

Statutory guidance allows Penalty Notices to be issued by a head teacher or someone authorised by them (a deputy or assistant head). In the case of academies, the Principal may delegate this function to their deputy or assistant principals, however described.

3. MEANING OF PARENT

The legal definition of a parent is contained in Section 576 of the Education Act 1996 and refers to any adult who is a natural parent, someone with Parental Responsibility or someone with whom the child lives and who looks after the child, irrespective of their relationship with the child.

The Department for Education clarifies this as below:

It is important that schools and local authorities are aware that parents may be recognised differently under education law and under family law. Section 576 of the Education Act 1996 states that, in relation to a child or young person, a 'parent' includes any person who is not a parent (from which can be inferred 'biological parent') but who has parental responsibility for or care of the child.

For the purposes of education law, the Department for Education (DfE) considers a 'parent' to include:

all biological parents, whether they are married or not

any person who, although not a biological parent, has parental responsibility for a child or young person – this could be an adoptive parent, a step-parent, a guardian or other relative

any person who, although they are not a biological parent and do not have parental responsibility, has care of a child or young person

A person typically has care of a child or young person if the child lives with them either full or part time and they look after them, irrespective of what their biological or legal relationship is with the child.

If a person is not the biological parent of a child, does not have parental responsibility for the child, and the child no longer lives with them, it is unlikely they will be recognised as a parent. Any disputes about whether a person is a child's 'parent' within the meaning of section 576 of the Education Act 1996 are for the courts to decide.

[Understanding and dealing with issues relating to parental responsibility](#)

4. WHO WILL RECEIVE A PENALTY NOTICE?

A Penalty Notice will be issued to each parent of each child whose attendance is poor, whose child was taken on an unauthorised term time holiday or term time leave, or in the cases of exclusion, where the pupil is present in a public place during the first five days.

Head teachers have the discretion to authorise term time leave and this should be authorised as an exception rather than the rule. There is no entitlement of up to two weeks term time leave for each academic year.

Payment of the notice discharges the parent's liability for the period in question and they



- there has been a period of unauthorised absence (not less than 10 school sessions) which has been specifically condoned by the parent e.g. a parent choosing to take their child on a term-time holiday without authorisation
- a registered pupil has been late (after the close of registration) for 10 or more sessions in any six week period and the Local Authority is satisfied that there is sufficient evidence to show the parent has committed an offence under s444(1) or s444(1A) of the Education Act 1996, and a Notice to Improve has been served either by the school, and a penalty notice has not been issued in the past 12 months for the same child
- an offence has been committed under S103 of the Education and Inspections Act 2006 where a pupil had been found in a public place without reasonable justification in the first five days of an exclusion or suspension.
- a pupil has been stopped during a truancy patrol but only after due consideration when all the facts are known and the threshold for serving the notice has been met and agreement is reached with Head of Service to ensure that it is appropriate to serve the notice.

If a child has received a penalty notice in the previous 12 months, alternative processes are necessary, for example prosecution in the Magistrates Court for the period in question or an application to the Family Proceedings Court for an Education Supervision Order.

Reasonable justification will be considered in each individual case but will include instances where it is not appropriate to leave a child alone in the home.

Information will be given to anyone stopped on a truancy patrol about the possible support and sanctions used to address non-attendance.

10. DECLINING TO ISSUE A PENALTY NOTICE AND PENALTY NOTICE QSP
REFERENCE NUMBER

o 10 or more late arrivals (after the close of registration) in any six week period

- Schools will monitor pupil attendance regularly and agree statutory action with the LA as needed (including the issue of Penalty Notices)
 - the LA will maintain a record of all referrals from schools for unauthorised absence and make an assessment of the individual circumstances at PACE meetings
 - in cases of persistent unauthorised absence, parents will be warned by letter from the school of the possibility of statutory action, and if there is any more unauthorised absence a penalty notice will be issued
 - in the event of unauthorised holidays or persistent lateness, a penalty notice will be issued directly when the school has already sent a formal warning letter
 - In the event that a single school issues a penalty notice for an unauthorised holiday, the LA will issue penalty notices for any siblings attending other Torbay schools who also went on the holiday.
 - schools will have policies to ensure that a parent has received an appropriate warning following unauthorised holidays or persistent lateness and in their exclusion or suspension letters advising of the parents' duty to ensure their child is not in a public place and may receive a penalty notice.
 - a penalty notice issued by the school will usually be delivered by post but in some circumstances will be delivered by post and by hand

14. GOOD PRACTICE FOR SCHOOLS

Where schools decide to issue their own Penalty Notices, only head teachers or principals or those authorised by them (senior leaders or principals) may sign Penalty Notices.

School registers have the appropriate registration absence code as an extract from the register is required in the event of court action

Attendance Certificates signed by the head teacher or principal are sent to the LA
Requests for the Local Authority to issue Penalty Notices are made within 10 school days of the child's return to school following unauthorised term time leave