

Code of conduct for issuing education penalty notices

REVISED September 2020

1.0 Introduction

1.1 This code has been issued pursuant to The Education (Penalty Notices) (England) Regulations 2007/1867 (as amended) and applies to all schools and academies in Gloucestershire (except for independent schools). All references to the Local Authority mean Gloucestershire County Council.

1.2 Regular and punctual attendance of pupils at school is essential in order for pupils to maximise the opportunities available to them. The purpose of this code is to set out the procedure for issuing penalty notices in respect of the following two offences:

- **Education Act 1996, section 444(1):** failure by a parent to secure regular attendance at school of a registered pupil
- **Education and Inspections Act 2006, section 103:** duty of a parent of an excluded pupil to ensure the pupil is not present in a public place at any time during school hours on a school day.

1.3 Penalty notices are not the only means of disposal for these offences. Depending on the circumstances of each case, the Local Authority (LA) may alternatively decide to issue a caution, or to prosecute the offence in a magistrates' court, or to take no further action.

1.4 It is important that decisions about these offences are made in accordance with the Human Rights Act 1998 and the Equality Act 2010 as well as specific relevant legislation, regulations and statutory guidance. Therefore, in Gloucestershire the agreed practice is that all penalty notices will be issued by the LA.

2.0 Who is a parent?

2.1 Parent means:

- All natural parents, whether they are married or not;
- Any person who has parental responsibility for a child or young person;
- Any person who has day to day care of a child or young person i.e. lives with and looks after the child.

The LA and the school will need to decide who comes within the definition of parent in respect of a particular pupil when using the legal measures. A penalty notice may be issued to each parent for each child. The definition of a parent in education law is broader than the definition in other legislation. The 'parent' in this case does not need to be named on the birth certificate and could be, for example, the birth parent's current partner if they are involved in the day to day care of the child.

3.0 Who can issue a penalty notice?

3.1 Penalty notices for offences under section 444(1) of the Education Act 1996 must be issued by an authorised officer in accordance with section 444A of the Education Act 1996.

3.2 Penalty notices for offences under section 103 of the Education and Inspections Act 2006 must be issued by an authorised officer in accordance with section 105 of the Education and Inspections Act 2006.

3.3 For the purposes of sections 444A and 105 above, an authorised officer is the Local Authority, a police officer, the headteacher of the relevant school, or a member of staff at the relevant school who has been authorised by the headteacher.

3.4 The practice in Gloucestershire is for all penalty notices to be issued by the LA. The reason for this is that if the penalty notice is unpaid, only the LA may prosecute parents for the original offence, under either Section 444 (1) of the Education Act 1996 or Section 103 of the Education and Inspections Act 2006 and the LA must be able to be satisfied that the penalty notice was issued correctly. This approach also ensures consistency and equity across the county.

4.0 About Penalty Notices

4.1 Penalty notices may be issued by the LA under any of the following circumstances:

4.1a An excluded pupil found in a public place

An excluded pupil is found in a public place, without a justifiable reason for being there, during school hours on a school day during the first five days of a fixed exclusion period or a permanent exclusion.

4.1ai The parents must have been notified in writing by the school, at the time of the exclusion, of their duty to ensure the child is not found in a public place during school hours and the days to which it applies.

4.1b Unauthorised holiday during term time (Code G)

A minimum of 10 sessions (equivalent to 5 days) of unauthorised absence from school during term-time, in order to take a holiday, within the immediately preceding ten week period (recorded as **Code G** on the school attendance register).

4.1bi Each parent may be issued with a separate penalty notice for each child taken out of school. The issuing of a penalty notice will also be dependent on the school's published information/attendance policy making it clear to parents that they may be issued with a penalty notice, without warning, if they take unauthorised holidays in term time. It will also be dependent on the school clearly defining regular attendance in a way that will permit the requesting of a penalty notice.

4.1c **Persistent lateness after registers have closed (Code U)**

Persistent lateness of a pupil arriving at school after the registers have closed and where there have been 10 sessions of unauthorised lateness within the immediately preceding 10 week period (recorded as **Code U** on the school attendance register).

4.1ci Schools must have thoroughly explored the reasons for the U coded absence and considered whether any support or reasonable adjustment may be required from the school to the pupil. Schools should also be able to provide evidence to the LA that this has been done. The issue of penalty notices in relation to U code absences will be dependent on the school's attendance policy and the definition of regular attendance.

4.1cii Prior to requesting a penalty notice in respect of unauthorised absence for lateness, the school should issue a letter to the parent(s) warning that if there is further unauthorised absence within the next fifteen school days then a penalty notice will be requested for each parent (Appendix 3).

The warning letter must be sent by first class post and formally addressed to **each** parent and may need to be exhibited in court. The warning letter should be considered as served, and the fifteen day period as starting, two days after being posted to allow for delivery time. If there is no further unauthorised absence within the fifteen school day period no penalty notice will be issued but if there are a further ten sessions of absence within the next twelve month period following the warning letter, a penalty notice may be requested.

4.1d **Unauthorised absence (Code O)**

Schools **cannot** request a penalty notice for unauthorised Code O absence.

4.1di For the Local Authority to take legal action against parents in respect of O Code absence (or decide to issue a penalty notice as a suitable disposal), schools must provide evidence that the reason for the absence has been fully investigated and that efforts have been made to work with the parent(s) and pupil to improve attendance.

All schools will be required to follow the expected school level casework set out in Part 2 of the GCC Securing Regular and Punctual attendance 2020.

4.1dii The school will be required to provide a detailed witness statement setting out their evidence and the witness may be required to attend court if evidence is challenged.

4.2 **Warning**

Although there is no requirement to issue a warning letter before requesting a penalty notice for unauthorised holiday absences (**Code G**) parents **must** have been warned of this possibility in the School Attendance Policy and in any communication between home and school at the time the holiday request was made and the decision communicated. It would need to be clear that **all** parents for whom a penalty notice is being requested are aware of the school's position on leave in term time.

Evidence of this could include:

- Warning that is contained on the form the school provides for parents to request leave (Appendix 1) **and/or**
- Warning that was given to the parents when the request for leave was refused (if received before the holiday). (Appendix 2)
- Copies of the frequent reminders that parents receive, through newsletters, about the school's position on term time leave can serve as evidence that parents have been made aware.

In order for the LA to be in the best position to support schools with this type of legal intervention, it is strongly advised that schools use the sample request for leave of absence form and letters included as appendices to this code of conduct.

	G Code	U Code
Absence	10 sessions or more of unauthorised holiday in the immediately preceding 10 week period	10 sessions or more of unauthorised lateness after registers have closed in the immediately preceding 10 week period
Warning	No further warning required unless stipulated within your attendance policy	Warning letter issued to each parent via first class post (Appendix 3)
Requirements that must be met in order to issue a penalty notice	<ul style="list-style-type: none"> • Attendance policy clearly defines regular attendance for your school • Attendance policy makes it clear to parents they can be issued a penalty notice without further warning • If it is within your school policy to issue a warning then evidence of this subsequent warning must be provided • All parents for whom a penalty notice is being requested were aware of the school's position on term time leave <p>Evidence could include:</p> <ul style="list-style-type: none"> • Warning contained on the form the school provides for parents to request leave (Appendix 1) • Warning issued to the parents when the request for leave was refused (if received before the holiday). (Appendix 2) • Copies of the frequent reminders that parents receive, through newsletters, about the school's position on term time leave 	<p>Further unauthorised absence or lateness within 15 school days of the warning letter being served</p> <p>or</p> <p>Further 10 sessions of unauthorised lateness after registers have closed within 12 months of the warning letter being served</p> <ul style="list-style-type: none"> • Reasons for lateness thoroughly explored and reasonable adjustments implemented • Attendance policy includes clearly defined regular attendance • Attendance policy makes it clear to parents they can be issued a penalty notice for unauthorised lateness after registers have closed

4.3 Payment

The penalty notice must be paid within 28 days of deemed service. The amount that will need to be paid will depend on when the payment is made. If full payment is made within the first 21 days, the fine will be £60.00. If, however, payment is made between the 22nd and 28th day, the fine will be £120.00.

4.4 Serving notice

Penalty notices must be served on parents by first class post. Deemed service will be on the second working day after posting. A 'working day' means a day other than a Saturday, Sunday or a public holiday.

4.5 Discharging liability

The parent(s) liability for the specific instance of the offence to which a penalty notice relates will be discharged provided that full payment is made within the prescribed time period.

4.6 Unpaid penalty notices

If a penalty notice remains unpaid more than 28 days after deemed service, and provided that the penalty notice has not been withdrawn, the Local Authority may proceed to prosecute the original offence in a magistrates' court. In the event a prosecution becomes necessary, schools will be required to provide a signed witness statement along with the original, supporting evidence. It is important to note that, the member of staff who completes the witness statement will be required to attend court if the evidence presented is challenged by the defendant. Please refer to section 7, Legal Procedures, for more detailed information regarding this process.

4.6a The LA will not issue a penalty notice unless there is the likelihood of successful prosecution being achieved for the original offence in the event of the penalty notice not being paid. The two-stage legal test to which all criminal prosecutions are subject will be applied, namely:

- There is sufficient evidence to provide a realistic prospect of conviction; **and**
- It is in the public interest to bring the prosecution

4.7 Frequency

A maximum of two penalty notices per individual child may be issued in any twelve-month period to any one parent.

4.8 Support and guidance

All schools and academies in Gloucestershire (except for independent schools) are allocated an Inclusion Officer from the Education Inclusion Service who can offer schools support and guidance regarding effective attendance practice and the legal processes to follow, including the operation of this penalty notice code of conduct. Schools and academies are requested to seek advice before requesting a penalty notice if they are unsure if that is an appropriate response.

4.9 Right of appeal

There is no right of appeal against a penalty notice.

5.0 Procedure for issue

5.1 Responsibility within the LA for the issue of penalty notices is held by the Education Inclusion Service.

5.2 Requests for the issue of penalty notices should be sent via email and secured by Egress to encrypt the file:

Email: attendance@gloucestershire.gov.uk

The Headteacher's signature is required on the attendance printout and on the penalty notice request form. **Original paper copies of all submitted paperwork** should be retained as a hard copy for use as physical evidence in court as necessary.

Data Breaches: By signing the form the Headteacher confirms that he/she is satisfied that the people for whom the penalty is being requested have parental responsibility under education law and reside at the address given. The school is then responsible for any data breaches that occur as a result of legal notices being served to an incorrect address they have provided.

5.3 Penalty notices for offences under section 444(1) of the Education Act 1996:

Each request should include the following documents as well as the required additional supporting documentation (See below):

- Completed and signed 'Request for Penalty Notice' form (appendix 4)
- The school's Attendance Policy, including highlighted excerpts, that demonstrate the school's expectation that:
 - registered pupils should attend school for all available sessions unless the absence is authorised by the school (Regular Attendance definition)
 - that parents have been warned that they put themselves at risk of receiving a penalty notice, without warning, if they take unauthorised leave in term time
- Records of any other relevant communications with the parent(s) e.g. letters, emails, logging of phone calls, home visits
- Copy of the registration certificate from the period in question and which includes the name and address of the child and his/her parents. This must be signed and dated by the Headteacher.

Additional documentation required for each Penalty Notice type

Unauthorised holiday during term time (Code G)

Where a request for **leave of absence was submitted** by parents:

- Copy of the request for absence form the parents submitted
- Reply form the school sent to refuse the leave of absence.

It is vital each parent that is being issued a penalty notice has been made aware of the holiday request being refused prior to the absence commencing. This is particularly pertinent when requesting penalty notices for individuals that live at separate addresses. Parents who live at separate addresses should individually notified in writing to their home address.

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample request for leave of absence form included as appendices to this code of conduct (appendix 1).

Where **no leave of absence request** was submitted by parents, the school should include:

- The letter sent to the parents informing them that the absence has been recorded as an unauthorised holiday and on what basis the Headteacher has made that decision.

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample letter included as an appendix to this code of conduct (appendix 2).

Persistent lateness after registers have closed (Code U)

- A copy of the formally written and correctly served warning letter that had been sent to each of the parents for whom the penalty notice is being requested
- Evidence that the school have thoroughly explored the reasons for the U coded absence and any support or reasonable adjustment that has been made by the school to support the pupil

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample letter included as an appendix to this code of conduct (appendix 3).

Offences under section 103 of the Education and Inspections Act 2006:

An excluded pupil found in a public place

Each request should include the following documents:

- Completed and signed 'Request for Penalty Notice' form.
- Copy of the legally worded exclusion letter that had been correctly served to each of the parents for whom the penalty notice is being requested.
- Records of any other relevant communications with the parent(s).
- Evidence that the pupil was present in a public place during a prohibited period

also needs to be provided, typically the statement of a responsible person who witnessed the event. Evidence that supports the witness statement, such as photographs, should be exhibited to the statement.

5.4 Responsibilities of the Education Inclusion Service

The Education Inclusion Service **will**:

- Check that the criteria for issuing a penalty notice are met.
- Contact the referrer in writing regarding the outcome of the request, providing reasons, if the decision is made *not* to issue a penalty notice.
- Serve penalty notices by first class post in accordance with relevant legislation, regulations and this code of conduct.
- Collect payment.
- Where appropriate, and in accordance with section 6.1 below, withdraw penalty notices in accordance with relevant legislation, regulations and this code of conduct.
- Report annually on the use and outcomes of penalty notices issued in respect of education matters.

The Education Inclusion Service **may**:

- Prosecute individuals following non payment for the original offence in a magistrates' court.

6.0 Circumstances when a penalty notice can be withdrawn

6.1 A penalty notice, once issued, may be withdrawn by the Local Authority if the Local Authority determines that it meets at least one of the following criteria:

- It ought not to have been issued
- It ought not to have been issued to the person named as the recipient
- It contains material errors
- It is unpaid and the Local Authority decides to take no further action

6.2 If a penalty notice is withdrawn, the Education Inclusion Service send notice of the withdrawal to the recipient and refund any part of the penalty which has been paid and also inform the original referrer of the decision.

7.0 Legal procedures

If a penalty notice remains unpaid more than 28 days after deemed service, and provided that the penalty notice has not been withdrawn, the Local Authority will look to proceed to prosecute the original offence in a magistrates' court.

The LA will not issue a penalty notice unless there is the likelihood of successful prosecution being achieved for the original offence in the event of the penalty notice not being paid. Therefore the Education Inclusion Service may look unfavourably on future requests to issue penalty notices from schools if they do not intend to engage with the prosecution process following a non payment.

7.1 Witness statements

In order to initiate legal proceedings the Education Inclusion Service will instigate contact with the requesting school. The school will be asked to provide a witness statement setting out the school's evidence for prosecution using (Appendix 6) as a supporting template. An electronic copy will be emailed by the Education Inclusion Service to the school to aid completion.

Please note that the person completing the witness statement may be required to appear in court and provide live evidence, if the evidence contained in the statement is challenged.

A separate witness statement is required per parent. In the case of siblings, you will be required to include information relating to each child's absence individually within each witness statement.

For example:

Parent A- Discuss Child A and Child B separately within the same witness statement

Parent B- Discuss Child A and Child B separately within the same witness statement

7.2 Exhibiting supporting evidence

Each individual piece of supporting evidence must be exhibited within the witness statement.

For example- The school's attendance policy is attached as [exhibit number– e.g. **Your initials 1.**]

The exhibit information must be positioned in the **top right corner** of the original document and be **signed** and **dated** as shown below.

Exhibit LB1

13/06/2020

Signature

Please note each exhibit must have a **unique exhibit number**- e.g. Your initials 1, Your initials 2, Your initials 3.

7.3 Submission

Once completed, the witness statement/s and all the original exhibited evidence need to be returned via recorded delivery post to:

Gloucestershire County Council
Education Inclusion Service
Shire Hall
Westgate Street
Gloucester L1 2TG

Please note the exhibits provided must be the original copies of documents and not photocopies.

7.4 Timing

In order to prosecute individuals for the original offence, evidence will need to be laid in court within six months of the original offence occurring. We therefore ask that if a witness statement is requested it is returned in a timely manner to ensure the prosecution window does not elapse.

The Education Inclusion Service will check suitability of witness statements and may contact you to ask for additional supporting evidence, or amendments to be made to the witness statement, in order to submit to the GCC legal team.

8.0 Monitoring and review

8.1 The Education Inclusion Service must maintain records of penalty notices including:

- A copy of each notice issued.
- A record of all payments made and on what dates.
- Whether the notice was withdrawn and on what grounds.
- Whether the penalty notice led to a prosecution and which offence was prosecuted.

8.2 This Code of Conduct will be reviewed at least annually, or as and when changes to relevant legislation and regulations are made.

Education Inclusion Service
Gloucestershire County Council
September 2020

Appendix 1 – Sample request form for parents to use to request leave of absence during term time and for schools to use when communicating a response.

The sample request form sets out the necessary information the parents need to know at the time of making the request and the sample response form confirms to parents that they place themselves at risk if the child is absent and the leave has not been authorised.

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample forms and letters included as appendices to this code of conduct. This is likely to avoid the need for LA to revert back to schools for further information if the LA proceeds to prosecution in the event on non-payment.

Request for a leave of absence during term time

Parents should be aware that the law does not grant parents an automatic right to take their child out of school during term time. The Department for Education allows a Headteacher the discretion to consider authorising a leave of absence in term time only in “exceptional circumstances”.

You may consider that a holiday will be educational, but your child will still miss out on the teaching and learning that their peers will receive whilst your child is away. Children returning from a leave of absence during term time are also unprepared for the lessons which build on the teaching they have missed and arrangements need to be made for individual children to catch up on missed work. Disruption to the continuity of teaching and learning is something we all have a responsibility to avoid.

If requesting a leave of absence you will need to complete the form on the reverse of this notice, setting out the reasons. If the holiday is not considered to be an exceptional circumstance it will not be agreed. If you nevertheless take your child out of school for the leave of absence, this **will be recorded as unauthorised leave**.

In the case of an unauthorised leave of absence the headteacher may request that the Local Authority issue a Fixed Penalty Notice without further warning to the parent. Please note that such a penalty is issued to each parent for each child taken out of school. A Penalty Notice is a fine of £60 if paid within the first 21 days which increases to £120 if paid between 21 and 28 days. Thereafter, if the penalty remains unpaid this may lead to prosecution through the Magistrates’ Court.

All leave of absence requests should be completed on the attached form by the parent with whom the child ordinarily resides. This should be returned to the school at least seven days before the start of the holiday. All requests must be made prior to the leave being taken. Leave cannot be authorised retrospectively.

I hope you will support our efforts to maintain good levels of attendance and attainment.

Yours sincerely

Head Teacher

Request for a leave of absence during term time

Pupil NameClass/Tutor Group

Pupil's address

Date of first day of absenceDate of return to school

Number of school days that your child will be absent from school

If a pupil fails to return within ten school days following the anticipated date of return and no reason is provided, there may be grounds (under some circumstances) to delete your child's name from the Admissions Register and register them as a Child Missing Education.

Please detail the exceptional circumstance for which you are requesting leave of absence

.....

I understand that if the absence request is not authorised and the holiday is taken the Headteacher may request that the Local Authority issue a Fixed Penalty Notice. I understand that a Penalty is issued to each parent for each child taken out of school and that this is a fine of £60 if paid within the first 21 days which increases to £120 if paid between 21 and 28 days. I understand that if I do not pay this it may result in legal action.

Name(s) of Parent/Carer (s) making application:

Dr/Mr/Mrs/Miss/Ms

Forename.....Surname.....

Address:

Signed Dated

Dr/Mr/Mrs/Miss/Ms

Forename.....Surname.....

Address:

Signed Dated

(Please ensure you are giving at least seven days' notice of the proposed absence, retrospective applications cannot be authorised)

For school to complete and copy retained: AUTHORISED/UNAUTHORISED (please circle)

Request for a leave of absence during term time – school response

*This response must be sent to **each** parent and a copy retained by the school*

Dear.....,

Child's Name..... Class/Tutor Group.....

Your request for absence on the following dates: ____ / ____ / ____ to ____ / ____ / ____
(totalling.....days, has been considered and is

☐ AUTHORISED ☐ UNAUTHORISED

a) Their attendance is currently:.....

b) The request **does / does not** meet the criteria for 'exceptional circumstances'

Please note: An **unauthorised** absence may be notified to the Local Authority and a Penalty Notice may be issued without further warning

Signed..... (Headteacher)

Date ____ / ____ / ____

Print name:

Appendix 2 – This sample letter

This should be sent to the parents when no request for leave of absence was made and the Headteacher has determined that the absence is to be coded as G (unauthorised family holiday)

It informs the parent that the holiday is not authorised and provides the basis on which the Headteacher decided to code the absence as a G Code.

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample forms and letters included as appendices to this code of conduct. This is likely to avoid the need for LA to revert back to schools for further information if the LA proceeds to prosecution in the event on non-payment.

Leave of Absence – when no request for leave was made by the parents but the headteacher has coded the absence as unauthorised family holiday (G Code).

This would need to be sent to *each* of the parents the school intends to request a penalty notice for

Parent's address (send by post as this is formal)

date

Dear (parent's name)

Re: Leave of absence without request

Child(ren)'s Name(s): Date(s) of Birth:

I am aware that your child(ren) was/were absent from school from (date) to (date). I have tried to contact you with regard to these absences but have been unsuccessful and now understand that you were on a family holiday. I believe this to be the case because.....

As you will be aware, as of 1st September 2013 Headteachers are no longer able to grant any leave of absence in term time unless there are exceptional/unavoidable circumstances. It is also stated in our school policy that all requests for leave of absence should be made in writing, in advance of the proposed absence.

As we are unaware of any exceptional circumstances that might apply, the absence has **not been authorised**. However, if you feel that the absence was due to an exceptional circumstance or illness, please provide supporting evidence to this effect no later than (Date – **allow two weeks**) and I may be able to reconsider my decision.

I must warn you that failure to ensure your child's regular attendance at school is an offence under Section 444 of The Education Act 1996. The Supreme Court Judgement from 2017 (Isle of Wight Council v Platt [2017] UKSC 28) has determined that 'regular' means 'in accordance with the rules prescribed by the school'.

If the reasons given for your child(ren)'s absence from school are not considered to be exceptional (and therefore the absence is unauthorised) then I may request, without further warning, that the Local Authority take legal proceedings against you for your failure to comply with the law. This may result in a Penalty Notice requiring the payment of a penalty of up to £120 per parent per child. Failure to pay the penalty due may result in prosecution before Magistrates Court.

Please refer to the school's attendance policy (available on our website and in hard copy upon request) and Gloucestershire County Council's website for further information.

If you wish to discuss this further please do not hesitate to contact me.

Yours sincerely

Headteacher

Appendix 3

Sample warning letter for lateness (U Code)

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample forms and letters included as appendices to this code of conduct. This is likely to avoid the need for LA to revert back to schools for further information if the LA proceeds to prosecution in the event on non-payment.

Sample warning letter in respect of penalty notices for persistent lateness (U code).

(This will need to be set to any parent that the school subsequently names in any request for a penalty notice).

Date

Na
me
Add
ress

Dear (Name)

**Re: The Education (Penalty Notices) (England) Regulations 2007
Warning of penalty notice for persistent lateness after the register has closed**

Under the Education Act 1996, parents have a duty to make sure their children regularly attend school. If parents fail to do this, they can be prosecuted.

Working within an agreed Code of Conduct the Local Authority can issue a penalty notice to parents if a child has missed a number of sessions without permission from the school.

(Name) has been marked absent from school for () sessions in the previous () weeks without prior authorisation or an acceptable reason being given to the headteacher. Please note there are normally two sessions in each school day. Arriving after the registers have closed for the morning or afternoon session will result in an unauthorised absence mark for the entire session.

This absence has therefore been recorded as unauthorised in the school register.

I need to inform you that the level of (Name's) unauthorised absence places you at risk of a penalty notice and/or court action by the Local Authority.

Providing there are no further unauthorised absences within the next fifteen school days, which will start two days after the date of this letter (to allow for postage) a penalty notice will not be issued on this occasion.

I must also draw your attention to the fact that should (Name) have more unauthorised absences related to lateness within the next twelve months following this warning letter, you may receive a penalty notice without further warning.

Yours sincerely

Headteacher

Appendix 4

Form for schools to complete to request a Penalty Notice

In order for the LA to be in the best position to support schools with this type of legal intervention it is strongly advised that schools use the sample forms and letters included as appendices to this code of conduct. This is likely to avoid the need for LA to revert back to schools for further information if the LA proceeds to prosecution in the event on non-payment

Request to Issue a Penalty Notice

Education Inclusion Service

This form will be used in any legal action under the Education and Inspections Act 2006 S103 and The Education Act 1996 S444 relating to non-school attendance of a registered pupil at the school.

The completed form should be signed by the headteacher/principal and returned securely via Egress email to attendance@gloucestershire.gov.uk

Pupil Details:					
Name:		School:			
Date of Birth:					
Male/Female:					
NCY:	CiC Yes/No	CPP Yes/No	SEN Yes/No	Traveller Yes/No	
Parent(s) Details:					
Title:	Surname	Forename		Date of birth (if known):	
Address & postcode:		Relationship to pupil:			
Telephone number:		Child resides with this parent: Yes /No			
Title:	Surname	Forename		Date of birth (if known):	
Address & postcode:		Relationship to pupil:			
Telephone number:		Child resides with this parent: Yes /No			
Title:	Surname	Forename		Date of birth (if known):	
Address & postcode:		Relationship to pupil:			
Telephone number:		Child resides with this parent: Yes /No			

Reason for Request:		Enclosed Documents: Please confirm (tick)
Unauthorised holiday (Code G)		<ul style="list-style-type: none"> Signed and dated registration certificates showing at least ten sessions of unauthorised absence in the preceding ten week period The school's attendance policy showing the definition of regular attendance contained within and the expectations about term time leave The request for leave of absence completed by the parent(s) and the response from the school (the appendix 1 letter) Where no request was made, the basis on which the headteacher decided this was a family holiday (the appendix 2 letter)
Persistent late arrival at school – after the registers have closed (Code U)		<ul style="list-style-type: none"> Evidence of a warning letter and a fifteen school day monitoring period (the appendix 3 letter) The school's attendance policy showing the definition of regular attendance contained within and the expectations about punctuality Evidence of the supportive work the school has done to address the persistent lateness Signed and dated registration certificates showing at least ten sessions of unauthorised absence in the preceding ten week period
Child found in a public place (in school hours) during an exclusion		<ul style="list-style-type: none"> Copies of exclusion letters to parents Evidence of the offence Signed and dated registration certificates showing the dates of the exclusion

Headteacher Confirmation

I confirm that this pupil is on roll at the school named above and that he/she has had at least ten sessions of unauthorised absence in the immediately preceding ten weeks or has been present in a public place in school hours during a period of exclusion. I confirm that the attached, signed attendance printout is an accurate record of the attendance register for this pupil.

I also confirm that I understand I may have to prepare a witness statement and/or attend court in the event of a penalty notice being unpaid.

I also confirm that I have taken reasonable steps to establish that the contact details provided for the parents are correct and that the school is liable for any data breach arising from subsequent legal notices in relation to this matter being incorrectly served.

Name (headteacher)	Signed	Date
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Appendix 5

Information leaflet for parents about Penalty Notices.

**This appears on the
Gloucestershire County Council
public website.**

<https://www.gloucestershire.gov.uk/media/2083564/appendix-5-leaflet-for-parents-penalty-notices-nov-2018.pdf>

Witness Statement Template for unpaid penalty notice

STATEMENT OF WITNESS

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

STATEMENT OF ...

Age of witness (if over 18, enter “over 18”): Over 18

This statement (consisting of ? pages) **is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false, or do not believe to be true.**

Signed: (witness) **Date:**

I am an [position] employed by [employer], based at [Address]. I am authorised to make this statement on behalf of [?] and do so from my own knowledge unless otherwise indicated.

I can confirm that [child] is [age] and is a registered pupil at [school]. From our records [child] lives with [name of parent(s)] at [address]. They live a distance of [how far] from the school.

The school’s attendance policy is attached as [exhibit number– e.g. LB1. the exhibit must also be dated]. It defines regular attendance as [definition]. The policy also states that a request for absence during term time will only be granted in exceptional circumstances. An exceptional circumstance is defined as [definition].

Choose

On the [date] a holiday request was submitted by [name]. [Name] was requesting authorisation for a holiday between [date] and [date]. The reason given for the holiday was [reason].

On the [date] the holiday request was refused by [name]. The reason given for the absence was not deemed to be an exceptional circumstance because [reason].

The refusal was communicated to [name] by [how?].[exhibit number] The refusal contained a warning that if [name of child] was absent during the holiday request period, the absence would be marked as unauthorised. [Name] was warned that this could lead to a penalty notice

being issued.

Despite the warning, [name of child] was absent from school between [date] and [date]. I enclose a copy of the attendance certificate at exhibit [exhibit number]. [If not being completed by the head teacher, witness to confirm that they personally took the certificate to be signed by the head as a true copy]. [Childs name] attendance is [attendance rate]. This level of attendance is in breach of the school's attendance policy.

As a result, [the school] contacted Gloucestershire County Council and requested a penalty notice to be issued to [name].

Or

On the [insert date], [name of child] was absent from school. No request for holiday was submitted. As a result [insert what action was taken to ascertain where the child was. Was the parent spoken too? Was information provided from another source? What evidence is there to confirm that the child is on holiday? Is there anything to suggest the child is ill? What steps did the school take to request evidence that there was an exceptional circumstance for taking the holiday? Were there any warnings sent to the parents regarding the consequences of not providing evidence?]

As a result of the absence and lack of evidence provided, the holiday was not authorised OR Despite the evidence provided, the circumstances were not considered to be exceptional and therefore the holiday was not authorised. [Name of child] was absent between [date] and [date].]. I enclose a copy of the attendance certificate at exhibit [exhibit number]. [If not being completed by the head teacher, witness to confirm that they personally took the certificate to be signed by the head as a true copy]. [Childs name] attendance is [attendance rate]. This level of attendance is in breach of the school's attendance policy.

As a result, [the school] contacted Gloucestershire County Council and requested a penalty notice to be issued to [name].

(To be completed if applicable: being unable to read the above statement I,of, read it to him/her before he/she signed it.

Signed: **Date:**)