

**Milton Keynes Council  
Education Welfare Service  
Fixed Penalty Notice Protocol**

**1. Legal Basis:**

Section 23 of the Anti Social Behaviour Act 2003 empowers designated Local Authority officers, Head Teachers (& Deputy and Assistant Headteachers authorised by them) and the Police to issue Fixed Penalty Notices in cases of unauthorised absence from school.

The Education (Fixed Penalty Notices) (England) Regulations 2004 come into force on 27<sup>th</sup> February 2004.

The issuing of Fixed Penalty Notices must conform to all requirements of the Human Rights Act and all Equal Opportunities legislation.

The Local Authority has the prime responsibility for developing the protocol within which all partners named in the Act will operate

**2. Rationale:**

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

In law an offence occurs if a parent/carer fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Fixed Penalty Notices supplement the existing sanctions currently available under Sec 444, Education Act 1996 or Sec 36, the Children's Act 1989 to enforce attendance at school where appropriate. The Education Welfare Service (EWS) delivers this Local Authority responsibility.

Parents and pupils are supported at school and Local Authority level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.

Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.

### **3. Circumstances where a Fixed Penalty Notice may be issued:**

A Fixed Penalty Notice can only be issued in cases of **unauthorised** absence.

Use of Fixed Penalty Notices will be restricted to one per parent per pupil per school year.

In cases where families contain more than one poor-attending pupil multiple issue may occur but this will be the subject of careful consideration and co-ordination.

There will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Fixed Penalty Notice. However, once a warning is issued it will remain in place for the remainder of the term.

The issuing of a Fixed Penalty Notice is considered appropriate in the following circumstances:

- The child has been absent from school for more than ten unauthorised sessions in any 12-week period.
- The child has been stopped during a truancy sweep (accompanied or unaccompanied)
- Excessive holidays in term-time without prior agreement. Criteria for excessive holidays would include those listed below;
  - *More than one holiday in a school year*
  - *General poor school attendance*
- Excessive delayed return from extended holidays without prior school agreement
- Persistent late arrival at school after the register has closed.
- Failure to ensure attendance at any alternative educational provision

To ensure consistent delivery of Fixed Penalty Notices the following criteria will apply:

- At least 10 sessions (5 school days) lost to unauthorised absence by the pupil during a 12 week period.
- Other than in specific circumstances\*\* the liable parent/carer will receive a formal warning of the possibility of a Fixed Penalty Notice being issued and notified that should their child be absent for any unauthorised circumstances for that term then a FPN will be issued.

*\*\* The deliberate taking of a holiday in term time without / against school permission (where it can be clearly demonstrated that the parent/carer understood 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.*

Schools must consider every aspect of a pupil's case before considering whether a Fixed Penalty Notice would be appropriate. This must include strategic discussions with the assigned EWO and any other attendance-support staff who have involvement with or knowledge of the pupil/family.

#### **4. Procedure for Issuing Fixed Penalty Notices:**

The Principal or Senior Education Welfare Officer will authorise the issuing of Fixed Penalty Notices in Milton Keynes.

This will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions.

Fixed Penalty Notices will only be issued by post and never as an on the spot action; this is to satisfy that all evidential requirements are in place and to meet Health and Safety requirements.

The EWS will receive requests to issue Fixed Penalty Notices from schools, Thames Valley Police and neighbouring Local Authorities. These requests will be actioned provided that:

- All relevant information is supplied in the specified manner,
- The circumstances of the pupil's absence meets all the requirements of this Protocol,
- The issue of a Fixed Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.

The Principal Education Welfare Officer will respond to all requests within 10 school days of receipt and where all criteria are met will:

- Issue a formal written warning to the parent/carer of the possibility of a Fixed Penalty Notice being issued.
- In the same letter set a period within which the pupil must have no unauthorised absence.
- Issue a Fixed Penalty Notice through the post if the required level of improvement has not been achieved.

#### **5. Procedure for withdrawing Fixed Penalty Notices:**

Once issued, a Fixed Penalty Notice will only be withdrawn in the following circumstances:

- Proof has been established that the Fixed Penalty Notice was issued to the wrong person.
- The use of the Fixed Penalty Notice did not conform to the terms of this Protocol.

## **6. Payment of Fixed Penalty Notices:**

Arrangements for payment will be detailed on the Fixed Penalty Notice.

Payment of a Fixed Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Fixed Penalty Notice.

Payment of a Fixed Penalty Notice within 28 days is £50 and payment after this time but within 42 days is £100.

The Local Authority retains any revenue from Fixed Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment).

## **7. Non-payment of Fixed Penalty Notices:**

Non-payment of a Fixed Penalty Notice will result in the withdrawal of the Notice and will trigger the fast-track prosecution process under the provisions of Sec 444, 1996 Education Act.

## **8. Policy & Publicity**

Deployment of Fixed Penalty Notices as a sanction is included in the Authority's Attendance Policy.

All school Attendance Policies will include information on the deployment of Fixed Penalty Notices and this will be brought to the attention of all parents.

The Local Authority will include information on the use of Fixed Penalty Notices and other attendance enforcement sanctions in promotional/ public information material.

## **9. Reporting & Review:**

The Principal Education Welfare Officer will review the use of Fixed Penalty Notices annually and amend the general enforcement strategy as appropriate.

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.