

Penalty Notices for truancy and excluded pupils found in a public place during the school day

Local 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.

1.2 Bristol Education Welfare Service will continue to investigate cases of regular non-attendance from school and following appropriate casework, instigating legal action if applicable.

1.3 From March 2005 certain cases of unauthorised absence have been dealt with by way of a Penalty Notice. From 1st September 2007 when an excluded pupil is found in a public place their parent/carer may be issued with a Penalty Notice. All Penalty Notices involve the recipient paying a fine, currently £50 if paid within 28 working days or £100 if paid within 42 working days from receipt of the Penalty Notice.

1.4 In order to comply with Human Rights legislation, it is essential that Penalty Notices be issued in a consistent manner throughout Bristol. This Code of Conduct will govern the issuing of Penalty Notices for Bristol City Council.

** 'School' is used in this document to include all other educational providers used by Bristol LA to educate statutory school aged pupils.*

2. Procedure for issuing Penalty Notices for truancy

2.1 Penalty Notices will only be issued where there is documented evidence that the pupil has had a minimum of 8 unauthorised absences over the previous 10 school week period. If the pupil has had 20 or more unauthorised absences in the previous 10 weeks then prosecution should be considered as a more appropriate response to the absences.

2.2 The Education Welfare Service will issue Penalty Notices in Bristol. The Education Welfare Service will ensure that the issuing of Penalty Notices is closely monitored with recipients paying the relevant fine. In cases where the penalty is not paid within the appropriate period, the Education Welfare Service will instigate action through the courts for prosecution of the original offence of unauthorised absence as required by legislation. In this way, Bristol City Council will have the means to avoid the issue of duplicate notices.

2.3 No individual parent will receive more than two separate Penalty Notices resulting from the unauthorised absence of an individual child in any twelve month period.

2.4 The Education Welfare Service will receive requests to issue Penalty Notices from Bristol schools and the Avon and Somerset police. The Education Welfare Service will action these requests providing that the relevant information is supplied in the specified manner, and that the circumstances of the unauthorised absence match those detailed in this Code of Conduct.

3. Procedures for issuing a Penalty Notice for an excluded pupil found in a public place during the school day without reasonable justification

3.1 In cases where a Police Officer or Police Community Support Officer stops an excluded pupil in a public place during the school day and the pupil has no reasonable justification to be there a request can be made by the officer for the Education Welfare Service to issue a Penalty Notice.

3.2 The Education Welfare Service will undertake necessary checks within 5 working days to establish whether the pupil was excluded at the time, the parent/carer had been informed of their responsibilities and the attendance register shows an exclusion symbol for the date in question. If all these are satisfied then a Penalty Notice will be issued.

** A school is not deemed by the Education & Inspections Act 2006 to be a public place for the purposes of this legislation.*

4. Circumstances when Penalty Notices will be issued.

4.1 The issuing of Penalty Notices is considered appropriate:

(a) In cases of absence from school when the pupil has been taken on a holiday during term time and the absence has not been authorised by the school. In such a case, each parent will receive a separate Penalty Notice for each child taken out of school. Should a parent(s) fail/refuse to pay any Penalty Notice issued for this reason, then the evidence provided by the school will be the only information laid before the court. There will be no automatic Education Welfare Officer involvement in these cases.

(b) Following a truancy sweep, enquiries will be undertaken with the school of all pupils stopped. In cases where the school have followed their procedures, undertaken relevant checks, identified the absence of the pupil as unauthorised, recorded it in the register as such and the pupil has a minimum of 8 unauthorised absences in the previous 10 school week period and hasn't exceeded the maximum 20 then a Penalty Notice will be issued. Penalty Notices will **not** be issued during truancy sweeps as not all the relevant evidence will be available to prove the offence at that time.

(c) In the early stages of casework, an Education Welfare Officer might form an opinion that the issuing of a Penalty Notice is appropriate. In cases where a parent continually fails to provide an explanation for a pupil's unauthorised absence, or where the reasons being given are determined to be unauthorised according to the schools policy and procedures and the parent has failed to

cooperate with strategies to improve their child's attendance, the Education Welfare Officer may discuss this with their line manager and if approved, a Penalty Notice may be issued providing the pupil has had a minimum of 8 unauthorised absences in the previous 10 school weeks and no more than 20.

d) Following a referral from the Avon and Somerset Police, where an excluded pupil has been found in a public place during school hours.

4.2 Schools and the police will be advised of the outcome of their referral for a Penalty Notice through e-mail.

5. Procedure for withdrawing Penalty Notices

5.1 A Penalty Notice may be withdrawn by Bristol LA in any case in which the authority determines that:

(a) it ought not to have been issued, i.e. it was issued outside of the terms of the local Code of Conduct, or where no offence has been committed;

or

(b) it has been issued to the wrong person;

or

(c) it contains material errors

5.2 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.

6. Payment of Penalty Notices

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