improvement in attendance.
- 4.6 Following a referral from the Devon and Cornwall Constabulary, or a neighbouring LEA.

### **5. Procedure for withdrawing Penalty Notices**

A penalty notice may be withdrawn by Torbay LEA in any case in which the authority determines that:

- a) it ought not to have been issued, or
- b) it ought not to have been issued to the person named as the recipient.

Where a penalty notice has been withdrawn in accordance with the above, a notice of the withdrawal shall be given to the recipient and any amount paid by way of penalty in pursuance of that notice shall be repaid to the person who paid it. No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under s.444(1A) of the Act arising out of the same circumstances.

### **Payment of Penalty Notices**

The arrangements for the paying of penalties will be detailed on the Penalty Notices.