



Pupil Attendance Procedure Tees Valley Education Trust

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1. STATEMENT OF INTENT

For a child to take full advantage of the educational opportunities offered, it is vital that they attend school, on time, every day the school is open unless the reason for the absence is unavoidable. The routines children develop around attendance and punctuality at school are the same as the expectations of any future employer in the world of work.

Tees Valley Education Trust (TVED) is committed to providing an education of the highest quality and endeavours to provide an environment where all young people feel valued and welcome. Parents/carers, pupils and the wider community all play a part in making each academy within TVED successful. Every child has the right to access the full education to which they are entitled.

As a trust we strive to achieve a goal of 100% attendance for all pupils. Every opportunity is taken to convey to the children and their families, the importance of regular and punctual attendance. Under Section 7 of the Education Act 1996, parents/carers are responsible for making sure that young people of compulsory school age receive full-time education. Parents have a legal responsibility to ensure their child's regular attendance at the school where they are registered.

If a young person of compulsory school age who is registered at a school fails to attend regularly at the school, the parent is guilty of an offence under Section 444(1) of the Education Act 1996.

Parents / carers are primarily responsible for ensuring their school-registered child attends every day. Where attendance problems occur, appropriate and effective case management will take place. This will be bespoke to each case and may include a range of collaborative working between the pupil, parent, academy, wider school community and Local Authority services.

Parents / carers are expected to follow attendance procedures within their child's academy. Parents are encouraged to work in partnership with the academy and are expected to notify the academy of the reason for any of their child's absences. Families are also encouraged to speak to academy staff with any areas of concern around attendance so that these can be addressed promptly.

2. EXPECTATIONS OF ATTENDANCE LEVELS

TVED works to the attendance bands below:

GREEN Band = 96% to 100% (Good)

AMBER Band = 93% to 95.9% (Requires Improvement)

RED Band = 91% to 92.9% (Cause for concern with attendance plan in place)

PERSISTENT ABSENTEE = 90% and below (Significant concern with identified / bespoke plan in place)

The Overall Academy Attendance Target, and the Target of TVED for each academic year is a minimum of **96%**.

Pupils are expected to:

- Attend their academy regularly and punctually.
- Pupils should be appropriately prepared for each day.
- Pupils, in line with both attendance and safeguarding policy, should be encouraged to talk to their teacher / member of academy staff about any problems that prevent them from attending the academy.

Good attendance is important because:

- Statistics show a direct link between under-achievement and absence below 96%
- Regular attenders make better progress, both socially and academically and find academy routines, work and friendships easier to cope with
- Regular attenders are more successful in transferring between primary school, secondary school, higher education, employment or training

Each individual Home/Academy attendance agreement contains details of how academies manage attendance on a daily basis. They give clarity of what pupils and parents / carers are expected to do to ensure their child achieves good attendance.

If absence is frequent or continuous, except where a child is clearly unwell, and there is medical evidence to support this, staff will discuss with parents/carers the need and reasons for their child's absence and will encourage them to keep absences to a minimum.

A note or explanation from a pupil's home does not mean an absence becomes authorised. The decision whether or not to authorise an absence will always rest with the Head Teacher.

The impact absence has on attendance

	School response	Time off	Learning lost over a year	Learning lost over a school career
100%	Outstanding	None	None	None
95%	Requires Improvement	Half a day each fortnight	2 weeks	10 weeks
90%	Persistent Absentee	1 day each fortnight	1 month	Over half a year
85%	Persistent Absentee Medical evidence	1 day and a half each fortnight	Nearly half a term	Nearly 1 full year
80%	Persistent Absentee Fines and legal action	1 day a week	Over half a term	1 whole school year

3. RECORDING ATTENDANCE: LEGAL RESPONSIBILITIES

Young people are expected to attend school every day for the entire duration of the academic year unless there is an **exceptional reason** for their absence.

Schools must legally take an attendance register twice a day. The first mark is taken at **morning registration** and again at **afternoon registration**. **There are two attendance sessions every day, AM and PM, therefore missing school for a whole day counts as two absences.**

Any absences will be recorded with a specific code depending on the type of absence.

Absences fall into two main categories:

Authorised Absence: is when the school has accepted the explanation offered as satisfactory justification for the absence, or has given approval in advance for such an absence. If no explanation is received, absences **will not** be authorised.

Unauthorised Absence: is when the school has not received a reason for absence, or has not approved a child's leave of absence from school after a parent's request.

Absence and attendance codes are held by individual academies in line with national expectation. These national codes enable schools to record and monitor attendance and absence in a consistent way which complies with regulations.

A school can, if needed, change an authorised absence to an unauthorised absence and vice versa if new information is presented. An example of this would be where a parent states a child is unwell but on return to school there is evidence they have been on holiday.

4. ABSENCE PROCEDURE

TVED holds the safeguarding of all pupils as the highest priority. A child not attending school is considered a safeguarding matter. Academies within the Trust retain the right to contact social care in line with safeguarding protocol at any point during the procedure below should there be concerns for a pupils / families welfare.

4.1 First and Second Day of Absence:

Parents/carers must make contact with the school on the first day of absence, and all subsequent days of absence. **This phone call should be made by 8:30am.** Any unexplained absence will be unauthorised.

Where explanations for absence are not received, a member of the Inclusion & Welfare Team will contact parents/carers by telephone, or home visit if necessary, asking them to provide the reason for their child's absence.

For prolonged absence, clear medical reasons are needed to support illness. Medical evidence must be provided, such as an appointment card or hospital letter.

4.2 Third Day of Absence:

If a child is not seen and contact has not been established with parents/carers after two days of absence, the academy will carry out a home visit. All reasonable efforts will be made to establish contact with parents and the child, including making enquiries to known friends and wider family. Investigations will continue until the academy has made contact with, and seen the pupil, and the attendance issue addressed.

4.3 Ten Days Absence: Legal Obligation

From the outset of absence, academies will investigate reasons for non-attendance. In line with trust safeguarding expectations, making visual contact with all non-attending pupils is paramount. Whilst academies in the trust would highlight concerns to the appropriate body before this time, schools have a legal duty to report the absence of any young person absent without an explanation for 10 consecutive days to the Local Authority. If the child is not seen and contact has not been established with the named parent/carer, then the Local Authority will be notified that the child is 'at risk of being missing'.

5. ATTENDANCE ABSENCE SUPPORT PROCESS

Following the successful pilot by Bristol City Council (link below), in which parents received from their child's school, regular evidenced based text messages informing them of the number of days their child has missed (not a percentage of attendance). It was found that this increased overall attendance by up to 4% and had a notable impact on the reduction of persistent absenteeism. Using SchoolComms SMS messaging service, all TVED academies will organise a system of text messaging updates of days of schools missed to parents/carers. Frequency will be determined by factors of attendance history, vulnerability and medical needs as to whether a weekly, fortnightly or half termly message is most appropriate.

5.1 Bespoke Support:

In line with the attendance level table, bespoke support will be given to individual families regarding attendance issues using a combination of communication methods. This support will be tailored to meet the need of families and individual pupils, and always with a clear focus on improved pupil engagement.

Where improvements in attendance rates are not seen, parents / carers will be invited to attend Attendance Case Conference meetings. (ACCs)

5.2 Attendance Case Conference (ACC) and Attendance Action Plan:

Where pupil attendance is below expectation, or an improvement in pupil attendance does not take place, parents / carers will be invited to attend an ACC within the academy. This is a meeting held with the academy welfare officer and a designated member of staff within each setting. This meeting will address the academy concerns surrounding attendance / punctuation, discuss support in place, and allow families to raise any concerns. Further plans and expectations of attendance will be agreed at this meeting. A formal agreement called an Attendance Action Plan will be drawn up between the Academy and parents. Clear expectations of the parents and pupil will be set out in the plan, with a date for review agreed at the end of the meeting. Fixed Penalty notices may also be issues at this time. Failure in improvement will result in involvement with the Local Authority, with possible fine and court action.

6. ILLNESS: GUIDANCE FOR PARENTS/CARERS

When a child is unwell, it can be hard deciding whether to keep them off school. The home / academy agreement encourages parents to contact school for advice should they be unsure.

Where pupils are kept off inappropriately for illness, the academy welfare team will request the pupil be brought in, in order to minimise lost learning time.

Guidelines from www.nhs.uk are used by the Trust and may also help parents.

See Appendix 1 for NHS recommendations

Medical Appointments

Medical appointment for pupils should be made outside of academy hours where possible. If this is not possible, children should only be out of school for the minimum amount of time necessary for the appointment then return, should time allow.

Taking a whole day off school for a dental or medical appointment is unacceptable.

Evidence of medical appointments must be provided to the academy in order for authorisation to be given.

7. PUNCTUALITY/LATENESS

Pupils are expected to be on time at the start of the morning and afternoon school sessions. If a child is late they can miss work and time with their class teacher getting vital information. Lateness can cause disruption to the lesson for others and can be embarrassing for the child, leading to possible further absence.

Parents / carers must ensure that pupils arrive on time in line with individual academy registration and daily timetable. Please see individual academy information for relevant expectations.

All lateness is recorded daily. This information will be required by the courts, should a prosecution for non-attendance or lateness be necessary.

If a child arrives after the close of registration with a genuine reason, this will be taken into consideration. Each case of lateness is treated on an individual basis.

If a child arrives after registration without a genuine reason or is consistently late, then a phone call home will be made by a member of the Inclusion & Welfare Team.

For health and safety reasons it is important that the school knows who is in the building. Pupils arriving late should therefore report to the main school office. **It is important that all pupils arriving late follow this procedure.**

Parents/carers of young people who have patterns of lateness will be contacted by the Inclusion & Welfare Team to discuss the importance of good timekeeping and how this might be achieved.

8. REQUEST FOR LEAVE OF ABSENCE

Any application for leave must be in exceptional circumstances and the Head Teacher must be satisfied that the circumstances warrant the granting of leave. These may include sporting events, performances, family event. The Head Teacher can determine the length of the authorised absence as well as whether the absence is authorised at all. There is no legal entitlement for time off in school time to go on holiday and in the majority of cases holiday will not be authorised.

Parents/carers wishing to apply for leave of absence must apply in writing on the Leave of Absence form that can be obtained from the main school office. It must be submitted in advance before making any arrangements.

If the school refuses an application and the parent still takes their child out of school, the absence will be treated as unauthorised. If the number of sessions absent hits the threshold set down in Middlesbrough Council or Redcar & Cleveland Councils Code of Conduct, parents/carers may be issued with a fixed penalty fine or face other legal action in accordance with the code.

9. PENALTY NOTICES FOR NON-ATTENDANCE AND OTHER LEGAL MEASURES

Legal Measures for tackling persistent absence or lateness

TVED and Middlesbrough Local Authority and Redcar & Cleveland Local Authority will use the full range of legal measures to secure good attendance.

The following legal measures are for pupils of compulsory school age who are registered at a school:

Parenting contracts set at Education Planning Meetings:

Parenting orders

Penalty notices

Education Supervision Orders

Prosecution

Where a child has **unauthorised absence** the school must enforce the Local Authorities Code of Conduct for issuing Penalty Notices or follow its guidance on other Legal Measures for Non-Attendance. The Code of Conduct is a statutory document that ensures that powers for legal sanctions are applied consistently and fairly across all schools and families within the local authority. **See Appendix 2.**

The Penalty Notice is a fine that is issued to each parent/carer who condoned the absence or was responsible for the child during the period of unauthorised absence for which the fine has been issued. Parents/carers will be warned of the likelihood of a Penalty Notice being issued for unauthorised absence via a letter in line with the academy attendance Case Conference meetings or the school's Attendance Policy procedures. For each case of unauthorised absence, the respective Local Authority will decide whether a Penalty Notice, and the level of such notice, is issued to one or more parent/carers for each child.

Penalties can be used where the pupil's absence has not been authorised by the school. Penalties may also be issued where parents allow their child to be present in a public place during school hours without reasonable justification during the first five days of a fixed period or permanent exclusion.

9. **LEAVERS**

10.1 **Transfer Request**

When a child is leaving any TVED academy, parents are asked to submit a transfer request to the Head Teacher with all required information detailed. The transfer request will then be submitted to the Local Authority.

If pupils leave and we do not have the above information, then the child is considered to be a 'Children Missing in Education'. The relevant safeguarding and absence procedures will be followed in line with protocol previously stated.

10.2 **Gypsy, Roma, Traveller, Showman and Showman families**

The absence of a child from a Traveller family that has left the area may be authorised if the absence is for **work purposes only** and it is believed that the family intends to return. To ensure the continuity of learning for Traveller children, dual registration is allowed. That means that a school cannot remove a Traveller child from the school roll while they are travelling. When the Traveller is away, the home school holds the place open and records the absence as authorised through the 'T' code. Distance learning packs for Traveller children are not an alternative to attendance at school.

This policy has been informed by the following legislation and national guidance

DfE Working Together to improve school attendance (May 2022)

DfE Summary table of responsibilities for school attendance (May 2022)

<https://www.bi.team/increasing-attendance-with-parent-messages-supportive-how-to-guide-for-schools/>

DfE Keeping Children Safe in Education 2022

APPENDIX 1: NHS RECOMMENDATIONS – UPDATED MAY 2022

This guidance refers to public health exclusions to indicate the time period an individual should not attend a setting to reduce the risk of transmission during the infectious stage. This is different to 'exclusion' as used in an educational sense.

Infection	Exclusion period	Comments
Athlete's foot	None	Children should not be barefoot at their setting (for example in changing areas) and should not share towels, socks or shoes with others.
Chickenpox	At least 5 days from onset of rash and until all blisters have crusted over	Pregnant staff contacts should consult with their GP or midwife
Cold sores (herpes simplex)	None	Avoid kissing and contact with the sores
Conjunctivitis	None	If an outbreak or cluster occurs, consult your local health protection team (HPT)
Respiratory infections including coronavirus (COVID-19)	Children and young people should not attend if they have a high temperature and are unwell Children and young people who have a positive test result for COVID-19 should not attend the setting for 3 days after the day of the test	Children with mild symptoms such as runny nose, and headache who are otherwise well can continue to attend their setting.
Diarrhoea and vomiting	Staff and students can return 48 hours after diarrhoea and vomiting have stopped	If a particular cause of the diarrhoea and vomiting is identified there may be additional exclusion advice for example E. coli STEC and hep A For more information see chapter 3
Diphtheria*	Exclusion is essential. Always consult with your UKHSA HPT	Preventable by vaccination. Family contacts must be excluded until cleared to return by your local HPT
Flu (influenza) or influenza like illness	Until recovered	Report outbreaks to your local HPT For more information see chapter 3
Glandular fever	None	
Hand foot and mouth	None	Contact your local HPT if a large number of children are affected. Exclusion may be considered in some circumstances
Head lice	None	
Hepatitis A	Exclude until 7 days after onset of jaundice (or 7 days after symptom onset if no jaundice)	In an outbreak of Hepatitis A, your local HPT will advise on control measures
Hepatitis B, C, HIV	None	Hepatitis B and C and HIV are blood borne viruses that are not infectious through casual contact. Contact your UKHSA HPT for more advice
Impetigo	Until lesions are crusted or healed, or 48 hours after starting antibiotic treatment	Antibiotic treatment speeds healing and reduces the infectious period
Measles	4 days from onset of rash and well enough	Preventable by vaccination with 2 doses of MMR Promote MMR for all pupils and staff. Pregnant staff contacts should seek prompt advice from their GP or midwife
Meningococcal meningitis* or septicaemia*	Until recovered	Meningitis ACWY and B are preventable by vaccination. Your local HPT will advise on any action needed
Meningitis* due to other bacteria	Until recovered	Hib and pneumococcal meningitis are preventable by vaccination. Your UKHSA HPT will advise on any action needed
Meningitis viral	None	Milder illness than bacterial meningitis. Siblings and other close contacts of a case need not be excluded

Infection	Exclusion period	Comments
MRSA	None	Good hygiene, in particular handwashing and environmental cleaning, are important to minimise spread. Contact your UKHSA HPT for more
Mumps*	5 days after onset of swelling	Preventable by vaccination with 2 doses of MMR. Promote MMR for all pupils and staff
Ringworm	Not usually required	Treatment is needed
Rubella* (German measles)	5 days from onset of rash	Preventable by vaccination with 2 doses of MMR. Promote MMR for all pupils and staff. Pregnant staff contacts should seek prompt advice from their GP or midwife
Scabies	Can return after first treatment	Household and close contacts require treatment at the same time
Scarlet fever*	Exclude until 24 hours after starting antibiotic treatment	A person is infectious for 2 to 3 weeks if antibiotics are not administered. In the event of 2 or more suspected cases, please contact your UKHSA HPT
Slapped cheek/Fifth disease/Parvovirus B19	None (once rash has developed)	Pregnant contacts of case should consult with their GP or midwife
Threadworms	None	Treatment recommended for child and household
Tonsillitis	None	There are many causes, but most cases are due to viruses and do not need or respond to an antibiotic treatment
Tuberculosis* (TB)	Until at least 2 weeks after the start of effective antibiotic treatment (if pulmonary TB) Exclusion not required for non-pulmonary or latent TB infection Always consult your local HPT before disseminating information to staff, parents and carers	Only pulmonary (lung) TB is infectious to others, needs close, prolonged contact to spread Your local HPT will organise any contact tracing
Warts and verrucae	None	Verrucae should be covered in swimming pools, gyms and changing rooms
Whooping cough (pertussis)*	2 days from starting antibiotic treatment, or 21 days from onset of symptoms if no antibiotics	Preventable by vaccination. After treatment, non-infectious coughing may continue for many weeks. Your local HPT will organise any contact tracing

*denotes a notifiable disease. Registered medical practitioners in England and Wales have a statutory duty to notify their local authority or UKHSA health protection team of suspected cases of certain infectious diseases.



Penalty Notice Code of Conduct

The Education (Penalty Notices)(England) Regulations 2007

Section 444A Education Act 1996

(Section 23 Anti Social Behaviour Act 2003)

Section 103 of the Education and Inspections Act 2006

(Section 105 Education and Inspections Act 2006)

Education (Pupil Registration) (England) (Amendment) Regulations 2013

Section 1

This Code of Conduct will govern the issuing of Penalty Notices for Middlesbrough Council.

In order to comply with Human Rights legislation and to ensure that there is no underlying bias that could lead to disproportionate, unfair or unequal treatment on account of ethnicity, disability or special educational needs, it is essential that Penalty Notices are issued in a consistent manner.

This code ensures that Penalty Notices are issued consistently and fairly and that suitable administrative arrangements are in place.

The Education Welfare Service (EWS) will issue Penalty Notices in Middlesbrough on behalf of the Local Authority (LA). This will ensure consistent and equitable delivery, retain home-school relationships and allow integration with other enforcement sanctions.

Penalty Notices will only be issued by 1st Class Royal Mail and never as an on the spot action; this is to ensure that all evidential requirements are in place.

These procedures apply to the parents of children of compulsory school age who are registered at a maintained school, a pupil referral unit or an academy.

Within this Code of Conduct the term 'parent' means all natural parents, whether they are married or not; and includes any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person, as defined in Section 576 Education Act 1996.

A Penalty Notice is a suitable intervention in circumstances where the parent is judged capable of securing their child's regular attendance or whereabouts but is not willing to take responsibility for doing so. For example where the parent:-

- has failed to effectively engage with any voluntary or supportive measures proposed to support regular school attendance
- removes their child from school during term time without authorised leave of absence
- has failed to make adequate arrangements to ensure their child is not in a public place during the first 5 days of exclusion

Section 2

Penalty Notice: in relation to school attendance

Legal Basis

Sections 444A and 444B of the Education Act 1996 (introduced by Section 23 of the Anti Social Behaviour Act 2003) introduced Penalty Notices as an alternative to prosecution under Section 444, and empowers designated Local Education Authority Officers to issue Penalty Notices in cases where an offence under s444 has, in the opinion of the Local Authority, been committed.

Parents may discharge potential liability for conviction for this offence by paying a penalty within a fixed time. There is no legal requirement for there first to have been a Penalty Notice issued before proceeding to prosecution.

The Education (Penalty Notices) (England) Regulations 2004 came into force on 1st September 2007.

Section 23 of the Anti Social Behaviour Act 2003 came into force on 27th. February 2004.

The Education (Penalty Notices) (England) (Amendment) Regulations 2013 come into force on 1 September 2013. The amendment reduces the timescales for paying a penalty notice to £60 within 21 days or £120 within 28 days.

Circumstances where a Penalty Notice may be issued

A Penalty Notice may only be issued in accordance with this Code of Practice and when the Local Authority is satisfied that an offence under s444 of the Education Act 1996 has been committed by the recipient of the Notice.

A Penalty Notice can only be issued in cases of **unauthorised** absence. An unauthorised absence is recorded where the Head Teacher is not satisfied with the reasons given for absence, or a leave of absence request has been refused.

A Penalty Notice is considered appropriate in the following circumstances:

- 10 or more sessions of unauthorised absence in the previous seven school weeks.
- Unauthorised leave of absence of 10 or more sessions in the previous seven school weeks. Head Teachers may not grant any leave of absence during term time unless there are exceptional circumstances. The Head Teacher should determine the number of school days a child can be away from school if the leave is granted.

- Persistent late arrival (recorded as unauthorised) after the register has closed for 10 or more sessions in the previous seven school weeks.

To ensure consistent delivery of Penalty Notices the following criteria will apply:

- At least 10 sessions (5 school days) lost to unauthorised absence by the pupil in the previous seven school weeks.
- Other than in specific circumstances* the parent will receive a formal warning of the possibility of a Penalty Notice being issued and given a minimum of 10 school days to effect an improvement.

*The deliberate taking of a leave of absence in term time without the Head Teacher's permission (where it can be clearly demonstrated that the parent understood that permission had not/would not be given) and where this has created, or contributed to, a period of unauthorised absence of at least 10 sessions.

In cases where families contain more than one child who meets the above criteria parents may receive a separate Penalty Notice for each child but this will be the subject of careful consideration and co-ordination.

Where more than one person comes within the definition of "parent" a separate Penalty Notice may be issued to each such person for each relevant offence.

Usually a parent can receive a maximum of one Penalty Notice per child; subsequent offences will proceed to prosecution.

The LA must consider every aspect of a child's case before considering whether a Penalty Notice would be appropriate.

In the case of unauthorised leave of absence the parent can make representation to the Head Teacher at the time of the leave of absence request. Where the request is refused, and there is an unauthorised absence of 10 or more sessions, the Head Teacher may notify the LA to request a Penalty Notice be issued.

Where all criteria are met the LA will:

- Ensure a formal written warning has been issued to the parent explaining the possibility of a Penalty Notice being issued.
- Penalty Notices will be posted 1st Class Royal Mail if there has been no significant improvement in the child's school attendance as required in the warning letter.

Section 3

Penalty Notice in relation to exclusion

Legal Basis

Section 103 of the Education and Inspections Act 2006 places a duty on parents in relation to an excluded pupil. A parent has to ensure that their child is not present in a public place during school hours without reasonable justification during the first 5 days of each and every fixed period or permanent exclusion as specified in a Notice given to the parent by the School under s104 of the Education and Inspections Act 2006.

The implementation of the Education and Inspections Act 2006 Section 105 allows for a Penalty Notice to be given to a parent guilty of an offence under Section 103. The school must have notified the parent at the time of the exclusion of their duty and the days to which it relates.

Designated Local Authority Officers are empowered to issue Penalty Notices where pupils are found in a public place during the first 5 days of exclusion.

The Education (Penalty Notice) (England) Regulations 2007 came into force on 1st September 2007.

Circumstances where a Penalty Notice may be issued

The parent is liable for a Penalty Notice if a child is found present in a public place during school hours without reasonable justification during the first 5 days of each and every period of a fixed or permanent exclusion as specified in a Notice given to the parent by the School under s104 of the Education and Inspections Act 2006.

Where more than one person comes within the definition of “parent” a separate Penalty Notice may be issued to each such person for each relevant offence.

The LA must consider every aspect of a child’s case before considering whether a Penalty Notice would be appropriate.

The LA recognises that, in some circumstances, it may be necessary for a child to be in a public place during school hours on a day when they are excluded. For example, the child may have a prearranged medical appointment or emergency. Similarly if the parent needs urgent medical help it may be inappropriate to leave the child at home. In all cases it will be for the parent to prove reasonable justification.

A reasonable justification depends upon points of fact and evidence, and will ultimately be decided by the Courts.

Procedure for issue

The EWS, on behalf of the LA, will receive requests to issue Penalty Notices from Cleveland Police. These requests will be actioned provided that:

- All necessary information is provided to the EWS to establish that an offence under Section 103 of the Education Act 2006 has been committed.
- The circumstances of the pupil's whereabouts meets all the requirements of this Code of Conduct.
- The issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

A parent can receive a maximum of 2 Penalty Notices resulting from an individual child being in a public place during the first 5 days of a fixed period or permanent exclusion; subsequent offences will proceed to immediate prosecution.

Section 4

Limitations on Local Authorities issuing Penalty Notices

A Local Authority may only issue a Penalty Notice in respect of a child: -

- Who is a registered pupil at a school in the area of the Authority
- For whom the Authority has made arrangements for alternative educational provision (whether or not in the area of that Authority)
- Who is not, at the time the notice is given, a registered pupil at any school (whether due to permanent exclusion or otherwise) but resides in the area of that Authority

NB The Local Authority of the school at which the child is registered should issue the Penalty Notice. Where the child has been excluded it would be the Local Authority where the child resides.

Procedure for withdrawing Penalty Notices

A Penalty Notice may be withdrawn by Middlesbrough Council in any case in which the Authority determines that:-

- It ought not to have been issued
- It ought not to have been issued to the person named as recipient
- It contains material errors
- The use of the Penalty Notice did not conform to the terms of this Code of Conduct

Where a Penalty Notice has been withdrawn in accordance with the above, a notice of the withdrawal shall be given to the recipient. 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 for which the withdrawn notice was issued.

Payment of Penalty Notices

Arrangements for payment will be detailed on the Penalty Notice.

Payment of a Penalty Notice discharges the parent's liability for the offence in question, and they cannot subsequently be prosecuted for the offence covered by the Penalty Notice.

The penalty is £60 if paid within 21 days of receipt of the notice, rising to £120 if paid after 21 days but within 28 days of receipt of the notice. If the penalty is not paid in full by the end of the 28 day period the Local Authority must either prosecute for the offence to which the notice applies or withdraw the notice.

Non-payment of Penalty Notices:

Non-payment of a Penalty Notice will result in the withdrawal of the notice and will trigger the prosecution process. Prosecution is for the offence to which the notice relates rather than for non-payment of the notice.

In the case of the prosecution of a parent who has failed to ensure their child attends school regularly the prosecution will be brought by the Local Authority under the provisions of Section 444 Education Act 1996.

In the case of prosecution of a parent who has failed to ensure that their child is not found in a public place during a specified day of exclusion the prosecution will be brought by the Local Authority under the provisions of Section 103 of the Education and Inspections Act 2006.

The parent cannot be prosecuted for the particular offence for which a notice was issued until after the final deadline for payment has passed (28 days after receipt of the notice) and cannot be convicted of that offence if the parent pays a penalty in accordance with the notice.

Policy and Publicity

All school Attendance Policies will include information on the deployment of Penalty Notices and this will be brought to the attention of all parents.

The Local Authority will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional and public information material.

Reporting and Review

The EWS will report at regular intervals to the Director of Education on the deployment and outcomes of Penalty Notices.

The EWS will review Penalty Notice use at regular intervals and amend the general enforcement strategy as appropriate.

Revised

September 2019

Lynn Mitchell

Attendance Manager

Education Welfare Service

APPENDIX 3: REDCAR & CLEVELAND LA CODE OF CONDUCT

Directorate of Children and Families Penalty Notice Code of Conduct

(The Education Act 1996, The Anti-Social Behaviour Act 2003 and the Education (Penalty Notices) (England) Regulations 2007 as amended).

This Code applies to all maintained schools; Academies and Free Schools.

Document Control

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1 RATIONALE

- 1.1 Regular and punctual attendance of pupils at school is both a legal requirement and essential in order for pupils to maximise the opportunities available to them. The Redcar & Cleveland Attendance & Welfare Service (AWS) will continue to investigate cases of non-attendance from school and, following appropriate casework, instigate legal action if applicable. A Penalty Notice is an alternative to prosecution which does not require an appearance in court whilst still ensuring an improvement in a student's attendance. Payment of a Penalty Notice enables parents to discharge potential liability for conviction. Following the implementation of Section 23 of the Anti-Social Behaviour Act 2003 it is possible that certain cases of unauthorised absence can be dealt with way by 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.
- 1.2 In order to comply with Human Rights' legislation, it is essential that Penalty Notices be issued in a consistent, fair and transparent manner and will be reviewed annually. In addition, the Education (Penalty Notice) (England) Regulations 2007 as amended requires a Local Authority to have in place a Code of Conduct which ensures that the power to use Penalty Notices is applied consistently and fairly and that suitable administrative arrangements are in place.
- 1.3 In line with Regulation 15 Governing Bodies, of the aforementioned regulations, Head Teachers and Chief Police Officer for the area have all been consulted with, with regards to the Code.

2 LEGISLATION

Personnel authorised to operate this Code must have regard to the following legislation and guidance:

- ☒ The Race Relations (Amendment) Act 2000
- ☒ Data Protection Act 2018
- ☒ Children Act 1989
- ☒ Crime and Disorder Act 1998
- ☒ Special Educational Needs and Disabilities Code of Practice 2015
- ☒ Education Act 1996
- ☒ The Education and Inspections Act 2006
- ☒ The Equality Act 2010
- ☒ The Education (Penalty Notice) (England) Regulations 2007 as amended
- ☒ The Education (Pupil Registration) (England) Regulations 2006 as amended

The Education (Pupil Registration) (England) Regulations 2006 previously enabled a Head Teacher to grant leave of absence for the purpose of a holiday, as long as the leave of absence was made in advance and that there were special circumstances for granting the leave however, these regulations have been amended by regulations of the same name which came into force on 1st September 2013. The regulations remove all references for holidays and the ability to authorise up to 10 school days of leave, so that leave of absence is only granted where a request is made in advance and the leave is classed as exceptional circumstances. There is no statutory definition of what is classed as an exceptional circumstance and it is the decision of the Head Teacher

For further information on statutory duties see Annex 1

2 Procedure for issuing Penalty Notices

- 2.1 It has been locally agreed that within Redcar and Cleveland, Penalty Notices will only be issued by the Attendance & Welfare Service following authorisation from the Senior Attendance Welfare Officer or the Lead for Inclusion. This will ensure that duplicate notices will not be issued or when proceedings for an offence under Section 444 Education Act 1996, have already been commenced. Requests to issue notices from other authorities will also only be considered and authorised by the Senior Attendance Welfare Officer or the Lead for Inclusion. The Service will ensure that the issuing of Penalty Notices is closely monitored and that recipients pay the relevant fine to the Local Authority. In any case where the penalty is not paid within the appropriate period, the AWS reserves the right to 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. If a parent has been issued with 3 notices previously in any 12-month period that parent may then receive a summons to court.
- 2.3 The Attendance & Welfare Service will consider requests to issue Penalty Notices from schools/colleges in Redcar & Cleveland and neighbouring local authorities. The Attendance & Welfare Service will action these requests providing:
- a. The circumstances of the case meet the criteria for the issue of a Penalty Notice which are specified in this Code of Conduct, and
 - b. All necessary information is provided to the Attendance & Welfare Service in order to establish that an offence, under Section 444(1) Education Act 1996, has been committed.
 - c.
- 2.4 Within this Code of Conduct, a parent is defined as per Section 576 Education Act 1996, as follows:
- ‘Parent’ means all natural parents, whether they are married or not; and includes any person who, although not a natural parent, has parental responsibility (as defined in the Children’s Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person.
- 2.5 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.
- 2.6 Penalty Notices will not be issued during Truancy Patrols if they are instigated as this could be a health and safety risk. Additionally, not all the information will be available to prove the offence at that time.
- 2.7 Where a Year 11 student is not attending school in the spring term a Penalty Notice should be issued as opposed to a prosecution being taken under Section 444 of the Education Act 1996.

For further information on statutory duties see Annex 2

3. General criteria for the issuing of a Penalty Notice

For issues of non-school attendance (contrary to Section 444(1) of the Education Act 1996):

3.1 Where concerns arise regarding the attendance of a child the Attendance and Welfare Service may consider issuing a parent (s) with a formal warning letter in the following (non-exhaustive) circumstances:

- Where a child, during the previous 24 school weeks, has had at least 10% unauthorised absence marks recorded on the attendance register. or;
- The parent has a previous conviction for an offence contrary to section 444 of the Education Act 1996 or;
- Where the parent of a child continually fails to provide a reasonable or acceptable explanation for a pupil's absence.

Before a decision is made regarding the issue of a penalty notice.

If the school have a service level agreement with our Attendance and Welfare Service we will endeavour to support parents in ensuring the regular school attendance of their children. We will use a multi-agency approach, taking the views of the parents and children into consideration where possible and appropriate.

To do this the following (non-exhaustive) methods would have been considered/used prior to the issue of any Warning Letter/s or Penalty Notice/s:

- Home visits
- Meetings
- Referrals to other agencies for support

3.2 In the aforementioned circumstances, a formal warning letter may be issued to parent(s), advising that in order to avoid a Penalty Notice being issued to them the student should record no unauthorised absences during a specific fifteen school day period. Parent(s) should receive the warning letter no later than three days before the monitoring period commences. This period will be monitored before a decision with regards to issuing a penalty notice or not to issue a penalty notice is made. The local authority will also take into consideration any instance where it appears a parent deliberately or wilfully acted to circumvent the manner in which this policy operates.

3.3 If unauthorised absence (s) is/are recorded during the dates specified on the warning letter, the Penalty Notice may be issued to parent(s).

3.4 **For issues of unauthorised absence:**

- A separate Leave of Absence Policy applies, and consideration is given for issuing Penalty Notices during the following:
- Anytime in September;
- For any student whose attendance was below 95% within the previous 12 calendar months measured from the date before the first day of the leave of absence (including both authorised and unauthorised absences);
- Any time during formal external examinations and assessment periods including preparation time (school will provide evidence to support this);

- If a holiday warning letter or Penalty Notice has been issued during the previous 12 calendar months, measured from the date before the first day of the leave of absence regardless of the overall attendance during the 12 month period.

FOR FURTHER INFORMATION ON STATUTORY DUTIES SEE ANNEX 1

4. Procedure for withdrawing Penalty Notices

- 4.1 A Penalty Notice may be withdrawn by Redcar & Cleveland Local Authority in any case in which the authority determines that:
- (a) it should not have been issued, or
 - (b) it should not have been issued to the person named as the recipient, or
 - (c) it contains material errors or
 - (d) Where a notice is not paid and the authority decides not to prosecute. In such circumstances the regulations require that the penalty notice is withdrawn.
- 4.2 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 Section 444(1) of the Education Act 1996 arising out of the same circumstances.

5. Payment of Penalty Notices

Methods of Payment:

- By Credit or Debit card
- Internet: Go to https://www.civicaepay.co.uk/Redcar/Webpay_Public/Webpay/Default.aspx and select "Education Fine" on the left hand side to make a card payment 24/7.
- Telephone the Contact Centre on 01642 774774 to make a card payment during office hours.

6. Appeal

There is no statutory right of appeal once a notice has been issued.

7. Administration of the Penalty Notice Scheme

All financial penalties are payable to Redcar and Cleveland Council. Regulation 23 of the aforementioned regulations prescribe that sums received through the payment of penalty notices should be used for the issuing and enforcing of the penalty notices and prosecuting recipients who fail to pay the notices.

Annex 1 Statutory Duties

1. Statutory Duties of Redcar and Cleveland Council

1.1 The Local Authority is a relevant enforcer for the purposes of the Education Act 1996. Enforcement can be affected through a number of formalised routes including Penalty Notices and prosecution of parents/carers for irregular attendance and School Attendance Orders.

1.2 Redcar and Cleveland Council employs a core group of personnel to ensure these statutory duties are met and quality assured.

1.3 The areas of legislation that Redcar and Cleveland Council has responsibility for include:

- School Attendance Order - Section 437 Education Act 1996. If it appears to Redcar and Cleveland Council that a child of compulsory school age in the area is not receiving suitable education, either by regular attendance at school or otherwise, a notice will be served in writing to the parent(s) requiring them to satisfy the Local Authority (LA) within a period specified in the notice that the child is receiving such education.
- Prosecution under Section 444(1) and 444(1A) Education Act 1996. If a child of compulsory school age who is a registered pupil at a school is failing to attend regularly at the school, parent(s) may be guilty of an offence.

*The term '**compulsory school age**' is the period of time in a child or young person's life during which a parent or guardian has a duty to provide an **education**, for example, by sending them to **school** or by providing home schooling*

- Penalty Notices (inserted into sections 444A and 444B of the Education Act 1996 by section 23 Anti-social Behaviour Act 2003; and Section 105 of the Education and Inspections Act 2006). Empowers designated LA officers, head teachers (deputy and assistant headteachers authorised by them) and the police to issue Penalty Notices in cases of unauthorised absence from school, and for parental failure to ensure that their child is not present in a public place during school hours without reasonable justification during the first five days of exclusion. Redcar and Cleveland Council has written a Code of Conduct which specifies how Penalty Notices will be issued.

- Education Supervision Orders (ESO) pursuant to section 36 (The Children Act 1989). Before instituting proceedings for an offence of irregular attendance or failure to comply with a school attendance order, the Education Act requires that the LA consider whether it would be appropriate to apply for an ESO instead of, or as well as, prosecuting the child's parents.

2. Statutory Duties of Schools and Academies

2.1 Schools' responsibilities relating to attendance are detailed in the Education (Pupil Registration) (England) Regulations 2006 as amended. These responsibilities include:

- advising Redcar and Cleveland Council of any pupil who fails to attend regularly or has had 10 or more days of continuous unauthorised absence;
- taking a register twice each day (at the start of the morning session and once during the afternoon);
- marking pupils for each session indicating, with the appropriate code, whether each was present, absent, engaged in an approved educational activity off-site or unable to attend due to exceptional circumstances (unavoidable school closure, lack of school/LA transport and not within walking distance or widespread travel disruption due to local/national emergency); and
- complying with statutory registration & deletion procedures.

2.2 Where there are concerns about pupil absence, schools should seek to intervene early and maintain a chronology and record of all contacts regarding pupil absence with the pupil, parent and other agencies. This is of great importance, as schools will be required to produce this as evidence if legal intervention is subsequently used.

2.3 For the purposes of school attendance, the term 'parent' means all natural parents, whether they are married or not and includes any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) and any person who, although not a natural parent, has care of a child or young person.

2.4 Registration is a key aspect of excellent practice. Registers are legal documents and school leaders should ensure systems for recording attendance and absence is always accurate. Schools should maintain an up to date knowledge of pupil registration regulations by accessing information from the Department for Education (DfE) website. The DfE provides guidance on the use of National Attendance Codes which are used when completing the school census.

2.5 Where a Headteacher/Externally employed Attendance Agency wishes to refer a matter to Redcar and Cleveland Council for legal proceedings to be considered under s444 (1) or (1A) Education Act 1996, they should complete the EW1 Single Agency Referral Form (SARF) form which can be located here:



Annex 2 Process for Requesting Penalty Notice(s) in Respect of Unauthorised Leave

- Headteacher receives request from parent to grant permission for leave during term time OR Headteacher is notified that a family has taken a family holiday without seeking prior permission;
- Headteacher considers whether the request could be considered to fall under the heading of 'exceptional circumstances'. The headteacher may request additional information to support this consideration. If the request is not being made as a result of 'exceptional circumstances' OR where no request for leave is sought, then the Headteacher must notify the parent, in writing, of their decision to refuse to grant permission for leave. The code for this absence must be unauthorised, and parents must be informed that any refusal to adhere to this decision places the parent(s) at risk of being issued with Penalty Notice(s), as per Redcar and Cleveland Council procedure/Code of Conduct.
- Headteacher to await the response of parent(s) and, if the family holiday goes ahead, during term time, then the period of absence must be clearly recorded as 'G' on the official attendance register (thus ensuring that it is recorded as an unauthorised family holiday);
- Once the student has returned to school, Headteacher to complete the EW1 Single Agency Assessment Form (SARF). Evidence to be included:
 1. The letter sent to parent(s) notifying them that the absence would not be authorised and warning them that the matter would now be passed to the Local Authority;
 2. A copy of the student's registration certificate which clearly shows the period of absence which has been coded as G (unauthorised family holiday).
 3. A copy of the student's registration certificate for the previous academic year.
 4. A copy of the Holiday warning letter (issued in last 12 months) if applicable.
 5. A copy of School/Academy Leave Of Absence Policy .

Upon receipt of the relevant documentation, the Attendance and Welfare Team will check to determine whether the criteria to issue a Penalty Notice to each parent in respect of the unauthorised leave has been met. Penalty Notices will be sent by way of first-class post. Each Parent will be given 21 days to pay £60 for each child, should the fine(s) fail to be paid it will double to £120 and the parents will be given a further 7 days to make payment in full. Parents failing to pay within 28 days will face prosecution under section 444 Education Act 1996.

Where court proceedings are instigated as a result of non-payment, the Attendance and Welfare Service will be responsible for providing a section 9 witness statement. The Headteacher of the relevant school will be

required to provide a signed statement of attendance, a proforma of which will be provided to the Headteacher by our court file administrator. If you have any queries/questions in relation to this process, please do not hesitate to contact the Attendance and Welfare Team on AWS@redcar-cleveland.gov.uk.

Annex 3 Evidential and Public Interest Tests

1. Evidential Test

1.1 In each case the Council will consider whether there is a realistic prospect of conviction. This will involve considerations of whether evidence (e.g. copies of the registers, statements, letters reports) is admissible, reliable and credible. If a case does not pass the evidential stage it must not proceed, no matter what level of non-attendance is involved.

1.2 The Council officers will consider any information presented by the parent in order to ascertain whether any of the statutory evidences are likely to be available.

2. Public Interest Test

2.1 Prior to undertaking any enforcement action, each individual case will be assessed to ensure that it is in the public interest to proceed. A prosecution will not usually take place if the prosecutor is satisfied that the public interest factors tending against prosecution outweigh those tending in favour of a prosecution.

2.2 Subject to receiving relevant information, the Council will consider whether there are any factors which tend to lower the culpability of the parents concerned or otherwise suggest that it may be disproportionate or unreasonable to proceed with a criminal case.

2.3 It should be understood that the presence of any public interest mentioned below (or a combination of them) is not determinative of whether a criminal prosecution should proceed be permitted to proceed. However, the following is a nonexclusive list of factors which if present and known to the LA Officer may be considered by the relevant officer considering the public interest test.

Sample factors which tend to suggest that a prosecution might not be in the public interest		
1.	Very high levels of attendance	It is settled law that attendance, otherwise than in accordance with the schools' rules, is not "regular attendance". However, it is acknowledged that if the overall percentage of attendance is particularly high (e.g. over 96% over a given school term) then it may not be in the public interest to pursue a prosecution.
2.	Temporary health issues with the concerned Parent	If a parent is temporarily ill and this was the cause of the child's absence it may suggest that repetition of the non-attendance is less likely. A low likelihood of a repetition is likely to suggest that the public interest is not served by a prosecution.
3.	Relevant health or psychological issues with the child	It is recognised that psychological factors the child may inhibit the child from attending school regularly:- <ul style="list-style-type: none"> • Stress and anxiety; • Socialisation problems; • Bullying whilst at school. If these factors are present it may suggest that other interventions rather than a criminal prosecution of the parent have a better prospect of assisting in achieving regular attendance.
4.	Temporary family difficulties:-	Relationship breakdown; Domestic abuse, Substance / alcohol abuse; Financial pressures; It is recognised that in temporary situations of exceptional hardship may suggest the Council may wish to consider a broader range of options rather than criminal prosecutions.
5.	The age of the child	If a child is almost 18 years of age, there may be limited benefit in prosecuting.
6.	Issues related to destabilisation of the family unit	It is recognised that certain parents in certain professions may face substantial prejudice as a result of receiving a criminal offence (particularly a recordable criminal offence).
Sample factors which tend to suggest that a prosecution may be the public interest		
1.	Very poor levels of attendance	If the level of attendance is particularly poor then a criminal prosecution may be entirely necessary and proportionate.

2.	Parental knowledge of a child's none-attendance.	Although the question of a parent's knowledge is strictly only a component of the aggravated offence under Section 444(1)(a), it would aggravate any offending if the parent knew of the non-attendance and failed to take any steps to curtail the none-attendance.
3.	A lack of engagement by the parent with relevant educational authorities	The Local Authority aims to work in partnership with those they seek to regulate. A lack of engagement by the parent may suggest that a more formal means of enforcement is necessary.
4.	Previous convictions for the same offence	Previous convictions may suggest that the parent has a clear understanding of their legal duties but has continued to permit none-attendance.

If Redcar and Cleveland determines it is not appropriate or in the public interest to proceed with a prosecution, it will inform the school setting out the reasons why.