

School absence: Penalty Notices and Legal Action

5 Minute
Facts

What is it?

Regular and punctual attendance of pupils at school is both a legal requirement and essential for pupils to maximise their educational opportunities. Missing out on lessons leaves children vulnerable to falling behind. Children with poor attendance tend to achieve less in both primary and secondary school. Schools are expected to monitor the attendance of all pupils on their roll and act early to address patterns of absence.

Penalty notices should be used as an early deterrent to prevent patterns of unauthorised absence developing. They should be used where a parent is capable of securing an improvement in their child's school attendance but where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.

What are our legal responsibilities?

Section 7 of the Education Act 1996 places a duty on parents to ensure that their children of compulsory school age receive a suitable full time education. Once a child is registered at a school, the parent is responsible for ensuring that the child attends regularly and punctually. If a parent fails to ensure the child attends school regularly and the absence is not approved by the Headteacher, they may be guilty of an offence under section 444 of the Education Act 1996.

Section 444 has two separate but linked offences.

- **Section 444 (1) where a parent fails to secure the child's regular attendance:** A person found guilty of such an offence is liable on summary conviction to a fine of up to £1000.
- **Section 444 (1A) where a parent knows that the child is failing to attend regularly at the school and fails without reasonable justification to cause them to do so.** A person found guilty of such an offence is liable on summary conviction to a fine of up to £2,500 and / or up to three months imprisonment

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Circumstances where a penalty notice may be issued

A Penalty Notice can only be issued where a pupil of compulsory school age has been absent (or late after the register has closed) for 10 half day sessions or more over any two consecutive half terms and the absence has not been authorised by the school.

What we do in Bolton?

The Local Authority will issue penalty notices in line with the code of conduct where absence from school meets the minimum evidential requirement and it is deemed appropriate.

In Bolton, penalty notices for non-attendance will be issued by the Early Intervention Service. The Service will ensure that the issuing of penalty notices is closely monitored with recipients paying the relevant fine. In cases where the penalty is not paid within the appropriate period, the Local Authority will consider instigating action through the court as required by legislation.

A separate penalty notice will be issued to each parent for every child who is not attending school.

For the purposes of the protocol, the legal definitions of 'parent' are:

- Any natural parent, whether married or not
- Any parent who, although not a natural parent, has parental responsibility as defined in the Children Act (1989) for a child or young person
- Any person who, although not a natural parent, has care of a child or young person

**For more information
and key contacts...**

Please contact the **The Child Employment
and Enforcement Officer** on **01204 338173**

**Bolton
Council**