PENALTY NOTICES

ADVICE FOR PARENTS AND CARERS

Derbyshire County Council *Children and Younger Adults*

DERBYSHIRE County Council
Improving life for local people

AB795

ADVICE FOR PARENTS AND CARERS

- **What is the Anti-Social Behaviour Act 2003?**

  The Act is a law that came into force on 27 February 2004. It gives new powers to the County Council, Schools and the Police to issue Penalty Notices for non-attendance at school. The Penalty Notices will be issued where it is considered that parents are able to improve their child's attendance but are not willing to do so.

- **Why have they been introduced**?

  Reducing absence from school is very important. This is because missing school can damage children's achievements, disrupt the school's routines and affect other children's learning. It can also leave children at risk of anti-social behaviour and youth crime. Above all, missing out on the opportunities provided in school can have a long-term effect on children's chances in life.

- **What are my responsibilities as a parent**?

  You have a legal duty to ensure that your child receives full-time education[1]. Unless you can show that you are providing this yourself, you must ensure that your child attends school regularly and on time. You will be committing an offence, therefore, if your child fails to attend regularly and punctually and the school has not given permission for the absence or late arrival.

  ***Remember - only your child's school can authorise absence or late arrival*.**

  If you fail to make sure that your child attends regularly and punctually, you may be prosecuted in Court. The penalties are severe and, in serious cases, may result in a prison sentence.

- **What is a Penalty Notice**?

  A Penalty Notice is an alternative to prosecution. It requires the parent to pay a fixed amount as a fine for the child's non-attendance and avoids a court appearance. It is intended to secure better attendance without taking legal action through the courts.

- **What are the costs**?

  Payment is £100 to be paid within 42 days. The 42 days starts 2 days after the date of issue as shown on the Notice. If the fine is paid within 28 days, payment reduces to £50.

  The fine will apply to each parent for each child who fails to attend regularly and punctually.

  For example, in a family where there are two parents who fail to ensure proper attendance of their two children, the fine would be £200 for each parent.

[1] The law states that education must be *"efficient, full-time and suitable to the child's age, ability, aptitude and to any special educational needs the child may have"*

- **Who is counted as the parent responsible for ensuring attendance?**

  The law defines a parent as:

  - Any natural parent, whether married or not
  - Any parent who, even if not married, has responsibility as a parent
  - Any person who, although not a natural parent, has care of a child or young person

  Having care of a child or young person means that if the child or young person lives with you and is cared for by you, then you will be regarded as the parent.

- **How are they issued?**

  A Penalty Notice will normally be sent by first class post to your home.

- **When are they used**?

  Penalty Notices can be used in a wide range of circumstances. In particular, they will be used where it is clear that parents can ensure their child attends school regularly and on time but are not willing to do so.

  Before we issue a Penalty Notice, we will check to see how much school your child has missed.

  We never take such action lightly. We would prefer to work with parents or carers to improve attendance without having to enforce it. However, we will use these new powers if this is the only way to ensure a child attends school properly.

- **Is a warning given?**

  Yes, you will receive one written warning. It will tell you how many school sessions your child has missed and give you 15 school days to improve your child's attendance. If there is no lasting improvement, a Penalty Notice will be issued.

  You will not receive a warning, however, if you have taken a holiday in term time without the school's permission.

- **Can I take holidays in term time?**

  Parents are not entitled to take their children on holiday in term time. Such holidays can only be taken with the written approval of the Headteacher. Each case will be considered on its merits and the decision of the Headteacher is final.

  We will issue a Penalty Notice for any period of holiday during term time that has not been authorised by the Headteacher.

  Please remember that for holidays taken in term time without the school's approval:

  - Each parent will be fined for each child for each period of absence
  - A Penalty Notice will be issued regardless of previous attendance
  - A Penalty Notice will be issued without warning

Taking or allowing your child to take a holiday in term time without the school's permission is a serious matter. If we find that you have done so, we will not hesitate to issue a Penalty Notice.

- **Can I appeal?**

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

  We can take back a Penalty Notice but **only if**:

  - It should not have been issued in the first place (for example, if your child was actually at school) or
  - It has been issued to the wrong person

  If you believe that either of these is true, you should contact the County Council immediately with evidence to support your view. The contact details will be included in the Penalty Notice.

- **How do I pay?**

  Details of how to pay will be included in the Penalty Notice. Please remember that there will be no reminder to pay and no opportunity to pay in instalments. Failure to pay will result in prosecution.

- **What happens if I do not pay?**

  If you do not pay, the consequences can be very serious. You have up to 42 days from receipt to pay the Penalty Notice in full. After this time, if it has not been paid, we are required by law to begin proceedings in the Magistrates Court for the original offence of poor attendance by your child.

  If proven, this can attract a range of fines up to £2500, other remedies such as Parenting Orders or Community Sentences, or imprisonment depending on the circumstances. The courts have already imposed such sentences. A guilty verdict will also mean that you will have a criminal record.

  All this can be avoided by payment in full by the due date.

- **Can I be prosecuted if I pay but my child still fails to attend school?**

  You cannot be prosecuted for the period included in the Penalty Notice. However, you can be prosecuted for any further periods of non-attendance not covered by the Penalty Notice, depending on the circumstances. If you are worried about this, it is vital that you work with your child's school and support agencies such as the Education Welfare Service.

- **Can I get help if my child is not attending regularly?**

  Yes, the County Council and your child's school will give you advice and support. If you need help, please do not hesitate to speak to your child's teacher, in the first instance, or with the Education Welfare Service. We will do all we can to help to improve your child's attendance and to support you in making sure that your child is happy in school.