

MILTON KEYNES  
SCHOOL ATTENDANCE  
FIXED PENALTY NOTICES  
CODE OF CONDUCT

CONTENTS

GENERAL .....	1
DEFINITIONS .....	2
GROUNDS FOR ISSUING A FIXED PENALTY NOTICE .....	2
RESTRICTIONS ON ISSUING OF FIXED PENALTY NOTICES .....	2
WHO MAY ISSUE A FIXED PENALTY NOTICE.....	3
DUTY TO CONSULT .....	3
TRUANCY PATROLS .....	3
WARNING LETTERS.....	4
SERVICE OF FIXED PENALTY NOTICES.....	4
NON-PAYMENT OF A FIXED PENALTY NOTICE.....	4
INFORMATION.....	5

This is a revision of the Code of Conduct, which came into effect on 1<sup>st</sup> January 2005 and which is reviewed annually thereafter.

The new Code will come into effect on 29<sup>th</sup> October 2006.

## 1. GENERAL

This Code of Conduct is made by Milton Keynes Council in pursuant of Sections 444A and 444B of the Education Act, 1996, and the Education (Fixed Penalty Notices) (England) Regulations 2004.

Section 23 of the Anti-Social Behaviour Act 2003 empowers designated Local Authority officers, Headteachers (and Deputy and Assistant Headteachers authorised by them) and the Police to issue Fixed Penalty Notices in the case of unauthorised absence. The Education (Fixed Penalty Notices) (England) Regulations 2004 came into force on 27<sup>th</sup> February 2004 and this is the resultant code.

The purpose of this Code of Conduct is to ensure that the power to issue a Fixed Penalty Notice is applied consistently and fairly across Milton Keynes, and that suitable arrangements are in place for the administration of the scheme.

Fixed Penalty Notices supplement existing sanctions currently available under Section 444, Education Act 1996 and Section 36 Children Act 1989. The Education Welfare Service has delegated power to take actions under these regulations.

The purpose of issuing a Fixed Penalty Notice in Milton Keynes will be solely to combat truancy problems before they become entrenched, and where a parent is not engaging with efforts to achieve this.

## 2. DEFINITIONS

In this Code of Conduct, the following definitions apply:

### Child

A person who is of compulsory school age.

### Parent

Anyone who is a parent of a child within the meaning of Section 576 of the Education Act 1996.

### School

Any maintained school, Pupil Referral Unit or other off site provision paid for out of public funds.

### Fixed Penalty Notices

A Fixed Penalty Notice is issued in accordance with Section 23 of the Anti-Social Behaviour Act and Section 444 (1) of the Education Act 1996 and Regulation 2 of The Education (Fixed Penalty Notices) (England) Regulations 2004.

## 3. GROUNDS FOR ISSUING A FIXED PENALTY NOTICE

A Fixed Penalty Notice can only be issued for **unauthorised** absence and may be issued in the following circumstances:

- a. the child has been absent from school for more than ten unauthorised sessions in any 12 week period,
- b. the child has been stopped during a truancy sweep (accompanied or unaccompanied)
- c. Excessive holidays in term time without prior agreement from the school. Criteria for *excessive* holidays would include:
  - More than one holiday in an academic year
  - General poor school attendance
- d. Excessive delayed return from extended holidays without prior agreement
- e. persistent late arrival at school after the register has closed

### PROVIDED THAT

the authorised officer in consultation with the Local Authority has reason to believe that there is sufficient evidence to show that a parent has committed an offence under Section 444(1) of the Education Act 1996, and none of the defences outlined in section 444(1) of the Education Act 1996 apply, and Milton Keynes Local Authority has concluded that it would not be appropriate to apply for an Education Supervision Order, under Section 36 of the Children Act 1989, and none of the exemptions listed below apply.

## 4. RESTRICTIONS ON ISSUING OF FIXED PENALTY NOTICES

Not more than one Fixed Penalty Notice per child shall be issued to a parent in any school year.

No one shall serve a Fixed Penalty Notice on a parent of a child who is:

- a. At immediate risk of significant harm, or
- b. Looked after by a Local Authority

No one shall serve a Fixed Penalty Notice on a parent who is:

- a. A Local Authority which has parental responsibility by virtue of a Care Order under Section 31 of the Children Act 1989, or
- b. Serving a term of imprisonment at the time the child was absent from school,
- c. An in-patient of a medical facility at the time the child was absent from school.

## 5. WHO MAY ISSUE A FIXED PENALTY NOTICE

A Fixed Penalty Notice shall only be issued by;

The Principal Education Welfare Officer as authorised by the Head of Education to issue such Fixed Penalty Notices.

A Fixed Penalty Notice can also be requested to be issued by the following, provided that the circumstances of the pupil's absence meets all the requirements of this Code of Conduct and the Education Welfare Service's Protocol for Fixed Penalty Notices.

- a. A head teacher of a maintained school in Milton Keynes (or his or her authorised deputy or assistant head teacher) but only where the governing body of the school has agreed to adopt this code of conduct, or
- b. The teacher in charge of any Pupil Referral Unit, or other off-site provision funded by Milton Keynes Local Authority, or
- c. Thames Valley police, or
- d. Neighbouring Local Authorities

Any requests from any of the above should be made to the Principal Education Welfare Officer on the form attached to this code being **Appendix 1**. Consideration of the request will be made and the Principal Education Welfare Officer will decide if the request should result in a Fixed Penalty Notice being issued.

A Fixed Penalty Notice may only be issued by the Principal Education Welfare Officer in respect of a child who is a registered pupil at a maintained school in Milton Keynes.

A Fixed Penalty Notice may only be requested by a head teacher of a maintained school in Milton Keynes (or his or her authorised deputy or assistant head teacher) in respect of a child who is a registered pupil at that school.

## 6. DUTY TO CONSULT

In order to avoid the issuing of duplicate Fixed Penalty Notices, and to ensure that Fixed Penalty Notices are not issued when other legal proceedings are being planned or commenced (under section 31 or 36 of The Children Act 1989, or section 444(1) of the Education Act 1996) no person shall request a Fixed Penalty Notice unless they have first checked the details with the Principal Education Welfare Officer or delegated members of staff such as the attached Education Welfare Officer for the school, and obtained authorisation to do so.

## 7. TRUANCY PATROLS

Where a police officer and Education Welfare Officer stop a child with a parent during a truancy sweep under the provisions of Section 16 of the Crime and Disorder Act 1998, and it appears to the police officer and Education Welfare Officer that the child is absent from a maintained school without prior authorisation, they shall refer the child's name, the parent's name and other details forthwith to the Principal Education Welfare Officer.

If the child is a registered pupil at a maintained school in Milton Keynes, and none of the restrictions above in Paragraph 3 apply, the Principal Education Welfare Officer may issue a Fixed Penalty Notice warning letter or Fixed Penalty Notice as appropriate.

If the child is a pupil at a maintained school in the area of another Local Authority, the Education Welfare Service shall refer the child's name, the parent's name and other details forthwith to the Principal Education Welfare Officer or Principal Education Social Worker of that Authority.

## 8. WARNING LETTERS

The normal response to a first offence will be a formal written warning to the parent/carer of the possibility of a Fixed Penalty Notice being issued. This is good practice as outlined in the Regulations 2004.

A warning letter will always act as a pre-cursor to the Fixed Penalty Notice being issued.\* The Principal or Senior Education Welfare Officer will sanction the issue of a warning letter being served as a prelude to a Fixed Penalty Notice being issued at the request of a Headteacher or other nominated party.

After the warning letter is issued the Education Welfare Officer will monitor the pupil's attendance. The pupil is expected to attain 100% attendance unless there are medical notes or the school is notified of other exceptional circumstances, which will allow the school to authorise the absence. If the pupil has been absent and the school have not authorised the absence then a Fixed Penalty Notice will be issued by the Principal Education Welfare Officer.

Once issued the warning shall remain in place for the remainder of that term.

***\* Unless the parent has deliberately taken the child out of school for a holiday in term time without / against the school's permission (where it can be clearly demonstrated that all parents have been notified at the beginning of the school year that permission had not/would not be given) and where this has created a period of unauthorised absence in the current term of at least 10 sessions. In these circumstances a Fixed Penalty Notice may be issued without a formal warning letter being sent.***

## 9. SERVICE OF FIXED PENALTY NOTICES

When a Fixed Penalty Notice is issued in accordance with procedures, a separate Fixed Penalty Notice will be issued to all persons known to be a parent or carer of the child in question.

The Fixed Penalty Notice is deemed to have been received on the second day after post by first class post.

When a Fixed Penalty Notice is issued, written details of:

- a. How and where to pay the Fixed Penalty Notice
- b. What to do if the parent believes that a Fixed Penalty Notice has been issued in error.

Will be issued.

Where the child attends school in Milton Keynes, but resides in the area of another Local Authority, the Principal Education Welfare Officer shall also send a copy of the Fixed Penalty Notice to the Chief Education Officer of the Local Authority where the child resides.

## 10. NON-PAYMENT OF A FIXED PENALTY NOTICE

Non-payment of a Fixed Penalty Notice will result in:

EITHER

A Summons being served on the parent/carer under the provisions of Section 444 of the Education Act 1996.

OR

Withdrawal of the Fixed Penalty Notice if found to have been issued in error

i.e. where it has been issued outside the terms of the Local Code of Conduct and Protocol.

OR

Where it is found that no offence has been committed

OR

Where it has been issued to the wrong person.

## **11. INFORMATION**

The Principal Education Welfare Officer will maintain a register of Fixed Penalty Notices issued, and include details of each child's school, school year, gender, ethnicity, special educational needs/disability, and publish the details at the end of each academic year.

## **APPENDIX 1**

### **REQUEST TO ISSUE A FIXED PENALTY NOTICE**

**From: [name & address of school, police etc]**

**Person requesting issue of a Fixed Penalty Notice**

**Position:**

**Pupils Name**

**D.O.B:**

**Year:**

**Total attendance percentage over last five weeks:  
(Please attach an attendance certificate)**

**Parents/carers FULL names:**

**Address:**

**Brief Description of circumstances, which have led to request:**

**If Holiday in term time**

**Request for holiday received:**

**Request declined: (Copy attached)**

**Reason why**

**Departure Date: (Current attendance - copy attached)**

**Return Date:**

**Dates of previous offence (if any)**

**Signed:**

**Please return to:**

**PEWO  
Education Welfare Service  
Holne Chase Centre  
Buckingham Road  
Bletchley  
Milton Keynes  
MK3 5HP**