

Penalty Notices (Fines) - Frequently Asked Questions



Who decides whether I receive a Penalty Notice (fine)?

Only the headteacher can decide how your child's absence is recorded and whether it is authorised or unauthorised. The local authority cannot influence or change this decision.

If a school records an absence as unauthorised, it may refer the case to Sandwell Council for consideration of a Penalty Notice.

When a referral is received, the council checks that it meets the legal requirements and that there is evidence of an offence under the Education Act 1996. This offence relates to a parent's failure to ensure their child attends school regularly.

The law does not set a minimum attendance percentage that counts as "regular attendance".

The courts have confirmed that regular attendance means attending school as required by the school. This means that any unauthorised absence may be considered irregular attendance, regardless of a child's previous attendance record.

Where there is evidence that an offence has been committed, the council has a legal duty to consider formal action, which may include issuing a Penalty Notice or referring the matter to the Magistrates' Court.

What is an unauthorised absence?

An unauthorised absence is an absence that the headteacher has not approved.

Only the headteacher can authorise absences.

The following attendance codes are classed as unauthorised:

- **G** - Unauthorised holiday during term time
- **O** - Other unauthorised absence
- **U** - Arriving at school after the register has closed

These absence codes may provide evidence of an offence under the Education Act 1996.

If you have information that was not available to the school when the absence occurred, you should discuss this with the school as soon as possible. However, schools are not required to consider information provided after the absence has taken place.

If the school decides that the absence remains unauthorised, the Penalty Notice will remain valid.



Why do some schools authorise an absence when another school would not?

Only the headteacher can decide whether to authorise an absence.

The law states that absence can only be authorised in exceptional circumstances. Generally, exceptional circumstances are situations that are:

- Rare
- Unavoidable
- Short in duration

'Unavoidable' means the event could not reasonably be arranged outside term time.

Family holidays taken during term time are unlikely to be authorised because they can usually be taken during school holidays instead.

The Government expects schools to minimise absence during term time and to use Penalty Notices where appropriate.

When will I receive a fine for taking my child on holiday during term time?

A Penalty Notice cannot be issued until your child has returned to school.

Once your child returns, the school may refer the case to the local authority. The local authority will review the information and, if there is evidence of an offence, will issue a Penalty Notice.

The notice will be sent by first-class post and will explain how much you need to pay, when payment is due, and how to make payment.

A teacher told me the holiday would be okay. Why have I received a fine?

You should discuss this directly with the school.

Only the headteacher can decide whether an absence is authorised or unauthorised and how it is recorded in the attendance register.

The local authority has no role in making or changing these decisions.

My child normally has good attendance. Does this matter?

No. There is no attendance percentage in law that automatically protects a parent from receiving a Penalty Notice.

The Supreme Court has ruled that regular attendance means attending school in line with the school's attendance requirements. Any unauthorised absence may therefore be considered irregular attendance.

Your child's previous or future attendance record does not affect whether an offence has been committed.



I am not the child's parent and do not have parental responsibility. Can I still receive a Penalty Notice?

Yes.

Education law defines a parent as:

- Any biological parent, whether married or not.
- Any person who has care of the child, even if they are not the biological parent.

For example, this may include someone the child lives with and who is responsible for their day-to-day care.

Penalty Notices may be issued to all people who meet the legal definition of a parent.

Can I appeal a Penalty Notice?

There is no formal right of appeal against a Penalty Notice.

The only way to challenge the matter is through the court process.

There are limited legal defences available, including:

- Your child was too ill to attend school.
- Home-to-school transport provided by the local authority failed.
- Your child was absent to take part in a recognised religious observance.
- Your child could not attend because of an unavoidable cause, such as a genuine emergency that could not reasonably have been prevented.

If you believe one of these legal defences applies, you should contact your child's school. If you choose not to pay the Penalty Notice, the matter may be referred to court, where your circumstances can be considered.

Please be aware that the court can impose higher fines and order you to pay court costs if you are found guilty.

I cannot afford the fine. Can I pay in instalments?

No.

A Penalty Notice is a time-limited alternative to court action and must be paid in full. Payment plans and instalment arrangements are not available.

If court proceedings are started, a court may consider payment arrangements if a financial penalty is imposed.



How long do I have to pay?

You have **28 days** to pay the Penalty Notice.

The payment period and amount are set by law and cannot be changed.

Penalty Notices cannot be put on hold, and payment by instalments is not permitted.

What happens if I do not pay?

If you do not pay the Penalty Notice, the case is likely to be referred to the Magistrates' Court.

You will have the opportunity to explain why you disagree with the case. However, the legal defences available are limited, and you may wish to seek independent legal advice.

If the court finds you guilty:

- The fine may be higher than the Penalty Notice amount.
- You may be ordered to pay court costs.
- You will receive a criminal conviction.

A criminal conviction may affect current or future employment opportunities.

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