

# **Statutory School Attendance Procedures**

## **Penalty Notice Protocol**

**September 2024**

**People's Directorate**

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## 1.0 Key Changes for 2024-2025

Following the Working Together to Improve Attendance Paper and the National Framework for Penalty notices published 29<sup>th</sup> February 2024, applied from 19<sup>th</sup> August 2024, each local Authority must issue all education penalty notices within the new legislation, as well as have their own Code of Conduct for issuing penalty notices which must be adhered to by all schools.

The below outlines the key changes for 2024-25 academic year.

- The amount charged per penalty notice is increased to £160, discounted to £80 if paid within 21 days.
- A second penalty notice issued within a three-year period, will not be eligible for discount.
- Only two penalty notices can be issued within any three-year period. This is incorporating both truancy and holiday penalty notices.
- Any further unauthorised absences within the three-year period, which would usually result in a penalty notice, may result in legal proceedings through the aggravated process.
- Warning letters for truancy absences must now be called 'Notice to Improve' and must document support services offered.
- 'Notice to Improve' letters must highlight a set improvement period.
- 10 unauthorised absences must fall within a 10-week period for a penalty notice to be considered.
- Absences can be cumulative over the 10-week period.
- All schools must consider penalty notices as a course of action – there should be no blanket approach to issuing penalty notices.
- All Local Authorities must set up a process for sharing information between LA's that details if a child moving in or out of the LA has been issued with a penalty notice.
- There is a requirement that all schools have updated their attendance policy to reflect these changes.

## 2.0 Penalty Notices for Non School Attendance (Truancy)

The delivery mechanisms for Penalty Notices are set out in the Protocol which all Local Authorities are required to have in place as part of the statutory delivery process.

The school/academy may request a Penalty Notice from the Local Authority by completing the Online Referral Form. All Salford schools and academies may request statutory action if:

- A pupil has 10 or more sessions of unauthorised absence in a 10-week period.
- A Notice to Improve letter has been issued and a period of improvement has been observed.
- They have explored supportive measures intended to improve the pupil's attendance.
- **It has been discussed with your Attendance Officer.**
- The pupil's attendance is not deemed as Severely Absent.
- The parent of the child has not already received two penalty notices within a three-year period. This spans across the UK and children moving in/out of the LA.
- The request is submitted within a period of 20 school days since the last day of absence.
- The period of absence is not being considered for proceedings under Section 444 (1) or (1A) of the Education Act 1996.
- The issue of a penalty notice does not conflict with other intervention strategies in place by the Local Authority or by other agencies where the circumstances are known to the Local Authority. Agreement from supporting agencies that statutory action is appropriate must be sought.

Schools and Academies should be able to demonstrate that parent/carers are aware of the possible consequences of statutory action by way of an Attendance Policy and other communications such as a Notice to Improve letter.

### 2.1 Guidance for issuing a Notice to Improve Letter and Improvement Period

All schools and academies must now issue parents with a Notice to Improve letter (Appendix 1).

It is requested that all schools and academies use the standard letter as provided to ensure continuity across the LA.

It is important that parent/carers are given all opportunities to improve attendance before a penalty notice is considered. The Notice to Improve letter must be issued to parent/carers at the earliest opportunity (no later than after 6 unauthorised absences). Please see the flow chart for more information (Appendix four).

A Notice to Improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a Notice to Improve should usually be sent to give parents a final chance to engage in support.

The improvement period is set locally as 20 school days, and what sufficient improvement looks like across this time should be taken on a case-by-case basis, taking the individual circumstances into account.

It is advised, that if there are less than three or less sessions of unauthorised absence during the improvement period, a Penalty Notice request may not be appropriate. All requests for a Penalty Notice of this nature must be discussed with your Attendance Officer and will be checked on submission.

## 2.2 Making a Referral to the Local Authority

The online referral form can be accessed using the following link:

<https://contactus.salford.gov.uk/?formtype=EWOPN>

Before considering sending a referral, schools must ensure they have carried out the following interventions in a timely manner:

- Early interventions up to and including phone calls, home visits, meetings, and a **Notice to Improve Letter (see Appendix one)**.
- Discussions with relevant agencies including early help and social care.
- Discussions have taken place with your Attendance Officer to ensure the Penalty Notice request is appropriate.
- Any issues that cause concern have been explored with relevant agencies.

## 2.3 Local Authority Requirements

Please note, the LA has, in place, the following requirements that all Truancy PN referrals must adhere to. Your referral may be refused should they not be met.

- The pupil must have missed 10 sessions within a 10-week period.
- Only **ONE** TPN can be requested per Academic Year. Any further concerns regarding attendance after this, should be escalated through your Attendance Officer.
- Must not exceed two Penalty Notices' (holiday and truancy) within a three-year period.
- A Notice to Improve letter must be issued to all those with parental responsibility prior to the TPN being requested (**standard letter can be found on appendix one**).
- A copy of the registration certificate and Notice to Improve letter must be attached to the referral form.

- Severely poor attendance will be challenged and advised other measures taken to improve attendance.
- The online referral form must be completed in full, with relevant attachments.
- **The cutoff date for all truancy penalty notices is the last Friday in June.**
- **The cutoff date for year 11 truancy penalty notices is February half term.**

Schools can withdraw referrals at any point by contacting

[PenaltyNoticeRequests@salford.gov.uk](mailto:PenaltyNoticeRequests@salford.gov.uk)

Once received, your referral will be **sent to your Attendance Officer to ensure they are aware of the child**, your Attendance Officer will contact you to make further enquiries or send to the Court Liaison Officer to process.

## 2.4 Local Authority Issuing PN procedures.

Once the LA is satisfied that the above criteria have been met, a penalty notice will be issued to all those listed on the referral at the earliest opportunity.

- All penalty notices are issued per parent/per child (where information is provided).
- The first Penalty Notices within three years (rolling) will be charged at £80.00 if paid within 21 days rising to £160.00 if paid between 21 and 28 days.
- The second notice issued to the same parent in respect of the same pupil, is charged at a flat rate of £160 if paid within 28 days.
- A third notice cannot be issued to the same parent in respect of the same child, within three years of the date of issue of the first notice.
- The Local Authority is responsible for issuing the Penalty Notices to parents and is responsible for monitoring the collection of any payments.
- Where a Penalty Notice is not paid the parent(s) have not discharged their liability for the offence of unauthorised absence so the case will automatically proceed to the Magistrates Court unless strong grounds can be proved otherwise.

## 2.5 Challenge and Appeal.

Parent(s) will often contact the School Attendance Team with a variety of reasons why their child has been absent from school in order to revoke the Penalty Notice.

**PLEASE NOTE: It is not the Local Authority's decision to withdraw the Penalty Notice, therefore parent(s) will be referred back to schools in the first instance.**

**Should the parent(s) object to the school requesting the Penalty Notice from the Local Authority, we would expect the school to respond to the parent(s) within 5 school days and inform us immediately of the outcome in order that we can proceed or withdraw the matter.**

If we don't hear from you within 10 school days, then the Penalty Notice may be withdrawn.

Some key points to consider:

- There is no statutory right of appeal after a penalty notice has been issued, however we encourage parent(s) and schools to have open communication regarding the issuing of penalty notices.
- Attendance enforcement prosecutions are carried out under the provisions of the Education Act 1996 and the Children Act 1989. The processes involved in making submissions to the Courts are a matter of compliance with all evidential requirements set out in these statutes. Cases are increasingly contested in Court and subject to robust scrutiny by Solicitors, Barristers and Court officials so all processes and procedures have to be correct and consistently applied.
- Prosecutions are not used as a punishment for parents of pupils who attend school poorly. Prosecutions are instead used where there is an expectation that this will lead to an improvement in attendance or facilitate other positive outcomes for the child. This is an important distinction that ensures actions remain **child focused and also helps satisfy the legal requirement of being in the public interest.**
- Wherever possible a prosecution should involve both parents as each has equal responsibility in law. Note however that in education law a parent is not just the biological parent. Anyone who has full time care and control of a child is deemed to have parental responsibility. This means that grandparents, other family members or parents and step-parents can be subject to a prosecution.

## 3.0 HOLIDAYS IN TERM TIME

All children of statutory school age who are registered at a school must, by law, attend school regularly. Any absence from school can seriously disrupt a pupil's continuity of learning and have a detrimental effect on their future progress. Regularly taking time off school for family holidays can have a significant impact on a Child's achievement.

### 3.1 Penalty Notice for an Unauthorised Holiday during Term Time

Please note, the LA has, in place, the following requirements that all Holiday PN referrals must adhere to. Your referral may be refused should they not be met.

- The pupil must have missed 10 sessions which are coded with a G on the registration certificate over a 10-week period.
- **Cumulative absences during this time can be considered. When completing the online form, the start date is the first date of the first G code, the end date is the date of the final G code.**
- Only **TWO** Penalty Notices be issued within a three-year rolling period, after which an Aggravated offence will have been committed.
- If a parent receives a 2<sup>nd</sup> penalty notices within a three-year period, this will clearly outline a Final Warning and the possible consequences of further absences from school.
- Should a third absence occur in over three years an Aggravated offence may have been committed and the Local Authority may act upon the Final Warning.
- The Local Authority have amended the online referral form to allow school to notify clearly when the referral is for a 2<sup>nd</sup> holiday.
- A warning letter must be issued to all those with parental responsibility prior to the HPN's being requested (**model letters can be found on appendix two**).
- The referral is submitted within 20 school days of the last day of absence.

Please send the referral with the following documents:

- A copy of the registration certificate showing the G codes.
- A copy of the parent(s) request for holiday (if available).
- A copy of the school's warning letter (on letter headed paper) which was sent to the parent(s) advising the holiday was unauthorised. This must be dated and addressed (**model letters can be found on appendix two**)
- The online referral form must be completed in full, with relevant attachments.

Where the holiday hasn't been requested in writing you must explain the way you found out about the holiday on the referral form.

Schools can withdraw referrals at any point by contacting  
PenaltyNoticeRequests@salford.gov.uk

### 3.2 Third holiday absences over a three year period.

Should the school become aware that a family have taken a third holiday over a three year period, Salford Authority ask that the following process is followed:

- Issue a warning letter outlining the potential for further action from the LA (appendix two example 6).
- Complete and submit a PN request using the standard methods noting that this is the third holiday.
- Compile and submit all letters that have been previous sent to the family.
- The LA will liaise with schools and families to explore the appropriate course of action.
- Should the LA believe an aggravated offence has been committed, court proceedings will begin and schools will be asked to provide a section 9 as evidence for court.

### 3.3 Common questions and concerns relating to Holiday Penalty Notices.

Where a family report a child is unwell, but school suspect that they are on holiday, a home visit should be conducted to support schools' concerns, and appropriate enquires should be carried out with the family.

A letter must always be issued to the parent(s) confirming your intention to request a fine, this gives the parent an opportunity to mitigate and to submit evidence to disprove the offence. If the Penalty Notice request has already been made and the parent(s) provides mitigation you are obliged to inform the Local Authority immediately to prevent unnecessary action.

It is vital that schools ensure parents are fully aware of the possibility if a Penalty Notice being issued and that failure to pay could lead to prosecution in the Magistrates Court. This information should be included in school literature, such as the school prospectus, holiday request forms, newsletters, attendance and behaviour policies and website.

The decision whether to authorise a holiday or not should be justifiable and any reasons for rejection recorded and conveyed to the parent(s) in writing. A letter refusing a request should explain the reasons why and that a Penalty Notice may be issued if the holiday is taken without permission (appendix two).

A referral for a Penalty Notice can be made when the following conditions have been met:

- Where a family have taken leave without permission and the school is satisfied that the parent knew the procedures.
- Where a leave of absence has been agreed and the pupil returns to school after the agreed time without explanation.
- Where no application for leave has been made.

The School Attendance Team will consider cases of holidays in term time where:

- The absences are recorded as unauthorised on the child's registration certificate.
- The LA is satisfied that there is sufficient evidence to show that the offence under Section 444 has been committed.

### 3.4 Challenges and Appeal.

Parent(s) will often contact the School Attendance Team with a variety of reasons why their child has been absent from school in order to revoke the Penalty Notice.

**PLEASE NOTE: It is not the Local Authority's decision to withdraw the Penalty Notice, therefore parent(s) will be referred back to schools in the first instance.**

Should the parent(s) object to the school requesting the Penalty Notice from the Local Authority, we would expect the school to respond to the parent(s) within 5 school days and inform us immediately of the outcome in order that we can proceed or withdraw the matter.

**If we don't hear from you within 10 school days, then the Penalty Notice may be withdrawn.**

ADDRESS

DATE

**NOTICE TO IMPROVE: ATTENDANCE.**

We have growing concerns that CHILDS NAME has been absent from school for a number of sessions between the dates            to            .

To date no acceptable reason has been given for these absences, therefore they have been marked by the school as unauthorised in the register. **A copy of your child’s registration certificate has been included with this letter.**

**The following support has been offered to you/will be offered to you and your child with the aim of improving attendance:**

- XXXXXXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXXXXXX

If you feel that you require further support to improve your child’s attendance, please contact **XXXXXX** to discuss further.

Due to the number of unauthorised absences we need to formally warn you that should there be any further unauthorised absences within the next 20 school days, a Penalty Notice fine may be imposed.

**Please note:** Unauthorised lateness equates to one session of unauthorised absence; this will be shown as **U code** on your child’s registration certificate.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

It is your parental duty under Section 7 of the Education Act 1996 to ensure your child is in receipt of efficient, full-time education. The benefits of good attendance at school include improved wellbeing, educational outcomes and a positive impact on their wider life chances.

Should you disagree with this information or have any further enquiries, please do not hesitate to contact us.

Yours sincerely

HEAD TEACHER

## Appendix Two - Example Holiday refusal letters

### Example 1: Request received from parent.

ADDRESS

DATE

Dear

I received your letter/Holiday Request Form on XXXXX to authorise a Leave of Absence for XXXXX from XXX to XXX.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

If you should take leave of absence on the above dates the absences will be marked as unauthorised in the register. Therefore, a Penalty Notice fine may be issued to you by Salford City Council on your return.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

Also, where there are two parents who both have responsibility of their child(ren), you will receive a Penalty Notice fine each, per child.

Yours sincerely

HEAD TEACHER

Example 2: of a holiday refusal letter (requested by telephone)

ADDRESS

DATE

Dear

I have received a phone call today from XXXXX to inform me that you have taken XXXXX on a family holiday.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

Please be warned that the absences have been marked as unauthorised in the register and a Penalty Notice fine may be issued to you by Salford City Council on your return.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

Also, where there are two parents who both have responsibility of their child(ren), you will receive a Penalty Notice fine each, per child.

Yours sincerely

HEAD TEACHER

### Example 3: Example letter where there has been no request for a holiday

ADDRESS

DATE

Dear

On XXXX XXXX failed to arrive in school, we made attempts to contact you on the following telephone number XXXX however there was an international dialling tone and no answer. We left you a message asking you to return our call but to date we have not heard back from you. Information received in school would indicate you are on holiday.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

We have received no leave of absence request from you and we have reason to believe that XXXX has been on holiday. You will be required to provide information to prove otherwise. If you do not provide information as requested, then a Penalty Notice fine may be issued to you by Salford City Council.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

Also, where there are two parents who both have responsibility of their child(ren), you will receive a Penalty Notice fine each, per child.

If you disagree with this information then please contact the school immediately.

Yours sincerely

HEAD TEACHER

#### Example 4: Parent stating child is sick, school have reasons to believe child is on holiday

ADDRESS

DATE

Dear

On XXXX we attempted to phone you and sent a text message to you enquiring about XXXX being off school. You replied to say that XXXX is absent due to illness.

On XXXX we attempted to phone you to see when XXXX will be returning to school, there was no answer however there was a international dialling tone. We left a message asking you to contact us.

On XXXX we made a home visit to your property, no one was present at the house and a note was posted requesting you contact us urgently. As of the date of this letter you have failed to do so.

Given the information gathered to date as above we have reason to believe that you have taken XXXX out of school for a holiday during term time. You will be required to provide information to prove otherwise. If you do not provide information as requested, then a Penalty Notice fine may be issued to you by Salford City Council.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

Also, where there are two parents who both have responsibility of their child(ren), you will receive a Penalty Notice fine each, per child.

If you disagree with this information then please contact the school immediately.

Yours sincerely

HEAD TEACHER

Example 5 – multiple short holidays within 10-week period

ADDRESS

DATE

Dear

You will be aware from the school's attendance policy, that holidays during term time, will be unauthorised.

Your child has been absent from school on the below dates:

from ..... to .....

from ..... to .....

**Delete/amend as appropriate**

***You requested leave of absence from school which was refused.***

***You did not request leave of absence from school and did not inform school of the intended absence.***

***You advised school that your child was unwell, and we have reason to believe your child was on holiday.***

If you disagree with this information, please contact school at your earliest opportunity.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

**The Penalty Notice fine will not exceed £160 if paid within 28 days. If the penalty is still not paid within 28 days you will be prosecuted under Section 444(1) of the Education Act 1996.** You will be prosecuted for failing to ensure that your child[ren] attend[s] school on a regular basis, i.e., not for the non-payment of the penalty.

Also, where there are two parents who both have responsibility of their child(ren), you will receive a Penalty Notice fine each, per child.

Yours sincerely

HEAD TEACHER

Example 6: Third holiday absence in term time within a three year period.

ADDRESS

DATE

Dear

We have/have not received your request for a holiday in term time. We must inform you that, due to this being the third period of absence over the previous three years, you will now be referred to the Local Authority who may take further action under section 4441(A) of the Education Act 1996. The Local Authority will be in contact with you in due course.

In September 2013 the Government amended the policy surrounding holidays being taken during term time. We take attendance very seriously because there is clear evidence that any absence from school can and does impact on children's attainment. The second most common reason for absence from school is for a family holiday, the Government agreed that this needed to be addressed. Head teachers may not grant any leave of absence during term time.

If you disagree with this information then please contact the school immediately.

Yours sincerely

HEAD TEACHER

## Appendix Three – example Attendance Policy amendment.

### The Education (Penalty Notices) (ENGLAND) (AMENDMENT) Regulations 2024

#### 2024 No. 210

#### Education Penalty Notices for Non-School attendance

New Legislation comes into force on 19<sup>th</sup> August 2024 regarding the issuing of penalty notices relating to none school attendance.

Schools are required to consider, on a case by case basis, whether to ask the Local Authority to issue a Penalty Notice to a parent when their child's absence is unauthorised.

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

If your child falls within one or more of these categories within a 10-week period;

- 10 sessions (5 days) of unauthorised absence (O coded)
- 10 sessions (5 days) of unauthorised holidays (G Coded)
- Persistently arrives late for school after the close of registration (U coded)
- 10 sessions (5 days) of unauthorised absences (O, G and U coded)

You may receive a Penalty Notice for the offence of failing to secure regular school attendance.

Within the new National Framework, there is a national limit to the amount of Fixed Penalty Notices that can be issued to any parent in respect of an individual child, within a three-year period. Each fixed penalty is issued on the basis of per parent/per child – therefore where a child has two parents, two fines may be issued.

The fixed penalty notice amount has increased to the following:

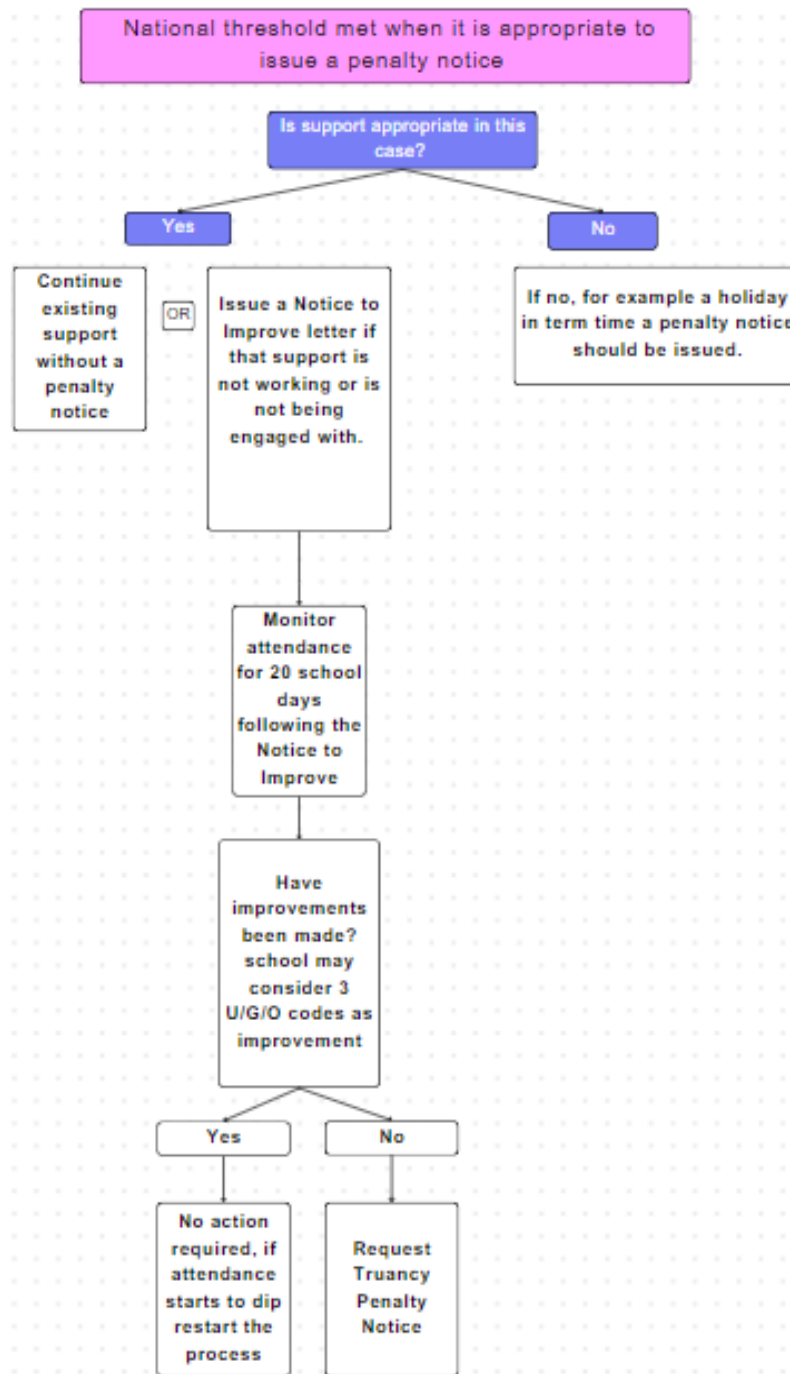
- Penalty Notice One - £160 discounted to £80 if paid within 21 days.
- Penalty Notice Two - £160 with no discount offered.

Should a third absence be taken within the three-year period, a parent may be summonsed to the Magistrates Court for knowingly failing to secure good attendance at school (Section 444 (1A) of Education Act 1996).

*Please note that from 19<sup>th</sup> August 2024, schools are not able to authorise any leave of absence for holidays.*

The local authority and schools are committed to providing the best possible future for your child. If you have concerns about your child's attendance at school or if you are experiencing any difficulties, please contact your school and ask for support.

Appendix Four – Flowchart for Penalty Notice's.



The National Threshold for issuing a penalty notice is 10 unauthorised absences within a 10-week period.