

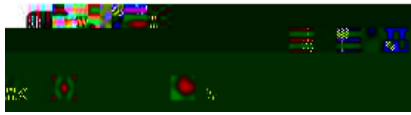
September 2024

Education Legal Intervention Team

Attendance and Inclusive Pathways Service

Birmingham City Council









5.5 In order for the Local Authority to act there must be a minimum of 10 sessions of





7.1 Section 23 of the Anti-Social Behaviour Act 2003 provides for the use of Penalty Notices by inserting section 444A into the Education Act 1996. This allows for Penalty Notices to be issued where it appears that an offence under section 444 of the Act has been committed.

7.2 The Education (Penalty Notices) (England) (Amendment) Regulations 2024 sets out the national framework for penalty notices and the Birmingham Education Penalty Notice Code of Conduct sets out the scheme for Birmingham City Council.

7.3 In Birmingham, it has been agreed that penalty notices will only be issued by the Local Authority and may provide a more proportionate response to non-attendance than a prosecution and one which can often be taken sooner and for less serious non-attendance. In Birmingham penalty notices can be issued for first offences, following an unsuccessful notice to improve or without one being issued, and where a child has less than 60 sessions of unauthorised absence over the period of evidence.

7.4 The Education (Penalty Notices) (England) (Amendment) Regulations 2024 also increased the amount of the penalty to £160 if paid within 28 days reduced to £80 if paid within 21 days.

7.5 Where penalty notices for a first offence are paid and a second offence against the same child is committed within a three year period, a second penalty notice can be issued, though under the national framework, parents cannot be offered the discount of £80. Where a third offence is committed further penalty notices cannot be issued and the local authority will issue a single justice procedure notice instead.

7.6 In exceptional circumstances, ELIT may allow late payment of the higher amount within the time specified by the officer upon contact from the parent.

7.7 There is no legal right of appeal against education penalty notices but where parents feel the penalty notice should not have been issued, they must contact ELIT using the relevant online form and attach any supporting evidence. Penalty Notices will be put on hold until the evidence is reviewed and a decision made. Parents will be then notified in writing of the decision to whether the penalty notice has been withdrawn or payment must be made within an amended timeframe.

8.1 A Notice to Improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued.

8.2 If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, the local authority may









11.3 Before serving the order, the relevant officer shall write to the parent:

- informing him/her of their intention to serve the order,
- specifying the school which the LA intend to name in the order.

11.4 Section 443(1) states that if a parent on whom a school attendance order is served fails to comply with the requirements of the order, s/he is guilty of an offence, unless s/he proves that s/he is causing the child to receive suitable education otherwise than at school.

11.5 If it is believed an offence has been committed, ELIT will issue the parents with a single justice notice.

11.6 This is essentially a strict liability offence i.e. there are a limited number of statutory defences:

child is in school

child is being educated otherwise (at home)

