I am not the child's biological parent and I don't have parental responsibility for the child. Can I be issued with a Penalty Notice?

Yes.

Under section 576 of the Education Act 1996 (EA 1996), a "parent" in relation to a child or young person is defined as either:

• The biological parents of a child, whether they are married or not and/or

• Any person, who has regular care of a child or young person even if they are not the biological parent or don't legally hold parental responsibility for the child or children in question.

Penalty notices can be issued to a child/young person's parents, step parents and/or any adult residing in the family home that has day to day care of the child/young person.

Penalty notices are issued to each parent/carer for each child who had an unauthorised absence from school. This means that each responsible "parent" may receive a penalty notice for each child included in the request.

Who Issues the Penalty Notice?

Penalty Notices are issued by London Borough of Havering at the request of a named referrer. In most cases the referrer is the School/Academy where the child/young person is on roll.

Can I request the withdrawal of penalty notice?

No. As the person receiving the Penalty Notice you cannot request a withdrawal of the fine. Your child's school could request that the local authority withdraw a fine but there are specific criteria which must be met first.

Can I appeal against the Penalty Notice?

There is no appeal process once a penalty notice has been issued.

If you disagree with the reason(s) you have been issued with a penalty notice fine you should contact the school or academy directly to discuss the circumstances of your child's absence so that the Headteacher can consider whether the reason is exceptional and the absence should have been authorised.

The Penalty Notice Process will continue unless a request is made to the local authority by the named referrer to consider withdrawing your penalty notice.

Please be aware that once issued, penalty notice fines can only be withdrawn under specific criteria laid out in the regulations.

Can I make a part-payment or can I have an extension to the payment deadline?

The Penalty Notice will be issued in line with the Havering Code of Conduct. The fine is £80.00 per parent, per child, rising to £160 if unpaid after 21 days. If payment is not received by 28 days, the Local Authority may consider taking a prosecution against you for the offence.

If a second penalty notice is issued for the same child within a rolling 3-year period, you will be charged at a higher rate of £160 with no option for this second offence to be discharged at the lower rate of £80.

A national limit of 2 penalty notices can be issued to a parent for the same child within a rolling 3-year period, so at the 3rd or subsequent offence(s) there will not be the option of a penalty notice, the matter will proceed directly to the Magistrates Court as

directed by the DfE (Department of Education) Guidance.

Part payments or instalments are not accepted. Payments must be made in full by the deadline stated on the penalty notice documents otherwise you may be liable for prosecution at court.

If I disagree with the absence being marked as unauthorised, who can I discuss this with?

The statutory guidance clearly states that it is solely the decision of the Headteacher at your child/young person's school/academy as to whether the absence is authorised and for how long.

Where an absence is unauthorised by a school, the Headteacher then makes the request to the Local Authority to issue the parents/carers with a penalty notice fine. They make this request because they have decided that based on the information provided to them by the pupil's parents / carers, they do not believe the reason for the absence is exceptional or the absence exceeded the amount of time the Headteacher has permitted the pupil to be absent from school.

The Local Authority is unable to adjudicate on decisions made by individual Headteachers or change the authorisation of any absences from school. This would undermine the authority of the Headteacher of your child's school.

The Pupil Registration (England) Regulations only allow the Local Authority to withdraw fines in very specific circumstances. For example, if the register was found to have been marked incorrectly or a fine was issued to the wrong person.

The pupil registration regulations prevent Headteachers from agreeing a leave of absence in term time unless they determine that the reason for the absence is exceptional.

Penalty Notices are issued for unauthorised absences only. If you believe that the absence within the time-period should be authorised because you believe the reason for the absence was exceptional you should contact the School/Academy directly and discuss the matter with the headteacher.

My child's attendance is normally very good. I think it is unfair that I have been issued with a fine because I took them out of school to go on a family holiday.

The Pupil Registration (England) Regulations were changed in 2024. Headteachers cannot agree a leave of absence in term time for the purpose of a family holiday.

Therefore, if you take your child out of school without authorisation from the Headteacher for a leave of absence (holiday) in term time you can be liable for a fine even if your child's attendance is not otherwise causing concern for the school.

Following the Supreme court judgement in 2017, this is not a defence you can use if you are issued with a penalty notice fine or should you be prosecuted at court.

Contact Information

Please send any queries to:

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