

## Fixed penalty notices for unauthorised absence including leave of absence for unagreed holidays during term time

Read in conjunction with [Ealing's code of conduct on the provisions for fixed penalty notices](#)

Schools are responsible for recording attendance, following up absence and reporting children missing education and children missing out on education to the local authority.

### Fixed penalty notices – When to issue

The usual rules on school attendance apply, including:

- **Holiday during term time:** Headteachers may not grant any leave of absence during term time unless an application is made, and there are exceptional (and documented) circumstances, (i.e. not holiday). Headteachers can determine the number of school days a child can be away from school if the circumstances are regarded as 'exceptional.'
- **Parents' duty** to secure their child's regular attendance at school (where the child is a registered pupil at school, and they are of compulsory school age)
- **The ability to issue sanctions**, including fixed penalty notices in line with local authorities' codes of conduct.

All state funded schools must consider whether a penalty notice for unauthorised absence is appropriate in each individual case where one of their pupils reaches the national threshold for considering a penalty notice. Schools should not have a blanket position of issuing or not issuing penalty notices and should make judgements on each individual case to ensure fairness and consistency across the country.

- The threshold is ten sessions of unauthorised absence in a rolling period of ten school weeks.
- A school week means any week in which there is at least one school session.
- This can be met with any combination of unauthorised absence (e.g. four sessions of holiday taken in term time plus six sessions of arriving late after the register closes all within ten school weeks).
- These sessions can be consecutive (e.g. ten sessions of holiday in one week) or not (e.g. six sessions of unauthorised absence taken in 1 week and one per week for the next 4 weeks).
- The period of ten school weeks can also span different terms or school years (e.g. two sessions of unauthorised absence in the Summer Term and a further eight within the Autumn Term).

### When a school becomes aware that the threshold has been met

When a school becomes aware that the threshold has been met, they are expected to make the following considerations to decide whether to issue a penalty notice in each individual case:

- Is support appropriate in this case?
- If yes, schools are expected to continue with the existing or additional support without a penalty notice. If that support is not working or is not being engaged with, a penalty notice can be issued - The LA may decide to issue a Notice to Improve Letter first.
- If no, for example a holiday in term time, where support is not required, a penalty notice should be issued subject to the other conditions below:
- Is a penalty notice the best available tool to improve attendance and change parental behaviour for this particular family, or would further support or one of the other legal interventions be more appropriate?
- Is issuing a penalty notice in this case appropriate after considering any obligations under the Equality Act 2010 such as where a pupil has a disability?
- (For local authorities only) Is it in the public interest to issue a penalty notice in this case given the local authority would be responsible for any resulting prosecution or the original offence in cases of non-payment?

If the answer to these above questions is yes, then a penalty notice should be issued. If not, another tool or legal intervention should be used to improve attendance.

If in an individual case the local authority believes a penalty notice would be appropriate, they retain the discretion to issue one before the threshold is met. This might apply for example, where parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for birthdays or other family events.

### Term time holidays

Headteachers may not grant any leave of absence during term time unless an application is made, and there are exceptional (and documented) circumstances, (i.e. not holiday). Headteachers can determine the number of school days a child can be away from school if the circumstances are regarded as 'exceptional.'

Parents should plan their holidays around school breaks and not take their children out of school on holiday during term time. Where a parent wishes to take their child out of school for whatever reason, the onus is on them to apply for a leave of absence and demonstrate why they believe the circumstances are exceptional. Schools make decisions on granting leave of absence only for an exceptional circumstance.

The Governors and Headteacher set policy on term time absences, and it should be described within the general Attendance Policy. Remember regular attendance is that in accordance with the rules prescribed by the school. The School's Attendance Policy documentation must warn of the possibility of a penalty if the school use the penalty sanction for such leave. Please ensure that you have notified/notify your parents via your communications and website that fines, or other legal action will be considered for unauthorised absence.

Schools must have a process of application for leave. Each case must be considered individually and must meet the school's criteria as an 'exceptional' circumstance.

The DfE do not permit blanket policies. Templates can be found here:

[Attendance | Ealing Grid for Learning \(egfl.org.uk\)](#)

If leave is taken and is not authorised, then the parent has committed an offence under S444 Ed Act 1996. This can be subject to prosecution in the magistrates' court under ss1 and ss1A of the Act, the penalty fine, if paid, is an alternative to prosecution.

## Penalty notices - how to make a request

Penalties requested for unauthorised leave of absence are issued at the school's request and are issued in accordance with relevant protocols by the Local Authority. **Remember that fines are a last resort, and parents are offered support to improve their child's attendance before penalties are considered**

**G Codes only** – fixed penalty notice for unauthorised term time leave (holiday)

These will continue to be requested under the 'unauthorised term time leave (holiday)' category in Gateway. For these fines, support to parents is not considered to be necessary.

**Multiple unauthorised codes** (where there is a combination of the following G, U, O or exclusively O or U codes) These should be requested under the 'attendance concern' category in Gateway. The support that schools should be offering to parents/families before requesting fines, will be outlined in our reviewed fines protocol. This will be published over the summer.

A School Attendance Certificate with the appropriate codes and a pupil's current address are required. Referrals can be made via Gateway using the attendance certificate from SIMS/other MIS system; therefore, it is necessary to have Parents' full names and up to date addresses and contact number.

For Holiday Fines, the Local Authority will only accept instructions from the school and will not engage with parents as to whether a penalty should have been issued or not. This is a matter between the parent and the school. Parent will be referred to the school. \* Please ensure that you have notified the parent that usual processes have been restored and you have captured full information and requested and considered any supporting documentation from the parent/s relating to the absence before requesting a Fixed Penalty Fine.

Where illness, preventing travel back to the UK, is claimed as a reason for a delayed return to school and Doctor's certificates are readily produced in justification, we advise as usual that such certification is not acceptable unless accompanied by a travel ticket with dates that would have indicated a timely return.

Requests for penalties should be made within the half term (or 6 weeks) of a pupil's return to school. The attendance certificate showing parent names and address with the unauthorised absence codes marked as G, O or U. The DfE have stipulated that there needs to be a minimum of ten sessions (5 days) of unauthorised absence before a fine can be issued. We recommend the school issue their own disapproval letter to parents where a "holiday" absence is less than 5 days. Where there are multiple codes, please follow your usual attendance escalation processes.

Penalties are issued to the parents named on the attendance certificate. If there is another parent or parent partner not named on the certificate, please name that person if you want a penalty to be issued to each responsible person. Responsibility for attendance extends to whoever has care of the child. Therefore, you may wish to include a partner's name when known to be living in the same home.

\* (see above) There is no right of appeal for parents against a penalty notice. Withdrawals are only possible where it is agreed by the school that the penalty should not have been issued, i.e. the school consider that there are exceptional circumstances. In this case an email to the LA is required to confirm the school's decision for withdrawal.

Please upload all fine requests via Gateway.

All enquiries send to: [Penalty-holiday@ealing.gov.uk](mailto:Penalty-holiday@ealing.gov.uk)

The penalty of £160 is payable within 28 days and is discounted to £80 if paid within 21 days of receipt of the invoice. The payment must be paid direct to the Local Authority. The parents can only be prosecuted if the 28 days has expired and full payment has not been made, (and attendance is irregular with unauthorised absences).

Before requesting fines for un-agreed leave, please refer to the checklist below:

- Have you applied a consistent transparent approach using the school's attendance policy and absence request forms?
- Are requests considered by SLT ?
- Did you discuss the request with the parent before your decision?
- Have all cases of been considered individually against their particular circumstances?
- Have you given clear communications asking for evidence?
- Was the absence applied for or just taken?
- If not applied for, have you discussed the circumstances with the parent on return?
- Is attendance below the Local Authority average?
- Did the parent/s keep you informed and updated of the absence?
- Have you requested proof of travel documents to know if tickets were booked in and out when the parents claim?
- Have any delays in returning been evidenced?
- Have illnesses and or medical procedures abroad been evidenced?
- Have deaths/funerals abroad been evidenced?
- Are you satisfied the Fine should be issued?
- Is a Fine reasonable and proportionate in line with your school policy or would a warning be more appropriate given the individual circumstance?

## Two penalty notice limit and escalation in cases of repeat offences

A penalty notice is an out of court settlement which is intended to change behaviour without the need for criminal prosecution. If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be most appropriate tool. Therefore, only two penalty notices can be issued to the same parent in respect of the same child within a 3-year rolling period and any second notice within that period is charged at a higher rate:

- the first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.
- a second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.
- a third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. This will often include considering prosecution but may include other tools such as one of the other attendance legal interventions.

## Downloads

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[Ealing Council code of conduct on the provisions for fixed penalty notices Feb 2025.pdf \(pdf\)](#)

**Contact:**

- **School attendance service:** [attendance@ealing.gov.uk](mailto:attendance@ealing.gov.uk)

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