

What is the Anti-Social Behaviour Act 2003?

Section 23 of the Act gives powers to the Local Authority and other designated bodies to issue Penalty Notices where a parent/carer is considered capable of but unwilling to secure an improvement in their child's school attendance.

The powers came into force on the 27th February 2004.

Why has it been introduced?

Reducing absence from school is a key priority nationally and locally because missing school damages a pupil's attainment levels, disrupts school routines and the learning of others and can leave a pupil vulnerable to anti-social behaviour and youth crime.

Above all, missing school seriously affects children's longer term life opportunities.

What is a Penalty Notice?

Under existing legislation, parents/carers commit an offence if a child fails to attend regularly and the absences are classed as unauthorised (those for which the school cannot or has not given permission). Depending on circumstances such cases may result in prosecution under Section 444 of the Education Act 1996.

A Penalty Notice is an alternative to prosecution, which does not require an appearance in Court whilst still securing an improvement in a pupil's attendance.

Payment of a Penalty Notice enables parents to discharge potential liability for conviction.

What are the costs?

Payment within 21 days of receipt of a Notice is £60 per parent/carer per child and £120 per parent/carer per child if paid after 21 days but within 28 days.

How are they issued?

By post to your home. The 21/28 days will take into account the time it takes to deliver the notice which is taken to be 2 days after posting.

When are they used?

In Walsall, penalty notices are used mainly in relation to unauthorised holiday in term time.

With effect from 1 September 2013, amendments to the 2006 Pupil Registration regulations remove the right for parents/carers to request up to 10 days' absence for a 'family holiday' or 'extended leave'. There is still provision for families to request leave of absence but the amendments make it clear that Headteachers should not grant any leave of absence during term time for any purpose unless there are exceptional circumstances. In those cases, where leave is granted, it is for headteachers to determine the number of school days a child can be away from school. There is no definition of exceptional circumstances.

Walsall considers that regular attendance at school is of such importance that Penalty Notices will be issued whenever a child is taken out of school during term time to go on holiday and the school does not believe that the reason given is an "exceptional circumstance"; the only reason that a request may be approved.

Once the headteacher of the school has considered your request and the reason given for it, he or she will decide whether the reasons are "exceptional". There are very few reasons which might meet this criterion and the fact that the holiday is cheaper will not be considered sufficient reason. The headteacher will inform you in writing about whether the absence will be authorised or not. If the absence is not authorised, the headteacher may request the local authority to issue a penalty notice.

If you take a holiday without informing the school, it is extremely unlikely that the headteacher will authorise the absence even if the original reason may have met the "exceptional circumstance" criteria.

Is there an appeal process?

There is no statutory right of appeal once a notice has been issued, but, if you feel that the notice should not have been issued, you may choose not to pay it and then explain your reasons to the magistrates if the matter is referred to court (see below).