

Tower Hamlets Education Directorate **Fixed Penalty Notice Protocol**

1. Introduction:

- 1.1 The Education (Penalty Notices) (England) Regulations 2004 came into force on 27th February 2004.
- 1.2 This legislation is governed by Section 23 of the Anti Social Behaviour Act 2003.
- 1.3 This legislation empowers designated LEA officers, Head Teachers (& Deputy and Assistant Headteachers, authorised by their Headteacher) and the Police to issue Fixed Penalty Notices in cases of unauthorised absence from school.
- 1.4 The issuing of Fixed Penalty Notices must conform to all requirements of the Human Rights Act and all Equal Opportunities legislation.
- 1.5 The LEA has the prime responsibility for developing the protocol within which all partners named in the Act will operate. School governing bodies have responsibility for adopting the protocol in their school.

2. The Legal Requirements of School Attendance:

- 2.1 Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.
- 2.2 In law an offence occurs under section 444 (1) of the 1996 Education Act, if a parent/carer fails to secure a child's attendance at a school at which the child is a registered pupil and that absence is not authorised by the school.
- 2.3 The sentencing options available to Magistrates, upon conviction of a parent, are a fine, conditional discharge, absolute discharge, a parenting order, or in some cases a combination of the options listed.
- 2.4 Fixed Penalty Notices supplement the existing sanctions currently available under Section 444 (1) of the 1996 Education Act.
- 2.5 Fixed Penalty Notices are not meant to replace current practice, but to add another option to the LEA, to secure regular and punctual attendance.
- 2.6 In Tower Hamlets, the Education Social Work Service (ESWS) delivers this LEA responsibility.

3. Proposals Where A Fixed Penalty Notice May Be Issued:

A Penalty Notice may only be issued in cases of unauthorised absence or lateness. The issue of a Penalty Notice may be considered appropriate in any of the following circumstances:

- 3.1 In cases where a pupils has been stopped by the truancy patrol on more than one occasion within a 12 week period, with no valid reason for not being in school. This would include pupils accompanied by parent(s), guardians, carers or other adults.
- 3.2 In instances of excessive amounts of holiday in term-time, (i.e. over and above the ten days authorised by the Headteacher).
- 3.3 In instances of excessive delayed return from holidays, without prior school agreement.
- 3.4 In cases of an extended holiday, beyond the period authorised and agreed with the school.
- 3.5 Where parents fail to attend LEA led In-School Attendance Panels, without reasonable cause.
- 3.6 In cases of persistent late arrival at school after the register has closed.

4. Circumstances For Issuing Fixed Penalty Notices:

To ensure consistent and fair delivery of Penalty Notices, the following criteria for their use shall apply:

- 4.1 Penalty Notices will only be used where the governing body of the school has agreed the LEA protocol, and parents have been consulted.
- 4.2 Use of Penalty Notices shall be restricted to one per pupil per academic year. Where families have more than 1 child who fits the criteria, multiple issuing of Fixed Penalty Notices may occur. In these circumstances issuing should be subject to careful consideration and co-ordination.
- 4.3 The pupil concerned must have lost at least ten sessions (5 school days) to unauthorised absence during the term in which the Fixed Penalty Notice is issued.
- 4.4 The liable parent/carer shall receive two formal warnings of the possibility of a Penalty Notice being issued, and shall be given a maximum of 15 school days to effect an improvement. Warnings will be translated for those who do not

speak English, and given verbally as well as in writing to ensure those who are not literate are not discriminated against.

- 4.5 Schools must consider every aspect of a pupil's case before referring to the LEA for the issue of a Fixed Penalty Notice. This must include discussions with the school's ESW and any other attendance support staff who have knowledge of or involvement with the family.
- 4.6 There shall be no restriction on the number of times a parent may be issued with formal warning of a possible Penalty Notice.

5. Procedure for Issuing Fixed Penalty Notices:

The LEA will issue all Fixed Penalty Notices.
This will ensure:

- 5.1 Consistent and equitable delivery of the Fixed Penalty Notices.
- 5.2 Ensure consistent administration and monitoring of the system.
- 5.3 Avoid duplication.
- 5.4 Schools will not be burdened with excessive administration.
- 5.5 It will prevent relationships between schools and families being unnecessarily strained.
- 5.6 Prevent the police being involved in extra administrative work.
- 5.7 Fixed Penalty Notices will only be issued by post , with a follow-up telephone or face to face contact to ensure receipt and understanding and never as an on the spot action.

6. How will schools refer?

Schools will use the ESWS referral form for poor attendance for those pupils who meet the agreed criteria..

The referral form will be used in the following way:

- 6.1 All relevant information will be supplied in the specified manner
- 6.2 The circumstances of the pupil's absence meet the requirements of the referral form.
- 6.3 The referral of a pupil with a view to a Penalty Notice being issued must not adversely affect any other ongoing strategies already in place to improve school attendance

- 6.4 Schools must notify parents, in writing, that a referral has been made that could lead to the issuing of a Fixed Penalty Notice

7. The Role Of The LEA In Issuing Fixed Penalty Notices:

Upon receipt of an appropriate referral, the LEA will:

- 7.1 The LEA/ESWS will act upon all referrals within 10 school days of receipt of the referral and where all criteria are met.
- 7.2 Issue a formal written warning to the parent/carer of the possibility of a Fixed Penalty Notice being issued.
- 7.3 The warning letter will inform parents that during a set a period of 15 school days the pupil must have no unauthorised absence.
- 7.4 If after 15 school days the target level of attendance has not been met, a Fixed Penalty Notice will be sent by 1st class post.

8. Criteria For Withdrawing Fixed Penalty Notices:

- 8.1 The Fixed Penalty Notice was issued to the wrong person.
- 8.2 The Fixed Penalty Notice was issued outside the agreed criteria.

9. Payment of Fixed Penalty Notices:

- 9.1 Arrangements for payment will be included on the Penalty Notice.
- 9.2 Payment of a Penalty Notice, within the established time period discharges the parent/carer of liability for the period of absence/lateness for which a Fixed Penalty Notice was issued.
- 9.3 Once the Penalty Notice has been paid, the parent cannot subsequently be prosecuted under other enforcement powers for the period covered by the Fixed Penalty Notice.
- 9.4 The Fixed Penalty Notice is £50 if paid within 28 days.
- 9.5 If the Fixed Penalty Notice is not paid within 28 days the LEA will issue a reminder.
- 9.6 If the Fixed Penalty Notice is not paid within 28 days, but is paid within 42 days the penalty is £100.

- 9.7 The LEA retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

10. Non-payment of Fixed Penalty Notices:

- 10.1 Non-payment of a Penalty Notice will result in the withdrawal of the Notice and will trigger the fast-track prosecution process under the provisions of Section 444(1), of the 1996 Education Act.

11. Policy and Publicity:

- 11.1 The use of Fixed Penalty Notices as another method of dealing with poor attendance/punctuality is included in the LEA's Attendance Policy.
- 11.2 All school Attendance Policies will include details of the Tower Hamlets Fixed Penalty Notices scheme and this will be brought to the attention of all parents.
- 11.3 The LEA will include information on the use of Fixed Penalty Notices and other initiatives to improve school attendance in promotional/public information material.

12. Reporting and Reviewing:

- 12.1 The progress of the Fixed Penalty Notices scheme will be reported to the Head of Access and Inclusion on a regular basis.
- 12.2 There will be an annual report produced at the end of each academic year detailing the development and progress of the scheme.
- 12.3 Any proposals to change the circumstances which might lead to an issue of a Fixed Penalty Notices Scheme will be agreed with Tower Hamlets Cabinet.