

**REDBRIDGE CODE OF CONDUCT  
PENALTY NOTICES IN RESPECT OF CASES OF NON ATTENDANCE AND  
PERSISTENT LATENESS  
s444A and 444B Education Act 1996**

The purpose of this local code of conduct is to ensure that the powers are applied consistently and fairly across the Local Authority area and that suitable arrangements are in place for the administration of the scheme.

The Government requires Local Authorities to issue a code of conduct.

The Redbridge code has been agreed following consultation with:

- Redbridge Local Authority – Education Welfare Service
- Headteachers of Redbridge Schools include Academy provisions and Independent that have purchased the services of Education Welfare.
- Redbridge Faith Forum

In accordance with the Education (Penalty Notices) Regulation 2007 (as amended) and s444A Education Act 1996.

Anyone issuing a penalty notice to a parent\* of a child of statutory school age on roll at a Redbridge School, must do so within the terms of this code.

It is a requirement that schools consult with their governing body regarding the use of penalty notices and to notify parent(s)/carer(s) of the scheme.

**Legislation**

Section 23 of the Anti Social Behaviour Act 2003 introduced s.444(A) and s.444B of the Education Act 1996 to empower designated LA Officers, Head teachers and the Police to issue penalty notices in cases of unauthorised absence from school.

Section 105 of the Education and Inspections Act 2006 enables penalty notices to be issued to a parent of an excluded child, who is in breach of their duty to ensure that their child is not present in a public place during the first 5 days of exclusion (either fixed term or permanent). Revised regulations and guidance relating to penalty notices in cases of truancy and exclusions came into force on 1 September 2007. The LA is responsible for drawing up a local Code of Conduct after consultation in accordance with the Regulations.

The Secretary of State has made Regulations pursuant to s.444B & s.569 Education Act 1996 and s.106 and s.181 of the Education and Inspections Act 2006.

The Local Authority has had regard to the Guidance on Education Related Parenting Contracts, Parenting Orders and Penalty Notices when preparing this Code of Conduct.

**Authorisation to issue Penalty Notices**

Designated officers will prepare penalty notices upon receipt of a concern from a Head Teacher. The Designated Officer for the Local Authority will make the final decision to proceed.

A penalty notice will not be issued when the Education Welfare Service is instigating legal intervention proceedings for irregular school attendance.

It has been agreed that the Education Welfare Service, on behalf of Redbridge LA, will issue penalty notices (with payment and benefits department sending out the invoices and collecting payments).

There is an expectation that schools and the assigned education welfare officer scrutinise every aspect of a pupil's case in preparation for consideration for the issue of a penalty notice. The Education Welfare Service will administer the scheme from any funds obtained as a result of issuing penalty notices.

A Police Officer may also issue a penalty notice.

## **RATIONALE**

### **Attendance**

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their social and educational opportunities. In law an offence occurs if a parent/carer fails to secure a child's regular attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Similarly, an offence is committed when a parent whose child has been excluded from school and who has been given the relevant notice of that, allows their child to be in a public place during school hours on any of the first five school days of that exclusion.

Redbridge LA will issue penalty notices for leave of absence taken without the permission of the Headteacher as a supplement to the existing sanctions currently available under Section 444 Education Act 1996 or section 36 Children Act 1989 to enforce attendance at school where appropriate.

This may be for:-

- A) 12 unauthorised sessions in any **12 school week period**.
- B) Leave of absence taken without the permission of the Headteacher.

### **Punctuality**

In cases of persistent lateness a Headteacher can apply to the LA to issue a penalty notice, though a notice will not normally be issued unless the child concerned has had 7 or more lates (after the close of registration) in a **6 school week period**.

No more than 2 penalty notices should be issued for lates for the same family in any 1 academic year as the LA is likely instead to deal with the matter under s444 Education Act 1996.

When requesting the issue of penalty notice the Headteacher should consider the school journey, adverse weather conditions and individual circumstances.

Penalty notices will only be issued if the parent/carer had previously been made aware that this may be the result of the unauthorised absence

The Education Welfare Service will apply their judgement to those cases which could not proceed to court if unpaid, as to whether to issue the requested Penalty Notice. The School will be notified as to the reason if the Penalty Notice is not issued.

In each case where a second penalty notice request has been received the Education Welfare Service reserves the right to undertake relevant investigations.

Redbridge Education Welfare Service will continue to investigate cases of irregular non-attendance from school and following appropriate case work will instigate legal proceedings if necessary. In order to comply with human rights legislation, and to ensure that a decision to issue a notice is a proportionate one in the circumstances, and thereby to promote public acceptance of the use of penalty notices it is essential that penalty notices are issued in a consistent manner.

Penalty notices will involve the recipient paying a penalty, currently set at £120.00 per parent, per child if paid within 28 days or £60.00 per parent, per child, if paid within 21 days. If the penalty is not paid, the Council must either withdraw the notice or prosecute.

### **Failure to Ensure Regular School Attendance.**

A Penalty Notice may also be issued in respect of offences under section 444 (offence: failure to secure regular attendance at school of registered pupil) of the Education Act 1996 and section 103 (duty of parent in relation to excluded pupil) of the Education and Inspections Act 2006.

### **Who May Issue a Penalty Notice**

Redbridge Education Welfare will be responsible for deciding whether to issue of a penalty notice requested by a Headteacher

- **Leave of absence without permission**

Redbridge Headteachers continue to be concerned about the increasing absences due to parents withdrawing their children for family holidays during term time. These absences can cause pupils to fall behind with their studies and have a detrimental effect on their academic achievement, especially when taken out of school more than once a year or when the pupil already has a poor attendance record.

(The Education (Pupil Registration) (England) Regulations 2006 (as amended) make provision for leave of absence in term-time only with the permission of the Headteacher).

If a minimum of three days or more leave of absence is taken without authorisation the Headteacher can request the issue of a penalty notice fine. This request must be submitted within 2 weeks of the child returning to school. The request will be sent to the Education Welfare Service who will decide, in accordance with the Redbridge Code of Conduct, to issue the penalty notice.

Leave of absence application forms should state that penalty notices may be issued by the LA for leave taken without the authorisation of the headteacher. This serves as a written warning to the parents.

The Headteacher must have regard to guidance on pupil leave of absence in term time when considering each request.

Requests for leave of absence, for example a funeral, should be dealt with in accordance with the school policy and the Redbridge Attendance Strategy.

- **Pupils identified during an Attendance and Welfare Truancy Sweep**

Targeted truancy sweeps will on occasion take place in Redbridge and children may be stopped who are with parents condoning the absence.

If the Headteacher does not authorise the absence - or if they are in a public place within the first 5 school days of period of exclusion, the school can ask the Education Welfare Service to implement a penalty notice.

Note: A police officer can also decide to issue a Penalty Notice.

### **Withdrawal of Penalty Notice**

A penalty notice can be withdrawn in the following circumstances:

- Where it has been issued outside the terms of the local code of conduct or where no offence has been committed.
- Where it has been issued to the wrong person and/or an incorrect address.
- Where the notice contains material errors.
- In the circumstances of permanent exclusion, reasonable justification has been made by parent.

### **Co-ordination between the LA and its local partners**

The Education Welfare Service and its local partners will review this Code of Conduct annually.

*\* All those defined as a parent under Section 576 Education Act 1996 are parents for the purpose of these provisions. This means that all natural parents, whether they are married or not; any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law. Parent means each and every parent coming within the definition (whether acting jointly or separately) and should not be taken to mean that provisions only apply to parent in the singular.*

*As with prosecutions under Section 444 Education Act 1996 a penalty notice may be issued to each parent liable for the offence.*

**Colin Stewart – Operational Director Education & Inclusion**  
**Agreed in consultation with Redbridge Faith Forum 2014**

**Delegation of Power to:**—Sue Bendon, Education Welfare Service Operational Manager

**September 2017**