ST. BART'S MULTI-ACADEMY TRUST

Attendance and Punctuality Policy

Local Authority Code of Conduct

This appendix must be completed by each academy

It should be maintained and reviewed in line with the overarching Attendance and Punctuality Policy.

Academy:	St Saviour's C of E Academy

The Academy will adhere to the Local Authority Code of Conduct for Penalty Notices in relation to school attendance. This includes compliance with thresholds, processes and timescales for issuing penalty notices, notices to improve and other legal interventions.

The Academy will work in partnership with the Local Authority to ensure that all enforcement action is applied consistently, fairly and in line with statutory guidance. References to penalty notices within this policy should be read in conjunction with the Local Authority's published Code of Conduct, which will be applied in all cases.

1 Rationale

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities. In recognition of this, the law makes it an offence for a parent or carer to fail to secure the regular attendance of their child at a school at which the child is a registered pupil, without good reason or the agreement of the school.

Penalty Notices are one of the sanctions available for this offence and offer a means of swift intervention, which can be used to combat attendance problems early, before they become entrenched.

Parents and children should also be supported by their school to overcome barriers to regular attendance, through a range of intervention strategies.

Therefore, Penalty Notices and other legal sanctions will only be used where parental cooperation with this process is either absent or deemed to be insufficient to resolve the problem. They will also be used to support and challenge parents to meet their legal responsibilities and where there is a reasonable expectation that their use will secure improved school attendance.

In April 2012, the Government accepted the Charlie Taylor report recommendation to challenge the culture of expectation to term time holiday and set out a clear expectation that term time leave should only be granted in exceptional circumstances.

The Education (Pupil Registration) (England) (Amendment) Regulations 2013 made an amendment to the Education (Pupil Registration) (England) Regulations 2006 to: clarify that leave of absence shall not be granted by schools unless there are "exceptional circumstances".

The Supreme Court judgement on the Isle of Wight v Platt case on the 6th April 2017, has brought clarity to the issue of what regular attendance means and the use of penalty notices. Lady Hale gave the conclusion that

"regularly" means "in accordance with the rules prescribed by the school", she went on to say that there are many examples where, what could be perceived to be, a very minor or trivial breach of the law can lead to criminal liability.

With specific regard to leave during term time, the judgement stated (this interpretation is also consistent with the provision in section 444(3)(a) and (9)) that a child is not to be taken to have failed to attend regularly if he is absent with the leave of a person authorised by the governing body or proprietor of the school. Unlike sickness or unavoidable cause, leave is not a defence. It is part of the definition of the offence. A child is required to attend in accordance with the normal rules laid down by the school authorities for attendance but the school can make an exception in a case

2 Legal Framework:

- Section 444A of the Education Act 1996 (as inserted by section 23 of the Anti-Social Behaviour Act 2003) empowers designated Local Authority (LA) officers, head teachers (as well as deputy and assistant head teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school.

- The Education (Penalty Notices) (England) Regulations 2007 prescribe the necessary details for the operation of the penalty notice scheme under section 444A of the Education Act 1996 and section 105 of the Education and Inspections Act 2006.

- The Education and Inspections Act 2006 includes the duty of parents in relation to excluded pupils and provides for penalty notices to be issued where a parent has committed an offence by an excluded pupil being present in a public place at any time during school hours on a school day.

- Section 576 of the Education Act 1996 defines the meaning of "parent".

- The issuing of Penalty Notices must conform to all requirements of the Human Rights Act 1998 and the Equality Act 2010.

- Section 444 of the Education Act 1996 makes it an offence if a parent fails to secure their child's regular attendance at school at which they are registered, if that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under s444 Education Act 1996 or s36 Children Act 1989 to enforce attendance at school where appropriate.

- The Education (Penalty Notices) (England) (Amendment) Regulations 2024

For the purposes of this document the LA uses section 576 of the Education Act 1996 which defines "parent" in relation to a child or young person as including any person: who is not a parent but who has parental responsibility, or who has care of the child or young person. The LA, in line with the Department for Education, considers a "parent" to include:

- All natural (biological) parents, whether they are married or not;
- Any person who, although not a natural parent, has parental responsibility for a child or young person – this could be an adoptive parent, a guardian or other relative who has acquired parental responsibility.
- Any person who, although not a natural parent and does not have parental responsibility, has care of a child or young person.

The LA reserves the right to issue a penalty notice to all persons defined as a parent(s) under the 1996 Education Act section 576 in relation to Unauthorised absence.

3 Circumstances where a Penalty Notice may be issued:

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

- The presence of an excluded child in a public place at any time during school hours in the first five days of exclusion.

4 Penalty Notices may be considered appropriate if one of the following criteria is met:

- There is unauthorised absence of least 10 sessions (each school day contains two sessions) this may comprise of any unauthorised absence or late arrival at school or alternative provision over a rolling period of 10 school weeks, excluding school holidays. These absences do not need to be consecutive.

    - If in an individual case the LA believes a penalty notice is appropriate, they retain the discretion to issue a penalty notice before the 10-session threshold is met. In such instances there must be at least 2 sessions of unauthorised absence in term time not authorised by the head teacher over a period of 10 rolling

school weeks or any period of leave more than the period authorised by the head teacher.

- The presence of an excluded child in a public place at any time during school hours in that child's first five days of exclusion. An "excluded child" is one who has been excluded/suspended from school for a given period under the Education and Inspections Act 2006.

A Penalty Notice will not be issued in respect of children in the care of the Local Authority with whom other interventions will be used.

5 Other conditions.

- Only 2 penalty notices can be issued to the same parent in respect of the same child within a 3-year rolling period and any second notice within that period is charged at a higher rate as detailed below.

- The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.

- A second penalty 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 penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. In this case where the criteria to issue a penalty notice is met for a third time within 3 years, alternative action will be taken instead. This will often include considering prosecution but may include other tools such as one of the other attendance legal interventions.

- In cases where there is more than one pupil in a family with unauthorised absences, Penalty Notices may be issued for more than one child.

- All Penalty Notices are entered onto a database maintained by the Local Authority to ensure that no duplicate Penalty Notices are issued.

6 A 10-session period of unauthorised absences/lateness

All state funded schools must consider whether a penalty notice is appropriate in each individual case where one of their pupils reaches the national threshold of 10 sessions of unauthorised absence in a rolling period of 10 school weeks.

Penalty notices are intended to prevent the need for court action and should only be used where it is deemed likely to change parental behaviour, and support to secure regular attendance has been provided and has not worked or been engaged with or would not have been appropriate in the circumstances of the offence.

The local authority's (LA) decision on whether sufficient support has been provided before issuing a penalty notice should be treated as final.

The period of 10 school weeks can span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 unauthorised late arrival within the Autumn Term).

7 Notice to Improve

Where there are 10 sessions of unauthorised absence or late arrival in a rolling period of 10 school weeks the school may request the local authority to issue a Notice to Improve to a parent.

A Notice to Improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued.

A Notice to Improve does not need to be issued in cases where support is not appropriate and a school can choose not to use one in any case, including cases where support is appropriate, but they do not expect a Notice to Improve would have any behavioural impact.

The Notice to Improve should include:

- Details of the pupil's attendance record and details of the offences.
- The benefits of regular attendance and parents' duty under section 7 of the Education Act 1996.
- Details of the support provided so far.
- Opportunities for further support and the option to access previously provided support that was not engaged with.
- A clear warning that a penalty notice may be issued, or prosecution considered if attendance improvement is not secured within the improvement period.

- A clear timeframe for the improvement period of between 3 and 6 weeks. This is at the discretion of the local authority
- Details of what sufficient improvement within that timeframe will look like.
- The grounds on which a penalty notice may be issued before the end of the improvement period.

The LA will consider, and issue a Notice to Improve requested by a school in response to 10 sessions of unauthorised absence or late arrival where the school has:

- completed and sent a request form.

- provided the LA with a pupil attendance registration certificate signed by the Head teacher / Principal – or their nominated deputy – confirming that non-attendance / lateness during the period was unauthorised.

- provided the LA with information which demonstrates that the use of a Notice to Improve is now the appropriate action to address the child's school attendance / punctuality.

The LA EWO will then issue a Notice to Improve to the parent (s) by post or email.

If the required improvement in attendance is achieved the LA will not issue a penalty notice but will ask the school to continue to support the family.

If there is not sufficient improvement within the timeframe of the notice the LA will issue a penalty notice to the parent (s).

Where improvement is not being made, it may be appropriate to issue a penalty notice before the improvement period has ended.

Please note:

Schools are requested to send in their request forms for a notice to improve as soon as the threshold has been met, so that the notice can be issued in a timely manner and prevent further unauthorised absences.

8 A period of unauthorised absence, not authorised by the head teacher or in excess of the period determined by the head teacher.

The LA will consider, and issue Penalty Notices requested by a school in response to any unauthorised leave of absence (including family holidays) resulting in unauthorised absence where the school has:

- completed and sent a request form which, if possible, should include:
  - Copy of parental request form
  - Response letter to parents

- provided the LA with a pupil attendance registration certificate signed by the Head teacher / Principal – or their nominated deputy – confirming that non-attendance / lateness during the period was unauthorised.

- In cases where the unauthorised leave of absence occurs without prior request from the parent (s) or is due to unauthorised absence beyond that which was agreed, the school should provide evidence of what efforts have been made to contact the parent(s) to explore the unauthorised absence.

- If parents dispute the school's allegation that the child was on an unauthorised leave, then the parent is responsible for providing the evidence to substantiate their claim. This should be provided to the school and included in with the request form.

Please note:

Schools are requested to send in their penalty notice forms within 4 weeks of the end date of the unauthorised leave, so that the penalty notice can be processed in a timely manner.

Whilst the LA reserves the right to issue a penalty notice to all persons defined as a parent under the 1996 Education Act section 576 in relation to unauthorised leave, the LA may seek to specifically issue a penalty notice to the parent(s) whom the child resides with, or if parents are separated, the parent(s) who have taken the child out of school for the unauthorised leave.

Where the Penalty Notice is requested from a school in response to a leave of absence related unauthorised absence or is in relation to an offence under section 103 of the Education and Inspections Act 2006, the Notice to Improve does not apply.

9 Excluded and suspended pupil seen in a public place during school hours

The parent of the pupil must ensure that the pupil is not present in a public place at any time during school hours on a day that he / she is excluded or suspended, up to and including the first 5 days or, where it is for a fixed period of 5 days or less, any of the days to which the exclusion relates.

If the pupil is present in a public place at any time during school hours on a school day specified above, the parent commits an offence under section 103 of the Education and Inspections Act 2006 and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

In such cases the school should provide to the LA:

- A copy of the letter sent to parent(s) pursuant to s.104 of the Education and Inspections Act 2006 warning them to ensure that the child is not permitted to be present in a public place in the first five days of exclusion.

- Robust and reliable evidence in the form of a witness statement, stating how the child is known to the witness, where the child was seen including the date and time.

Please note if the case is contested the witness may be required to give evidence in court.

10 Procedure for issuing Penalty Notices:

A Penalty Notice may only be issued by authorised LA staff. In Staffordshire this will be LA Education Welfare Officers. This will ensure consistent and equitable delivery, avoid duplication of issue, and allow schools to maintain good relationships with parents and ensure that they reinforce other enforcement sanctions.

A Penalty Notice may be requested by a head teacher / principal and school staff authorised by them, or a police officer during a truancy sweep under the provision of Crime and Disorder Act 1998.

Penalty Notices will initially be issued by post and never as an instant action, e.g. during a truancy sweep. This will enable officers to ensure that all evidential requirements are in place, duplication of issue is avoided and to limit the health and safety risks associated with delivering

such notices by hand. However, if a parent requests a further copy of a penalty notice, this may be sent via email to the parent.

Where Schools, Police or neighbouring local authorities ask Staffordshire County Council to issue a Penalty Notice, their request will be investigated and actioned by the LA EWO provided that:

- The circumstances of the case meet the criteria specified in this Code of Conduct.
- The pupil is registered at a Staffordshire School;
- Checks have been made with a previous local authority if a pupil has moved home or school during the previous 3 years.
- All necessary evidence is provided to establish an offence under Section 444(1) of the Education Act 1996 has been committed.
- Issuing a Penalty Notice would not conflict with another intervention strategy already in place or another enforcement sanction already being processed; and
- There is evidence which demonstrates that the use of a Penalty Notice is now the appropriate action to improve the child's school attendance (not required in the case of unauthorised leave of absence).

The LA will endeavour to keep schools informed about the outcomes of the penalty notices.

11 Truancy Sweep

A Penalty Notice will only be issued after due consideration, when all facts are known and the threshold for serving the notice has been met.

Information should be given to anyone stopped on a truancy sweep (pupil and/or parent) about the possible support and sanctions used to address non-attendance.

12 Criteria for withdrawing Penalty Notices:

Once issued a Penalty Notice may be withdrawn if Staffordshire LA is satisfied that:

- The Penalty Notice was issued to the wrong person.

- The use of the Penalty Notice did not conform to this Code of Conduct.
- The Penalty Notice contained material errors.
- The evidence demonstrates that the Penalty Notice should not have been issued, e.g. medical evidence.

If a parent believes one of the above criteria to withdraw a penalty notice has been met, this should be raised with the LA immediately, by contacting:

Head of Attendance and Inclusion Childrens and Families

1 Staffordshire Place Stafford ST16 2DH

Email - Penaltynoticeenquiries@staffordshire.gov.uk

This will then be investigated, and the parent(s) informed of the outcome either to withdraw or uphold the penalty notice.

(1) Please note - in the case of a material error the penalty notice may be re-issued with the appropriate corrections made by email.

13 Representation

There is no statutory right of appeal against the issuing of a Penalty Notice.

However, the parent may choose to not pay the penalty notice and therefore the matter will be referred to the Magistrates Court where they can make representation to the Magistrates.

14 Payment of Penalty Notices:

- Arrangements for payment will be detailed on the Penalty Notice.
- Payment of a Penalty Notice discharges the parent's liability for the period in question therefore:
    - they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.

- they cannot subsequently appeal the penalty notice as the matter is then considered closed.

- The LA retains any revenue from Penalty Notices to cover enforcement costs and other functions of the local authority which serve to support the regular attendance at school of registered pupils.

- Payments will not be accepted in part or by instalments.

15 Non-payment of Penalty Notices:

Non-payment of a Penalty Notice will trigger the fast-track court prosecution process under the provisions of section 444(1) of the Education Act 1996. Parents will be sent Single Justice Papers by post, which will explain the process and which they must then complete and post to the Court address given.

16 Policy and Publicity

- Identifying information about Penalty Notices issued to particular parents or specific children should not be made public;

- School attendance policies should include information on the issuing of Penalty Notices, and this should be available to parents;

- The LA will include information on the use of Penalty Notices and other attendance enforcement sanctions in promotional or public information material.

17 Reporting & Review:

Staffordshire LA will:

Report at regular intervals to the head teacher forum groups (Primary, Secondary, Middle and Special) and Staffordshire Police on the deployment and outcomes of Penalty Notices.

Make regular reports to Staffordshire County Council on attendance matters which will include Penalty Notice use; and review Penalty Notice use at regular intervals and amend the Code of conduct as appropriate.