



CODE OF CONDUCT FOR ISSUING PENALTY NOTICES IN RESPECT OF PARENTAL RESPONSIBILITY FOR THE WHEREABOUTS OF CHILDREN EXCLUDED FROM SCHOOL

Revised September 2013

1. LEGAL BACKGROUND

The local code sets out the procedures and terms under which Penalty Notices can be issued in Central Bedfordshire. Authorised persons should issue Penalty Notices in compliance with this code in order to ensure that the powers are consistently applied.

- 1.1 Section 103 of the Education and Inspection Act 2006 places a duty on the parents of a child excluded from school. A parent has to ensure that the child is not present in a public place during school hours without reasonable justification during the first five days of each and every fixed period or permanent exclusion.
- 1.2 School hours mean a school session or break between sessions on the same school day. A public place means any highway or other place to which the public has access. A school is not a public place for this purpose.
- 1.3 The days of exclusion when this parental duty arises are known as 'specified day of exclusion' and will be detailed in a letter given to the parent under section 104 of the Act.
- 1.4 Section 576, Education Act 1996 defines a parent as:
 - all natural parents, whether named or not
 - any person who although not a natural parent, has parental responsibility (as defined in Children Act 1989) for a child or young person
 - any person who, although not a natural parent, has care of the child or young person. A person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered a parent in education law.

Throughout this document 'parent' means each and every parent referred to within this definition.

2. THE FOLLOWING CAN ISSUE PENALTY NOTICES

- 2.1 Authorised Local Authority staff, Head teachers (Deputy and Assistant Head teachers authorised by them) and the Police.
- 2.2 The issuing of Penalty Notices must conform to requirement of the Human Right Act 1998 and all other Equal Opportunities legislation.

3. PROCEDURES FOR ISSUING PENALTY NOTICES

- 3.1 Central Bedfordshire Access and Inclusion Service will be responsible for the decision to issue Penalty Notices. The Central Bedfordshire Access and Inclusion Service will receive requests to issue Penalty Notices from schools, the Police and neighbouring Local Authorities. These requests will be considered provided that:
- all relevant and evidential information is supplied, including evidence that the parent was made aware of their responsibility;
 - the issuing of a Penalty Notice does not conflict with other intervention strategies or other enforcement sanctions already being processed;
 - the requirements of cross border protocols are met.

4. CIRCUMSTANCES WHERE A PENALTY NOTICE MAY BE ISSUED

- 4.1 A Penalty Notice can only be issued in the case of a child being present in a public place during school hours for the first five days during an exclusion, unless there is reasonable justification for the pupil to be there. The maximum number of Penalty Notices which can be issued to one parent is two in a twelve month period. In situations where there is more than one pupil in a family facing a fixed- term exclusion, multiple Penalty Notices can be issued to the same parent/carers during the year. However, this action must be subject to careful consideration and co-ordination.
- 4.2 A parent/carers will receive a letter from the school notifying the period of exclusion, informing them of their responsibilities and advising them that a Penalty Notice may be received. This letter will serve as a warning and therefore no other warning on the possible issue of a Penalty Notice will be received.

5. PAYMENT OF PENALTY NOTICES

- 5.1 The arrangement for the payment will be detailed on 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 the Notice (a notice served by post is deemed to have been received on the second working day after posting if by first class post). If the Penalty Notice is not paid by the end of the prescribed period, the Local Authority must either prosecute or withdraw the Notice. If convicted the offence is punishable by level 3 on the standard scale or a fine up to £1000.

6. PROCEDURE FOR WITHDRAWING PENALTY NOTICES

- 6.1 A Penalty Notice can only be withdrawn in the following circumstances:
- when it has been issued to the wrong person;
 - when the issue of the Penalty Notice did not conform to the terms of this protocol;
 - when the Penalty Notice was materially defective.

7. POLICY AND PUBLICITY

- 7.1 All school behaviour policies should include information on the deployment of Penalty Notices which should be brought to the attention of parents. The LA will include information on the use of Penalty Notices in promotional information material.

8. REPORTING AND REVIEW

- 8.1 A review of the deployment of the Penalty Notices will be undertaken at the end of each school term and the strategy amended as appropriate.

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