



## National Framework for Penalty Notices for school absence – implementation guide for local authorities

1. Following extensive development with schools and local authorities, a new National Framework for Penalty Notices for school absence is being introduced through changes to secondary legislation. There are no changes to the operation of penalty notices for pupils found in a public place during the first 5 days of an exclusion. Subject to Parliamentary process, the regulations will come into effect from the 19<sup>th</sup> August 2024 and therefore local authorities should begin taking the necessary steps to be ready for the changes. Local authorities should continue to follow their existing processes and codes of conduct for any penalty notices until then.
2. **The National Framework aims to:**
  - **Make penalty notices more effective** by ensuring they are only used in cases where they are the most appropriate tool to change parental behaviour and improve attendance.
  - **Prioritise the support first approach** by expecting support to be used in cases where it is appropriate and using penalty notices in cases where support is not appropriate (e.g. a term time holiday) has not worked or has not been engaged with.
  - **Improve consistency in the use of penalty notices across England** by introducing a new national threshold at which they are considered.
  - **Improve the deterrent effect of a penalty notice** by increasing the amount and introducing a new national limit of 2 penalty notices within a 3 year period to break cycles of repeat offending.
3. **Specifically, the National Framework includes:**
  - A single consistent national threshold for when a penalty notice must be considered of 10 sessions (usually equivalent to 5 school days) of unauthorised absence within a rolling 10 school week period.
  - A requirement that when the national threshold is met, schools make an assessment on a case-by-case basis whether a penalty notice can and should be issued. The following should be considered:
    - if support or further support is appropriate instead, and
    - whether there is a different tool or legal intervention that is more likely to improve attendance in this particular case.
  - The option of using a Notice to Improve where support is appropriate but not working or being engaged with, to give a parent<sup>1</sup> a final opportunity to engage in support before they are issued with a penalty notice if it is appropriate in the individual case.

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<sup>1</sup> A parent includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996.

- An increase to the rate of a penalty notice from £120 to £160 if paid within 28 days, and £60 to £80 if paid within 21 days.
- An additional rung to the ladder of escalation, with any second penalty notice issued to the same parent for the same child within a rolling 3 year period being charged at a higher rate of £160 with no option for this second offence to be discharged at the lower rate of £80.
- A national limit of 2 penalty notices that can be issued to a parent for the same child within a rolling 3 year period, so at the 3<sup>rd</sup> (or subsequent) offence(s) another tool will need to be considered (such as prosecution or one of the other attendance legal interventions).
- Widening the purposes for which the revenue from penalty notices can be used so that local authorities can spend any surplus on attendance support as well as administering the system and prosecution. In practice, support is defined as any activity intended to improve attendance, not including a penalty notice or prosecution, in line with the *Working together to improve school attendance* guidance. (Full details below)
- Schools or the police who issue their own penalty notices in a local authority area, checking with the local authority before issuing.

**4. This implementation guide sets out:**

- How the changes will work in practice
- What your local authority need to do ahead of Autumn term 2024
- FAQs
- Illustrative examples

## How the changes will work in practice

### National threshold of 10 sessions of unauthorised absence within a rolling 10 school week period and considerations for issuing a penalty notice

5. The National Framework will introduce a national threshold for when a penalty notice must be considered from the 19th August 2024. The threshold is 10 sessions of unauthorised absence. This can be made up of a combination of any type of unauthorised absence, such as 4 sessions of holiday taken in term time plus 6 sessions of arriving late after the register closes, all taken within any 10 school week period. The unauthorised absence sessions can be consecutive (e.g. 10 sessions of holiday in one week) or not (e.g. 6 sessions of unauthorised absence in 1 week and 1 per week for the next 4 weeks).
6. The 10 school week<sup>2</sup> period may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).
7. When a member of school staff who is authorised to issue penalty notices becomes aware that the threshold has been met, they must consider whether they can issue one to the parent(s) in question in relation to any or all of those unauthorised absences and, if so, whether to issue/request the local authority to issue a penalty notice or not. For each case, they should ask:
  - a) Is support appropriate for this particular cause (or causes) of absence?

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<sup>2</sup> A school week is any week in which a school meets at least once.

- i. If yes, staff should weigh up the specific circumstances of the case and decide which available tool is most likely to change behaviour and improve attendance. Either: continue or provide support without a penalty notice or Notice to Improve (e.g. where a parent is engaging well in the support, or other supportive routes could be tried); issue a Notice to Improve and continue to provide support (e.g. where a parent is not engaging well in support); issue a penalty notice (e.g. where a parent has already had a Notice to Improve and not engaged in support), subject to the further considerations given in b) below.
  - ii. If no, a penalty notice should be issued (e.g. a holiday in term-time) subject to the further considerations given in (b) below.
- b) In all cases, before a penalty notice is issued, the following questions should also be considered:
- i. Is a penalty notice the best available improvement tool that is most likely to change behaviour and improve attendance for this particular family, or would further support or one of the other legal tools be more appropriate? If legal action is most appropriate, is a penalty notice the most appropriate legal intervention for this individual case?
  - ii. Is issuing a penalty notice appropriate in this case after considering any obligations under the Equality Act 2010, such as where a pupil has a disability?
  - iii. (For the local authority) Is it in the public interest to issue a penalty notice, bearing in the mind that the local authority as an independent prosecutor would be responsible for deciding whether to prosecute for the original case in cases of non-payment?<sup>3</sup>

If the answer is yes to i-iii) above, a penalty notice should be issued. If not, another tool should be used to improve attendance. Examples are provided in an appendix to support decision making.

8. In practice, it is likely to be the local authority who issues a penalty notice after referral from a school. However, schools and the police retain the power to do so as set out in primary legislation. If it is a school or the police issuing the penalty notice, they are expected to check with the local authority before issuing in order to prevent duplication and check that a prosecution case is not pending or ongoing. Processes for how this will work locally must be set out in the Local Code of Conduct. They should also check the local authority agrees with their reasoning for deciding to issue a penalty notice after considering the questions listed in (7), including whether sufficient support has been provided where it is appropriate. This should include consideration of any additional support that the local authority could provide. This check will also support the smooth running of the escalation process for repeated penalty notices detailed below (paragraph 22-29).
9. Whatever action is taken after the threshold has been met, schools, and local authorities where appropriate, should continue to monitor the impact of the action, and if it does not lead to improvement they should review the decision and take alternative action. Where needed, cases can be discussed during Targeting Support Meetings.

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<sup>3</sup> [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#) sets out the general principles Crown Prosecutors should follow when they make decisions on cases.

10. The new national framework does not prevent a penalty notice from being used in other cases where an offence has been committed. To secure national consistency, our intention is that the national threshold should operate as the norm and local authorities should not introduce their own alternative thresholds. However, if the local authority or another authorised officer believes a penalty notice would be appropriate in an individual case, they retain the discretion to issue one before the threshold is met. This might apply for example, where parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for birthdays or other family events. If local authorities wish exercise this discretion to issue a penalty notice earlier in such circumstances, they should make this clear in their code of conduct. All local authorities also retain the discretion to consider going straight to prosecution. Local authorities who conduct, or may wish to conduct, truancy sweeps will also want to make provision for this within their Code.
11. A penalty notice can be issued to each parent liable for the attendance offence or offences. They should usually be issued to the parent or parents with day to day responsibility for the pupil's attendance or the parent or parents who have allowed the absence (regardless of which parent has applied for a leave of absence).

#### **Providing support and using a 'Notice to Improve' warning period**

12. In cases where the national threshold is met and support is appropriate, that support should be continued or provided straightaway. In most cases this support is provided at school level and should start early when absence issues are first detected.
13. In deciding whether support is appropriate or not, the school and local authority (and police, if involved) should consider whether the cause of the absence is something for which support could be provided. If support could be provided, the school and the local authority should then consider what suitable forms of support are currently available in school and where necessary by other services and agencies in the local area. They should then decide whether any or all of those things are appropriate in the individual case and for those that are appropriate, whether they have been provided previously or could be provided or continued now instead of taking legal action.
14. Support can be any activity intended to improve the child's attendance not including issuing a penalty notice or prosecution. Examples of support include action taken in school such as written communications to parents and meetings with parents and pupils to understand barriers and plan targeted support together. The form of support will be specific to the pupil and family and could include a range of actions including additional learning support, moving tutor group or school uniform provision. Some support would involve the local authority or other community services such as an early help assessment and support, a parenting contract, transport provision or housing support.
15. An example of where support would not be appropriate is in cases where the absence is clearly condoned by the parent with no mitigating factors, such as a holiday taken in term time.
16. If the threshold is met and offers of support have not been engaged with by the parent(s) or have not worked then a Notice to Improve should usually be sent. This is

to make clear that without improvement or engagement in support, legal action is likely to be taken. This can be sent by either the school or local authority or co-signed by both. The arrangements for who issues the Notice to Improve should be set out clearly in the local code of conduct.

17. The Notice to Improve should include:

- a. The pupil's attendance record and details of the offence(s)
- b. The benefits of regular attendance and parents' duty under section 7 of the Education Act 1996
- c. Support/opportunities for support provided so far
- d. Opportunities for further support and the option to access previously provided support that was not engaged with if appropriate
- e. Risk of a penalty notice being issued or prosecution considered if improvement is not secured within the improvement period
- f. A clear timeframe for the improvement period of between 3 and 6 weeks
- g. Details of what sufficient improvement within that timeframe will look like in the case (e.g. no further offences within a certain timeframe or attendance improved within a certain timeframe)
- h. The grounds on which a penalty notice may be issued before the end of the improvement period

18. The length of the improvement period should be decided locally and set out in the local code of conduct. It should be between 3 and 6 weeks and it is good practice to monitor improvement throughout this time period and adapt the approach where necessary. Local authorities can set a flexible monitoring period for Notices to Improve within their local code of conduct but it should fall within a 6 week period i.e. whoever issues the Notice to Improve can flex the length of time in individual cases up to a maximum limit of 6 weeks.

19. What sufficient improvement looks like should be decided on a case by case basis. For some families, no further unauthorised absence should be tolerated, and in other cases some can be tolerated if the family is showing engagement and progress. This should be made clear to the parent in the Notice to Improve letter.

20. Where it is clear that improvement is not being made, a penalty notice can be issued before the improvement period has ended (e.g. if the Notice to Improve stated that there should be no further unauthorised absences in a 6 week period but the pupil is absent for an unauthorised absence in the first week there is no need to wait the full 6 weeks before issuing). The Notice to Improve should make clear on what grounds it will be considered to proceed to a penalty notice before the end of the improvement period,

21. Authorised officers are expected to defer to the local authority's judgement about whether sufficient support has been provided before issuing a penalty notice. The local code of conduct should, however, set out guidance on sufficient support and this should be agreed in consultation with schools and other authorised officers. This will differ from case to case, but the local code of conduct should set out the questions that should be asked and actions that should have been taken to reach a decision.

22. A Notice to Improve should only be used in cases where support is appropriate. They do not need to be issued in most cases of term time holiday where a simple warning by the school that a penalty could be issued if unauthorised holiday is taken will suffice.
23. A Notice to Improve does not need to be issued in every case where support is appropriate. The authorised officer can choose not to use one, for example where they believe it would not have any behavioural impact (such as in a case where the parent has recently had one for a similar offence).

### **Escalation in cases of repeat offences**

24. A penalty notice is an out of court settlement which is intended to change parental behaviour without the need for a criminal prosecution. If repeated penalty notices are being considered for the same parent, a further penalty notice is unlikely to be the most appropriate tool available. Therefore, from 19 August 2024, a limit of no more than 2 penalty notices being issued to the same parent for the same pupil within a 3-year rolling period will apply.
25. The first penalty notice issued to the parent for that pupil will be charged at £160 if paid within 28 days reducing to £80 if paid within 21 days.
26. Where it is deemed appropriate to issue a second penalty notice to the same parent for the same pupil within 3 years of the first notice, the second notice is charged at a flat rate of £160 if paid within 28 days.
27. A third penalty notice must not be issued within a 3 year period. Therefore, in cases where the threshold is met for a third (or subsequent) times within those 3 years, a penalty notice cannot be issued and alternative action should be taken instead. This will often include considering prosecution, but may include other tools such as one of the other attendance legal interventions. In these cases, once 3 years has elapsed since the first penalty notice was issued to the parent a further penalty notice can be issued if appropriate, but in most cases it will not be the most effective tool for changing what may have now become an entrenched pattern of behaviour.
28. Local authorities must ensure their existing processes record where a penalty notice has been issued to an individual parent in respect of an individual pupils. They will also need to retain records for at least 3 years from the date of issuing any penalty notice in order for the escalation procedures to be followed. Local authorities can do this through whatever systems they currently use and do not need to collect and store the information in a specific way.

29. For the purpose of the escalation process, previous penalty notices include those not paid (including where prosecution was taken forward if the parent pleaded, or was found, guilty) but not those which were withdrawn. In summary:

Scenario	Counts towards the limit?
Penalty notice issued by any authorised officer and paid within 21 days	Yes
Penalty notice issued by any authorised officer and paid within 28 days	Yes
Penalty notice issued by any authorised officer but later withdrawn	No
Penalty notice issued by any authorised officer. The penalty notice was not paid and the local authority prosecuted for the original offence but the Court found the parent not guilty.	No
Penalty notice issued by any authorised officer. The penalty notice was not paid and the local authority prosecuted for the original offence and the Court found the parent guilty.	Yes

30. The three-year period begins from the date of the first penalty notice issued on or after 19 August 2024. For example, if the first penalty notice is issued on 18<sup>th</sup> September 2024, a second penalty notice issued to that parent in respect of that child on or before the 17<sup>th</sup> September 2027 would be charged at £160. A third penalty notice could not be issued within that timeframe and so in cases where the national threshold is met for a third or subsequent time another action should be taken instead.

### Local codes of conduct

31. Each local authority needs to retain a local code of conduct to set out how the penalty notice system will operate in its area. It can continue to include information and processes for both attendance penalty notices and those for a pupil being found in a public place in the first 5 days of an exclusion (for which there are no changes to the regulations).
32. The local code of conduct must continue to include:
- Means of avoiding duplication, including avoiding issuing a penalty notice where prosecution for the offence in question is ongoing or being considered.
  - Arrangements for coordination with neighbouring authorities and between authorised officers.
33. The existing section of the code of conduct on when a penalty notice is appropriate will need to be revised in light of the national threshold and limit for attendance penalty notices (i.e. 10 sessions of unauthorised absence in a rolling 10 school week period) and the section on the maximum number to be issued to a parent in a 12



month period must be limited to penalty notices for excluded pupils found in public places (and for attendance penalty notices the code should set out the new limit of no more than 2 penalty notices to be issued to a parent in respect of a pupil in a three year rolling period).

34. The new local code of conduct must include:

- Details of what options the local authority will consider if a 3<sup>rd</sup> (or subsequent) offence is committed within the 3 rolling year period.

And is also expected to include:

- How referrals will be taken by the local authority if schools and the police do not issue their own penalty notices in the area, or the process for the local authority check prior to issuing if they issue their own.
- The local arrangements for determining if support provided has been sufficient; for example, what questions would be asked and how a decision would be made.
- Details of the Notice to Improve process, including who issues the letter and the length of the improvement period.
- Details of how outcomes from the penalty notice will be communicated to the school.

## Consultation

35. Each local authority must consult with schools and the police in their area in drawing up the new local code of conduct. Each local authority should consider how best to do this balancing the time available before implementation with any precedent set in previous consultations on the code of conduct. In general, this should be light touch and will only need to cover the elements for local discretion (i.e. not the national threshold or limit).

## Cases where a pupil has moved school or local authority area within the three rolling year period

36. If a pupil has moved school within the local authority area in the previous 3 years, the process of referring to, or checking with, the local authority as set out in the local code of conduct will allow a check of whether a penalty notice (or notices) has been issued in the previous 3 years without any additional checks being required.

37. In cases where the pupil has moved between local authority areas in the previous 3 years, either because the family has moved house or the pupil has moved school, an additional check should be carried out. Where the previous local authority area is known, the authority for that area should be contacted to check whether a penalty notice has been issued to that parent for that pupil in the previous 3 years. These checks can be made by the school and/or local authority depending on agreed local processes.

38. To reduce any unnecessary workload, all local authorities should establish a mailbox to allow queries from other local authorities and vice versa. Where possible, local authorities should use **crossborder.penaltynotice@laname.gov.uk** to make it as easy as possible.



39. In cases where the previous local authority is not known or the information cannot be, or is not, provided by the previous local authority, it should be assumed that the parent has not previously received a penalty notice and the escalation process started as per a new case.

### **Working together and delivering efficiently**

40. In the spirit of the *Working together to improve school attendance* guidance, schools and local authorities should take a collaborative approach to the use of penalty notices and other attendance legal intervention. Where needed, Targeting Support Meetings should be used to discuss cases, agree actions, and monitor impact ensuring joined-up communications to families and swift action and a continuum of support where appropriate.
41. The National Framework has been designed with schools and local authorities to be as efficient as possible and minimise bureaucracy. Local authorities should look for opportunities to reduce workload by adapting existing systems and processes where possible. Digital communication, online referral forms and effective use of the Single Justice Procedure will also minimise workload and examples of effective practice will be shared during the Summer Term 2024.

### **Revenue from penalty notices**

42. The penalty notice system is not a money making scheme and local authorities should not have income targets. Any revenues collected through the system must be ring fenced for attendance. Local authorities must not pool this money in wider legal service budgets or reallocate outside of the attendance service. Local authorities must not pool this money in wider legal service budgets or reallocate outside of the attendance service. Evidence of penalty notices being issued outside of the principles of the National Framework due to income targets will be monitored through the PRMA census return.
43. Monies should be first used for administration of the penalty notice system and prosecution. If a surplus remains, from school year 2024-25 this can be spent on attendance support. In practice, 'support' means any other activity to improve attendance, not including a penalty notice or prosecution, in line with the *Working together to improve school attendance* guidance. This revenue must not be considered part of wider local authority funding and should not therefore be relied upon to fund core expectations of the local authority. Any surplus must be paid to the Secretary of State.

## What your local authority needs to do ahead of Autumn 2024

44. The National Framework will operate from 19 August 2024, and therefore there are several actions for local authorities to take ahead of the new academic year:

1	<b>Review existing processes:</b> to understand what changes will be needed to referrals, the local code of conduct, coordination arrangements and internal systems and processes.
2	<b>Consult with schools and other authorised officers:</b> on the details of the local code of conduct. This does not need to include the threshold and limit which are set nationally, but should include the other arrangements and processes decided locally (as set out above).
3	<b>Communicate changes to schools, parents and other authorised officers:</b> DfE will inform schools about the national elements of the National Framework through our regular school communications and updates to the <i>Working together to improve school attendance guidance</i> , and local authorities should inform schools about how this will work in practice in their area. The new code of conduct should be published on the local authority's website alongside the existing code of conduct making clear when the new one comes into force. Arrangements should also be made to ensure that parents are aware of the new rules and local code of conduct, either through schools or local authority communications channels.
4	<b>Set up an email mailbox for any cross-border enquiries</b>

## Frequently asked questions

### 1) Do we have to issue a penalty notice every time the threshold is met?

No, when a school becomes aware that the national threshold has been met a penalty notice must be considered. A penalty notice should only be issued if it is the best tool for the individual circumstances of the case. Even then, it should only be used when support is not appropriate or where support is appropriate, has been provided and has not worked or not been engaged with.

### 2) What happens with existing cases and when do the new thresholds and escalation processes apply from?

The new rules only apply to offences committed from 19 August 2024-25. This means that any penalty notice issued for an offence prior to that date must follow the existing rules in rules in the local authority's current code of conduct.

The 3 year rolling period can only be counted from 19 August 2024, therefore, only penalty notices issued from that date will be counted in the escalation process. I.e. a penalty notice issued in the Summer Term 2024 would not count regardless of the fact it was issued within the last 3 years.

Similarly, the 10 school week period can only be counted from 19 August 2024 i.e. offences committed at the end of Summer Term 2024 will not count regardless of the fact they are in the last 10 school weeks.

**3) If a pupil misses 10 sessions in a short timeframe, do we have to wait until 10 school weeks have passed to issue a penalty notice?**

No, it is a rolling period so a penalty must be considered as soon as the threshold is met. For example, a week of unauthorised holiday will itself normally meet the national threshold and there is no reason to wait to see if any further offences are committed.

**4) Should a penalty notice be issued to one parent or all parents?**

All parents can commit an offence under section 444 of the Education Act 1996 and therefore all parents liable for the offence may be issued a penalty notice in line with regulation 13 of the Education (Penalty Notices) (England) Regulations 2007.

Usually, in deciding which parents to issue a penalty notice to, the local authority should include all parents involved in failing to secure the pupil's attendance e.g. who they were living with on the dates of the offences or which parents went on the unauthorised holiday.

The meaning of parent in relation to a child includes any person who is not a parent but who has parental responsibility for the child or who has care of the child, as set out in section 576 of the Education Act 1996.

**5) I'm worried about how prosecution at the third offence will work in practice? Could a prosecution be taken forward if the previous offences were longer than 6 months ago?**

Local authorities can prosecute whenever they feel there is sufficient evidence that the offence has been committed and it is in the public interest to do so. The Department is clear, that whilst local authorities are independent prosecutors and must make the final decision, a third offence following two out of court settlements shows that parental behaviour has not changed and prosecution is a possible next step.

The prosecution is for the latest offences committed regardless of whether this was a continuous or sporadic set of absences and not for those that contributed to the previous penalty notices. Since it is only the latest offence(s) being prosecuted and that must have happened within the 6 months before bringing the case to court it is unlikely that there will be an issue with timescales.

**6) Hasn't a parent discharged any liability through paying a penalty notice – can prosecution be taken forward based on previous penalty notices?**

If the prosecution is being taken forward because the parent has already reached the limit of penalty notices, the local authority cannot raise previous out of court disposals before the parent has been found guilty. They should prosecute solely for the third (or subsequent) offence. If the local authority wishes to set out the history of offending they should submit any information regarding previous convictions or out of court settlements to assist the Magistrates in sentencing in line with existing procedures.

**7) Can a penalty notice be issued to a parent of a pupil at an independent school?**

No, parents of pupils at independent schools cannot be issued with penalty notices but can be prosecuted under section 444(1) or (1A).

**8) Is there an upper threshold where a penalty notice is not appropriate? Should penalty notices be used as an early intervention tool or a last resort?**

The National Framework does not set an upper threshold but an assessment should always be made on a case by case basis whether a penalty notice is the best tool available to improve attendance in the specific case. The Department is clear that a penalty notice is unlikely to be effective where absence(s) are significantly higher than the national threshold e.g. where a pupil is absent from school for a prolonged period or in cases of persistent or severe absence where a multi-agency response is required. Feedback suggests that they are most effective when used as a tool to encourage parents' engagement in support where progress is not being made without the Notice to Improve/penalty notice.

**9) Who sends the 'Notice to Improve' letter and does it need to be physical or can it be digital?**

The National Framework does not prescribe the process for issuing a Notice to Improve as local authorities will want to coordinate this in different ways to suit their local contexts. Local authorities are expected to set out in their local code of conduct how the Notice will should be issued including whether it should be issued by the school or local authority, or co-signed by both, and in what format.

**10) Can a local authority retain a threshold below the national threshold?**

Local authorities can choose to issue a penalty notice for any offence. Local authorities are discouraged from setting an additional threshold to help improve consistency across areas of the country. However, Local authorities that wish to retain flexibility for individual cases are therefore advised to include a provision in their code of conduct to be clear, that although a penalty notice must be considered when the national threshold is met, authorised officers retain discretion to issue a penalty notice earlier.

**11) Who makes the decision about whether sufficient support has been provided?**

Whoever is issuing the penalty notice must make a decision as to whether proportionate support has been provided, and whether that support has worked or not. Where there is dispute, authorised officers are expected to defer to the local authority's judgement about whether sufficient support has been provided before issuing a penalty notice

**12) Does a penalty notice issued for a pupil found in a public place during the first 5 days of an exclusion count towards the escalation process or national limit?**

No.

**13) What should we do if a pupil is absent because they are waiting for support e.g. from an external agency? Would it ever be appropriate to issue a penalty notice in that case?**

Decisions should always be made on a case by case basis by asking if a penalty notice is the best available tool to improve attendance for this family. If a pupil's absence requires support from an outside agency which is not provided quickly (e.g. subject to a waiting list), schools are expected to quickly consider other avenues of support or other temporary solutions whilst waiting. If a parent does not engage in the available support provided, the national threshold is met, and the school believes that a penalty notice or prosecution would change behaviour in this particular case then that route can be taken. In complex cases such as these it would be important for the school and local authority to discuss the case before taking action.

**14) Why did you decide on a threshold of 10 unauthorised sessions in 10 school weeks rather than 8 sessions in 8 school weeks?**

Following analysis of the latest absence and penalty notice data, we estimated that a national threshold lower than 10 sessions of unauthorised absence in 10 school weeks could result in an increase in prosecution rates (following unpaid penalty notices) that would be difficult for all local authorities to implement. We think this is the right compromise, providing national consistency that all local authorities can deliver. The Department has committed to keeping this under review as national absence rates change in future and the National Framework beds in.

**15) Does the penalty notice escalation and limit on number that can be issued to a parent apply when the offences are in relation to different children?**

No. The escalation and limit on penalty notices applies to a parent in respect of offences relating to an individual child. This means that a parent could receive a penalty notice for one child, and then one for a different child within 3 years without the penalty notice amount increasing or the 2 penalty notice limit being reached.

## **Appendix – illustrative examples**

In these examples the local authority issues penalty notices and the Notice to Improve but this does not have to be the case.

**Example 1:** A Y7 pupil has sporadic unauthorised absences at the start of the autumn term. The school picks this up early and the head of year has a phone call with the parent to ask if any support is needed, particularly around the transition to secondary school, and the importance of good attendance habits. The parent says that it is just a matter of getting used to new routines. The absence continues and the national threshold is met. The school invites the parent to a meeting but the parent does not attend. The school considers that a Notice to Improve setting out a 4 week period of improvement with no unauthorised absences is likely to improve attendance. The local authority sends the Notice to Improve, and no further unauthorised absences are taken over the monitoring period. The school monitors the pupil's absence closely to swiftly pick up any drop off in attendance for the remainder of the term.

**Example 2:** A pupil with attendance of 88% meets the national threshold in the spring term. Prior to this, the school has had a number of conversations with the parents about attendance concerns and the parents have said that they are struggling with routines and boundaries at home. There are also some financial and housing issues that are barriers to attendance. As the barriers are complex, school offer and the family accept an early help assessment. No legal action is taken.

**Example 3:** A Y10 pupil is absent every Friday for 5 weeks for unauthorised reasons, meeting the national threshold. The parent says that it is because the pupil is tired and they cannot get them out of the house. The parent is willing to work with the school and asks for support in motivating their child to attend. The school considers that a penalty notice would not be helpful in this situation because support can be provided but that a formal agreement such as a parenting contract is likely to be effective. The local authority and the school meet with the parents and pupil to agree actions through the parenting contract.

**Example 4:** A parent applies for a week's leave of absence for a family holiday in term time. The school refuses the request and talks to the family about their legal duties for ensuring their child's regular attendance, the impact of absence and the important topics that would

be missed. The school also sends a letter to confirm the refusal and sets out the risk of legal action if the holiday is taken. The family takes the holiday and the absence meets the national threshold. The school considers that a penalty notice may change future behaviour and prevent further term-time holidays and so requests that the local authority issues one. The local authority reviews the request, issues the penalty notice to the parent and also warns the parent that future offences may result in a higher penalty amount or prosecution. The local authority keeps a record of the action and informs the school of the outcome (i.e. whether it is paid/withdrawn etc) (this applies in all examples).

**Example 5:** A pupil is absent for 4 weeks due to visiting family abroad, and this absence is recorded as unauthorised by the school. A similar length of absence was also taken in the previous school year for the same reason and a penalty notice was issued and paid. Following this, the school attempted to explain the parents' legal duty and the impact on learning but the family refused to attend a meeting or answer the phone. The school considers that another penalty notice, even at the higher amount for a second offence, is not likely to change the parents' behaviour due to the severity and pattern of the absence. The school discusses the case with the LA who agrees to prosecute the case.