

Schools Management Forum

Report of: Trevor Dunn: Access to Education

Subject: Fixed Penalty Notices in relation to school attendance

Date: November 2019

1. Legal Basis

- 1.1 Sections 444A and 444B of the Education Act 1996 (supported 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 Authority Officers to issue Penalty Notices in cases where an offence under s444 has, in the opinion of the Local Authority, been committed.
- 1.2 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
- 1.3 The Access to Education Service issue Penalty Notices in Middlesbrough on behalf of the Local Authority (LA), adhering to Middlesbrough's Code of conduct (Appendix 1). This ensures consistent and equitable delivery, retains home-school relationships and allows integration with other enforcement sanctions.
- 1.4 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.

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There is no legal requirement for there first to have been a Penalty Notice issued before proceeding to prosecution.

2. Income

2.1 The table below shows the number of Fixed Penalty notices issued and the associated income collected:

Academic year	Number of Penalty Notices issued	Income received from Penalty Notices issued per financial year
2016 – 2017	602	£3,780
2017 – 2018	1172	£44,880
2018 – 2019	1459	£62,460

2.2 The fines are paid to the Local Authority. The Education and Inspections Act 2006 (Appendix 2) states the sums received by a LA from issuing Fixed Penalty Notices should be used for the purposes of carrying out its functions and any not so used should be returned to the DfE.

In Middlesbrough, all of the income generated from the fines is used to cover:

- All related administration including ensuring compliance of all documentation. Preparation and issuing of LA decision to prosecute letters, preparation and issuing of Penalty Notices and obtaining proof of service.
- Enforcement costs: preparing legal papers and case files, presentation of all files and associated evidence, witness statements, preparation of exhibits and disclosure documents. Preparation of summons.
- Collection costs: referencing and allocation of payments to account.
- Clarification on points of law for parent/carers, Head teachers and school staff.

2.3 Where the income is insufficient to cover the costs outlined in 2.2 the Council will make good the shortfall.

3 Non-payment of Penalty Notices

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- 3.1 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.

4 Support with Improving Attendance

- 4.1 The Council can provide support to schools to help them improve attendance through the provision of a comprehensive EWO service, though this needs to be paid for by the school.

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