



## **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 Attendance Improvement Service (AIS) will continue to investigate cases of irregular attendance from school/college/academy 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 of Conduct 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 £60.00 if paid within 21 days or £120.00 if paid within 28 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 AIS. The Service will ensure that the issuing of Penalty Notices is closely monitored to make certain that they are not duplicated, not issued where prosecution proceedings for the same offence are being considered and that recipients pay the relevant fine within the timeframes specified above (1.2).
- 2.2. No one parent will receive more than one separate Penalty Notices resulting from the unauthorised absence of an individual child in any two year period.
- 2.3. The AIS will receive requests to issue Penalty Notices from schools/colleges/academies in Torbay, Devon and Cornwall Constabulary and neighbouring Local Authorities (LAs). The AIS 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 AIS 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 where appropriate, receive a separate Penalty Notice for each child.
- 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.
- 2.6. Where the penalty is not paid in full before the expiry of the period for paying it, and the Notice has not been withdrawn by the authority, the authority will institute proceedings against the recipient for the offence to which the notice relates.

### **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. Those ten or more unauthorised absences will include the absences to be included within the Penalty Notice.
- 3.2. Whenever practicable, the AIS will establish that a potential recipient of a Penalty Notice will have been warned in writing that unauthorised absences may lead to the issue of a Penalty Notice. This warning may have been provided by the school/college/academy, an officer of the AIS or other recognised professional.
- 3.3. Only one warning letter will be sent to a parent(s) in any twelve month period. This letter may be from either the school/college/academy, AIS, Torbay Council or Devon and Cornwall Constabulary.
- 3.4. Within the 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/academy when the pupil has been taken on 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/academy of any pupil stopped.
- 4.3. In the early stages of casework, an Attendance Improvement 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/college/academy to the AIS 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. Following a referral from the Devon and Cornwall Constabulary, or a neighbouring LA.
- 4.6. Where the absence is not determined as 'exceptional circumstances'.

**N.B - the above is not an exhaustive list**

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

A Penalty Notice may be withdrawn by Torbay Council 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
- c) Where it appears to the authority that the notice contains material errors.

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 of the Act arising out of the same circumstances.

## **6. Payment of Penalty Notices**

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

## **7. Consultation**

- 7.1 Following consultation with governing bodies, head teachers and the chief officer of police for a police area which includes all or part of the area of the local authority, in accordance with Regulation 15 of The Education (Penalty Notices) (England) Regulations 2007, this Code of Conduct was adopted by Torbay Council on the 26<sup>th</sup> May 2017.

**Dated: 26<sup>th</sup> May 2017**

Signed.....



**Andy Dempsey – Director of Children's Services**