

Plain English Version



Llywodraeth Cymru  
Welsh Government

Welsh Government

## **Consultation Document**

### **Penalty notices for regular non-attendance at school**

Date of issue: 30 November 2012

Action required: Responses by  
22 February 2013

**A plain English version of the  
consultation on 'Penalty notices for  
regular non-attendance at school'**

[www.cymru.gov.uk](http://www.cymru.gov.uk)



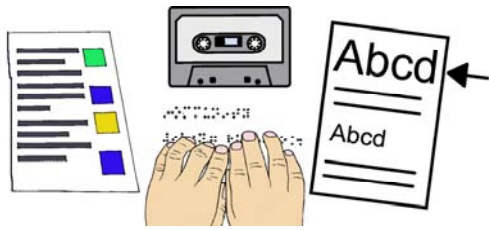
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## Overview

The Welsh Government wants to know what you think about the proposed introduction of fixed penalty notices for regular non-attendance at school.



## Different versions

This is a plain English version. It is for people who prefer to have a document where the words and their meaning are easier to read and understand. It has been prepared for the Welsh Government by Learning Disability Wales.

You can also ask for the consultation document in:

- **large print**
- **Braille**
- **other languages.**



## Having a say

We want to hear from everyone, especially children, young people, their parents, carers or legal guardians.

We would like to you to tell us what you think about our proposals.

To help you give your views we have produced a plain English response form for you to fill out and return.

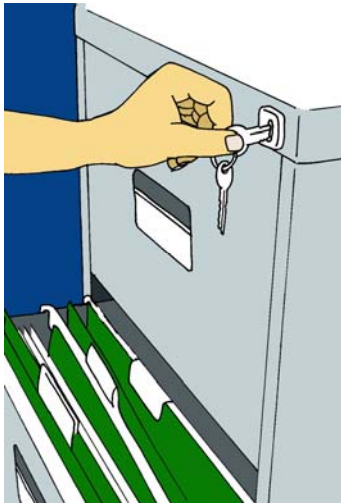
To tell us what you think e-mail or post the response form to us by **22 February 2013**.

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## Data protection: how your responses will be used

All responses will be seen by Welsh Government staff dealing with the consultation. It may be used to help other Welsh Government staff when they consult with people.

We will publish a summary of the responses we receive.

Sometimes we publish all of the responses we receive. When we do this, we usually publish the name and address (or part of) of the person or organisation who gave their views. This shows that we consulted people properly.

**If you do not want us to publish your name and address, please tell us when you give us your views. We will then blank them out.**

The **Freedom of Information Act 2000** means people can ask to see information held by public organisations, like the Welsh Government.

The law allows us to keep some information private. If you ask us not to publish your name and address, we will try to keep it private.

Sometimes we have to reveal names and addresses. If this happens we will get in touch with you before we do anything.

## Introduction

In Wales, we want every child to reach their full potential. For this to happen, children need to go to school regularly.

Children who miss a lot of school often fall behind and do not do as well as they could. The more time a child spends in school, the better they do at school and when they leave school.

Children who miss school regularly are less likely to go on to college, do other training or get a job when they leave.

We want to do everything we can to support children to attend school.

We have been working hard to improve school attendance.

In the last three years overall attendance has gone up. However, the number of children who **regularly miss school without permission** has stayed the same. This is classed as **unauthorised absence**.

When unauthorised absence starts to be an issue, schools work with the child and their family to improve attendance. If necessary, the Education Welfare Services will work with the school and the family, to get the child back into school.

If unauthorised absence continues, the local authority and schools can use:

- parenting contracts
- parenting orders
- school attendance orders
- court. In extreme cases the local authority can take a parent, carer or guardian to court. Prosecution is seen as a last resort and everything possible should be done to avoid taking such action.

Prosecution:

- can cause a lot of distress
- can take a long time
- is expensive
- may not work.

Local authorities say they would prefer another option before prosecution.



They want to be able to issue a **fixed penalty notice**, to get a child back into school. They believe penalty notices would be quicker and more effective than going to court.

Penalty notices should be seen as an additional option to be used among other options to reduce unauthorised absences.

## Fixed penalty notices

A fixed penalty notice can only be used for **unauthorised absence**. This is where it is thought a parent, carer or guardian **could** get their child to attend school regularly, but does not make the effort to do so.

**Unauthorised absence** could be:

- obvious truancy – including pupils caught on **truancy sweeps**. A **truancy sweep** is when a police officer and/or Education Welfare Officer finds children on the streets in school time. If the school absence is unauthorised they return them to school
- too many holidays in term time
- not returning to school as soon as a holiday is over
- repeated lateness – arriving at school after the register has closed
- days off for Christmas or other shopping trips
- days off to attend medical or dental appointments, which are at the start or the end of the school day
- any absence which a parent, carer or guardian is aware of, but has not asked permission for, from the school.

Penalty notices would be **one of the options** available to encourage school attendance. They would not be right in every situation and individual circumstances need to be taken into account before a penalty notice is issued.

In some cases, the threat of a penalty notice can be enough to get a child back into school.

## When could a penalty notice be used?

Here are a few examples of when a penalty notice could be used where:

- parents, carers or guardians are not supporting attempts by the school or Education Welfare Services to improve school attendance
- parents, carers or guardians fail to ensure their child attends school regularly, for an agreed period of time
- parenting contracts and/or parenting orders have been unsuccessful
- parents, carers or guardians are unwilling to sign a contract to support regular school attendance, without good reason
- term-time leave has already been taken without agreement and parents, carers or guardians were warned they could get a penalty notice if it happened again
- a pupil is consistently late, arriving after the register has closed

- a child is regularly found by the police outside school during school hours without good reason, or is involved in criminal activity at the time.

## **Do penalty notices work?**

Penalty notices have been shown to work where:

- unauthorised absence is starting to become a problem
- there is no real reason for low attendance.

Penalty notices are also effective in dealing with:

- punctuality – when a child is consistently late
- circumstances where there are no complicated reasons for school absence.

Penalty notices are less effective where:

- there are underlying family problems
- non-attendance has been going on for some time.

We therefore believe that penalty notices can help where there are no complicated issues and other support is in place to help the child attend school.

Careful consideration must be given to individual circumstances, before the decision to issue a notice is taken.

## The proposals – using penalty notices

The local authority would be responsible for running the penalty notices scheme.

To make sure everyone is treated fairly, they must develop a **local code of conduct**.

The code of conduct will be followed by everyone who issues a penalty notice.

### Who will be able to issue a penalty notice?

The following people will be able to issue a penalty notice:

- headteachers
- the police (including community support officers)
- Education Welfare Officers.

They must follow the local code of conduct and provide a copy of the notice to the local authority.

### The local code of conduct

The local code of conduct is important to the success of penalty notices. It is there to ensure pupils and their families are treated the same, wherever they live. The code can be adapted to fit local needs and resources, but **must include**:

- how to avoid parents, carers or guardians being issued more than one penalty notice for the same offence (checking with Education Welfare Services should prevent this happening)
- when penalty notices can be used, including:
  - the level of unauthorised absence needed to trigger a penalty notice. This must be high enough to prosecute if the penalty is not paid
  - the number of penalty notices which can be issued to one person in a year
  - how local organisations will work together.

## Who can be issued with a penalty notice?

Penalty notices can be issued to the parent, carer or guardian of a child (under 16 years old) who is registered at:

- a maintained school
- a pupil referral unit
- alternative provision.

## Issuing penalty notices

There are several stages in dealing with unauthorised absence.

### Step 1: Formal warning letter

When unauthorised absence first becomes a problem, parents, carers or guardians will receive a formal letter.

The letter advises them what could happen if their child's attendance does not improve.

It explains they could face a penalty or prosecution if they do not ensure their child attends school regularly.

### Step 2: Issuing the penalty notice

If a formal letter does not get the child back to school, a penalty notice will be considered.

A penalty notice should only be issued if it is likely to work.

A warning may be given for a first offence, but a penalty notice could be issued where extended absence has been approved by the parent, carer or guardian.

Penalty notices should be issued in line with the local code of conduct. The local authority must be willing and able to prosecute if the fine is not paid.

If it is believed a penalty notice could be successful, parents, carers or guardians would have the opportunity to pay a **fine** instead of going to court. They would **pay a penalty of £60 within 28 days. The penalty will rise to £120 if paid after 28 days but before 42 days.**

### Step 3: Steps after non-payment

A parent, carer or guardian cannot be prosecuted until after the final deadline for payment has passed.

Once the penalty has been paid, a parent, carer or guardian cannot be convicted of the offence.

**If the penalty has not been paid in full by the end of 42 days**, the local authority must either:

- prosecute for the offence
- withdraw the notice.

**A penalty notice may only be withdrawn where:**

- it should not have been issued in the first place. For example, if it is not in line with the terms of the local code of conduct, or if an offence has not been committed
- it has been issued to the wrong person
- some of the information it contains is wrong.

The local authority can use any money paid in fines to cover the cost of the penalty notices scheme. If there is any money left over, it must be paid to the Welsh Consolidated Fund. This is the bank account held by Welsh Government. We are able to introduce penalty notices under section 444A of the Education Act 1996.

## **United Nations Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement protecting the rights of children under the age of 18.

Further to the Rights of Children and Young Persons (Wales) Measure 2011, Welsh Ministers are required to refer to the international rights of the child when proposing new policies and legislation.

In particular, this proposal seeks to protect the right of the child to education.

We are also required to involve children in all decisions that affect them. We hope that producing this document in plain English will encourage children and young people to find out more about penalty notices and tell us what they think.

## Next steps

A summary of the responses we receive will be published online. They will be taken into account when developing our policy to introduce penalty notices.

These proposals will be introduced to the National Assembly for Wales through the **Education (Penalty Notice) (Wales) Regulations**. Penalty notices need to be approved by Assembly Members before they can be put into action.