Penalty Notice Code of Conduct

Havering Schools, Academies, Alternative Provisions, Independent and Free Schools

2026/2027

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Policy Version Control

Academic Year	Amendment / Policy Changes	Section(s) Updated
2024/2025	Complete review following implementation of the Education (Penalty Notices) (England) (Amendment) Regulations 2024, the School Attendance (Pupil Registration) (England) Regulations 2024 and the DfE National Framework for Penalty Notices effective from 19 August 2024. Introduction of new penalty notice threshold, Notice to Improve process and revised charging structure.	All
2025/2026	Updated to reflect legislative changes introduced through the National Framework for Penalty Notices, including increased penalty notice fines, revised enforcement arrangements and clarification of local authority processes.	All
2026/2027	**Full review undertaken to align with *Working Together to Improve School Attendance* (DfE July 2026). Updated legal references, strengthened support-first principles, clarified circumstances where a Penalty Notice may be issued with or without a Notice to Improve, updated cross-border arrangements and revised operational procedures.**	**All**

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1. Introduction

The London Borough of Havering is committed to promoting excellent school attendance and ensuring that all children receive their entitlement to a full-time education.
Penalty Notices form part of a wider framework of attendance support and legal intervention available to schools and local authorities. The use of Penalty Notices must comply with the Education (Penalty Notices) (England) Regulations, the National Framework for Penalty Notices and statutory attendance guidance issued by the Department for Education.
The Department for Education promotes a support-first approach, with legal intervention only used where support is not appropriate, has not been engaged with, or has not secured the required improvement in attendance

This Code of Conduct applies to all maintained schools, academies, alternative provisions, independent schools and free schools within the London Borough of Havering.

2. Principles

This Code of Conduct sets out the arrangements for the consistent use of Penalty Notices across the London Borough of Havering in accordance with the national framework for school attendance and relevant legislation. It aims to ensure that Penalty Notices are applied fairly, consistently and proportionately, whilst supporting schools, parents and the Local Authority in promoting regular attendance and safeguarding children. Penalty Notices form part of a wider attendance strategy that prioritises early identification, support and intervention to help children access their education and achieve the best possible outcomes.

The Code is underpinned by the following principles:

Support Before Enforcement

Wherever possible, schools and the Local Authority should work with children, young people and their families to identify and address barriers to attendance before legal enforcement is considered. Penalty Notices should be used when appropriate support and intervention have not secured the required improvement.

Consistency

Penalty Notices should be applied fairly and consistently across all schools and educational settings, ensuring that families are treated equitably and in line with national and local expectations.

Proportionality

Decisions to issue a Penalty Notice should take account of the individual circumstances of each case and be proportionate to the nature and extent of the attendance concerns.

Safeguarding

Attendance concerns should always be considered within the context of a child's welfare. Persistent or unexplained absence may indicate wider vulnerabilities or safeguarding risks, and these should be appropriately explored and addressed.

Transparency and Accountability

Penalty Notice decisions should be clear, evidence-based and capable of withstanding scrutiny. Parents, carers and professionals should understand the circumstances in which a Penalty Notice may be issued and the processes that will be followed.

Promoting Positive Attendance

The primary purpose of attendance enforcement is to support and encourage regular school attendance, enabling children and young people to access education, achieve their potential and benefit from the opportunities that education provides.

3. Legal Framework

This policy should be read alongside the following legislation and statutory guidance;
Education Act 1996, Sections 444 and 444A
Education Act 1996 - Sections 444 and 444A [legislation.gov.uk]
Education and Inspections Act 2006, Section 103
Education and Inspections Act 2006 - Section 103 [legislation.gov.uk]
Education (Penalty Notices) (England) Regulations 2007
Education (Penalty Notices) (England) Regulations 2007
Education (Penalty Notices) (England) (Amendment) Regulations 2024
Education (Penalty Notices) (England) (Amendment) Regulations 2024 [legislation.gov.uk]
School Attendance (Pupil Registration) (England) Regulations 2024
School Attendance (Pupil Registration) (England) Regulations 2024 [legislation.gov.uk]
Working Together to Improve School Attendance (DfE July 2026)
Working Together to Improve School Attendance (DfE July 2026)

A Penalty Notice may only be issued to a parent of a child of compulsory school age where there is evidence of unauthorised absence and the statutory threshold has been met.

For the purposes of attendance legislation, the definition of a parent is contained within Section 576 of the Education Act 1996 and includes:

- Any natural parent
- Any person who has parental responsibility
- Any person who has care of the child

Penalty Notices may only be issued by an authorised officer acting on behalf of the Local Authority.

4. Consultation Arrangements

This Code has been developed in consultation with:

- Headteachers
- Governing Bodies
- Academy Trust Leaders
- The Metropolitan Police Service

The Code applies to all schools, academies, alternative provision settings, free schools and independent schools within the London Borough of Havering.

5. Circumstances Where a Penalty Notice May Be Issued

The decision to issue a Penalty Notice will always be made on a case-by-case basis.

A Penalty Notice may only be issued where:

- The absence is unauthorised
- The national threshold has been met
- Support is not appropriate, has not been engaged with or has not been successful
- A Penalty Notice is considered the most appropriate intervention to improve attendance

5.1 National Threshold

The national threshold for issuing a Penalty Notice is:

10 sessions (equivalent to 5 school days) of unauthorised absence within a rolling period of 10 school weeks.

The threshold may include:

- Unauthorised holidays during term time.
- Unauthorised leave of absence.
- Unauthorised late arrival after the close of registration.
- Any other unauthorised absence recorded in accordance with attendance regulations.

5.2 Notice to Improve

Where support has been offered but attendance remains a concern, a Notice to Improve may be issued.

A Notice to Improve will:

- Explain the attendance concerns.
- Identify the improvements required.
- Outline support available.
- Specify a review period.
- Warn that a Penalty Notice may be issued if attendance does not improve.

Parents will normally be given a minimum of 20 school days to secure improvement before a Penalty Notice is considered.

5.3 Circumstances Where a Penalty Notice May Be Issued Without a Notice to Improve

In exceptional circumstances, a Penalty Notice may be issued without a prior Notice to Improve.

Examples include:

- A parent taking a child on an unauthorised holiday or leave of absence during term time.
- A child failing to return to school following an agreed period of authorised leave.
- Extended unauthorised absence knowingly permitted by the parent.
- A pupil being present in a public place during school hours without reasonable justification during the first five school days of a suspension.
- A pupil being present in a public place during school hours without reasonable justification during the first five school days following a permanent exclusion.

The Local Authority will determine whether issuing a Penalty Notice without prior warning is appropriate and proportionate in the circumstances of the case.

6. Requests for Penalty Notices

The Havering School Attendance Service is responsible for issuing Penalty Notices.
Schools requesting a Penalty Notice must provide:

- A completed Penalty Notice Referral Form
- Attendance records
- Details of support offered
- Evidence of intervention undertaken
- Copies of relevant correspondence
- Evidence that statutory procedures have been followed

The Attendance Service will review each referral and determine whether a Penalty Notice should be issued. The Local Authority reserves the right to refuse a request where statutory criteria have not been met.

7. Serving Penalty Notices

Penalty Notices may be served by:

- Personal delivery
- Leaving the notice at the recipient's last known address
- Sending the notice by post

Where a notice is served by post, service shall be deemed effective on the second working day after posting unless evidence demonstrates otherwise.

8. Withdrawal of Penalty Notices

There is no statutory right of appeal against a Penalty Notice.
A Penalty Notice may only be withdrawn where:

- The notice should not have been issued
- The notice was issued to the wrong person
- The notice remains unpaid and prosecution is no longer considered appropriate

Where a Penalty Notice is withdrawn, the Local Authority will notify the parent in writing.
The Attendance Service will determine whether withdrawal or prosecution is appropriate.

9. National Threshold and Maximum Number of Penalty Notices

The National Framework places limits on the use of Penalty Notices.
Within a rolling three-year period:

- A maximum of two Penalty Notices may be issued to the same parent for the same child.

A third or subsequent offence will normally result in consideration of prosecution or an alternative attendance enforcement route.
Where a second Penalty Notice is issued to the same parent for the same child within three years, the higher rate will apply.

10. Payment and Collection of Fines

First Penalty Notice

- £80 if paid within 21 days.
- £160 if paid within 28 days but after the first 21 days.

Second Penalty Notice

Where a second Penalty Notice is issued to the same parent for the same child within a rolling three-year period:

- £160
- No discounted payment option applies

All monies received are retained by the Local Authority in accordance with statutory regulations.

11. Prosecution Following Non-Payment

If payment is not received in full within 28 days, the Local Authority must either:

- Commence prosecution proceedings; or
- Withdraw the Penalty Notice where legislation permits

Any prosecution will normally be brought under:

- Section 444 Education Act 1996 (irregular attendance); or
- Section 103 Education and Inspections Act 2006 (exclusion-related offences)

The prosecution is for the original attendance offence and not for failure to pay the Penalty Notice.

12. Cross Border Arrangements

The Local Authority in whose area the school is situated is responsible for issuing and administering the Penalty Notice.

Havering will work collaboratively with neighbouring local authorities to:

- Exchange information
- Prevent duplicate notices
- Ensure consistency in the application of the National Framework
- Support effective attendance enforcement across local authority boundaries

For cross-border enquiries: **crossborder.penaltynotice@havering.gov.uk**