



CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL

# **Côd Ymddygiad Lleol**

## **Rhybuddion Cosb Penodol**

### **Adran Dysgu Gydol Oes**

*Mae'r cyhoeddiad hwn ar gael yn Saesneg ar gais.*

## 1. Fframwaith Cyfreithiol

- 1.1. Mae'r gyfraith yn galluogi i swyddogion Cyngor Sir Ynys Môn dynodedig, penaethiaid, yn cynnwys eu dirprwyon enwebedig a'r Heddlu gyhoeddi Rhybuddion Cosb Benodol i rieni plant sydd ag absenoldeb anawdurdodedig o'r ysgol.

Mae'r rheolau sy'n llywodraethu gweithredu'r pwerau hyn a'r ffactorau y dylid eu cymryd i gyfrif wrth gyhoeddi Rhybudd Cosb Benodol wedi eu hamlinellu yn:

- Deddf Addysg 1996;
- Deddf Addysg ac Arolygiadau 2006;
- Rheoliadau Addysg (Rhybuddion Cosb) (Cymru) 2013; ac
- Arweiniad a gyhoeddwyd gan yr Adran dros Addysg, yn arbennig yr "Arweiniad ar Gytundebau Rhiantu Addysg–Berthynol, Gorchmynion Rhiantu a Rhybuddion Cosb 2007 a Sicrhau Hawl Plant i Addysg".

Yn ychwanegol, mae'n rhaid i gyhoeddi Rhybuddion Costau Penodol gydymffurfio â deddfwriaeth arall, megis Deddf Hawliau Dynol a phob deddfwriaeth Cyfleoedd Cyfartal perthnasol, er mwyn sicrhau y defnyddir hwy mewn ffordd deg a chyson.

Mae Cyngor Sir Ynys Môn yn gyfrifol am ddatblygu protocol gyda phun y bydd yr holl bartneriaid a enwir mewn deddfwriaeth yn gweithio.

## 2. Rhesymeg

- 2.1 Mae Adran 7 o Ddeddf Addysg 1996 yn datgan:

"Bydd rhiant pob plentyn o oed ysgol gorfodol yn peri iddo dderbyn addysg effeithiol lawn-amser sy'n addas i'w oed, ei allu ei gymhwyster ac i unrhyw anghenion addysgol arbennig y gallai fod ganddo, naill ai drwy bresenoldeb rheolaidd yn yr ysgol neu fel arall."

- 2.1.1. Mae presenoldeb rheolaidd a phrydlon yn yr ysgol neu ddarpariaeth arall yn ofyniad Cyfreithiol ac mae'n hanfodol i alluogi plant i wneud y mwyaf o'u cyraeddiadau addysgol a chyfleoedd sydd ar gael iddynt.
- 2.1.2. Mae tystiolaeth yn dangos bod plant gyda phresenoldeb gwael yn annhebygol o lwyddo'n academiaidd ac maent yn fwy tebygol o beidio â bod mewn addysg, cyflogaeth neu hyfforddiant (NEET) pan fyddant yn gadael yr ysgol. Mae pobl ifanc NEET yn debygol o fod â hanes o ddim presenoldeb ac absenoldebau dyfal ym mlynnyddoedd 10 ac 11.

- 2.1.3. Mae Adran 444 o Ddeddf Addysg 1996, yn ei gwneud yn drosedd dybryd bod methiant rhiant i ddiogelu presenoldeb eu plentyn yn yr ysgol y maent wedi eu cofrestru ynddi a lle nad awdurdodir absenoldebau gan yr ysgol.
- 2.1.4. Mae'r diffiniad o "riant" yn cynnwys pob rhiant naturiol, p'run a ydynt wedi priodi ai peidio ac yn cynnwys unrhywun sydd, er nad yw'n rhiant naturiol, sydd â chyfrifoldeb rhiant a/neu (g)ofal am blentyn neu rywun ifanc.
- 2.1.5. Mae ymyriad wedi ei dargedu yn chwarae rhan allweddol mewn datrys materion o bresenoldeb ysgol gwael. Fodd bynnag lle mae hyn yn methu â chael yr effaith a ddymunir mae nifer o sancsiynau ar gael i AauLL i geisio sicrhau presenoldeb rheolaidd.

2.2. Mae Rhybuddion Cosb Benodol yn un o'r sancsiynau sydd ar gael ar gyfer y drosedd hon ac yn cynnig ffordd o ymyriad addas ac effeithiol ar gyfer gwella lefelau absenoldebau anawdurdodedig, cyn iddynt ddod yn absenoldebau wedi hen ymwreiddio- a dyfal, tra bydd yr angen am erlyniadau hir a chostus yn cael eu lleihau.

- 2.2.1. Ni ddefnyddir Rhybuddion Cosbau Penodol a sancsiynau eraill ond lle mae cydweithrediad rhiant gyda'r broses hon naill ai'n absennol neu yr ystyrir nad yw'n ddigonol i ddatrys y broblem. Defnyddir hwy fel modd i gefnogi rhieni i gyfarfod â'u cyfrifoldebau cyfreithiol a dim ond lle mae disgwyliad rhesymol y bydd eu defnydd yn sicrhau gwell presenoldeb ysgol.

### **3. Ymarferoldebau cyfreithiol**

£60 yw rhybudd cosb os telir o fewn 28 diwrnod o dderbyn y rhybudd, gan godi i £120 os telir ar ôl 28 diwrnod ond o fewn 42 diwrnod o'i dderbyn. Os na thelir y gosb yn llawn erbyn diwedd 42 diwrnod mae'n rhaid i'r ALL naill ai erlyn mewn perthynas â'r drosedd neu dynnu'r rhybudd yn ôl.

Mae'r erlyniad hwn am y drosedd o fethu â diogelu presenoldeb yn yr ysgol ac nid am beidio â thalu'r ddirwy. Deuir ag ef o dan adran 444 o Ddeddf Addysg 1996.

Ni all tynnu rhybudd yn ôl ond digwydd mewn amgylchiadau cyfyng iawn fel y gosodwyd allan yn y côd ymddygiad hwn.

### **4. Polisi a Chyhoeddusrwydd**

Bydd polisiâu presenoldeb ysgol yn cynnwys gwybodaeth ar gyhoeddi Rhybuddion Cosb Benodol a deuir â hyn i sylw rhieni.

## **5. Monitro ac adolygu**

Bydd Cyngor Sir Ynys Môn yn arfarnu effeithiolrwydd Rhybuddion Cosb Benodol bob dwy flynedd ac yn newid ei strategaeth orfodi gyffredinol fel y bo'n briodol. Perir y bydd adroddiadau blynyddol ar gael i'r Pennaeth Gwasanaeth, y Cyfarwyddwr Dysgu Gydol Oes, y Pwyllgor Craffu a Llywodraeth Cymru.

## **Atodiad 1**

### **Protocolau a gweithdrefnau Cyngor Sir Ynys Môn mewn perthynas â Rhybuddion Cosb Benodol.**

#### **Cyhoeddi Rhybudd Cosb**

- Ni fydd cyfyngiad ar y nifer o weithiau y gall rhiant dderbyn rhybudd ffurfiol o Rybudd Cosb Benodol posibl;
- Ni ellir cyhoeddi Rhybudd Cosb Benodol ond mewn achosion o absenoldeb anawdurdodedig;
- Cyfyngir y defnydd o Rybudd Cosb Benodol i un rhybudd i riant disgybl yn y flwyddyn academiaidd;
- Mewn achosion lle ceir mwy nag un disgybl gyda phresenoldeb gwael mewn teulu, gellir cyhoeddi rhybuddion ar gyfer mwy nag un plentyn.

#### **Gellir ystyried bod Rhybuddion Cosb yn briodol pan fydd:**

- O leiaf 10 sesiwn (5 diwrnod ysgol) wedi eu colli oherwydd absenoldeb anawdurdodedig yn ystod y tymor presennol. Nid oes yn rhaid i'r rhain fod yn olynol;
- Absenoldebau anawdurdodedig o 10 sesiwn o leiaf (5 diwrnod ysgol) oherwydd gwyliau mewn amser tymor neu ddychweliad wedi ei oedi o wyliau estynedig; neu
- Gyrraedd yn hwyr yn yr ysgol parhaus, h.y. wedi i'r gofrestr gau (9.30yb), yn y tymor presennol. Mae "parhaus" yn golygu o leiaf 10 sesiwn o gyrraedd yn hwyr;
- Triwantiaeth; wedi ei diffinio fel Y weithred o aros ymaith o'r ysgol heb reswm da (geiriadur Rhydychen)

Ni fydd yr Awdurdod Lleol ond yn cyhoeddi Rhybuddion Cosb Benodol y gofynnir amdanynt gan ysgol mewn ymateb i absenoldeb awdurdodedig gwyliau-berthynol lle mae'r ysgol wedi darparu'r gwaith papur angenrheidiol. Dylai'r gwaith papur hwn gynnwys:

- Copi o gylchlythyr neu lythyr a anfonwyd i bob rhiant yn ystod y flwyddyn Addysgol bresennol sy'n datgan yn glir y gall rhieni dderbyn Rhybudd Cosb Benodol am wyliau anawdurdodedig yn amser tymor. (Ni fydd ar yr ALL angen copi caled o'r cylchlythyr/llythyr hwn bob tro y bydd ysgol yn gwneud cais am Rybudd Cosb Benodol gwyliau anawdurdodedig, dim ond ar achlysur cyntaf pob blwyddyn addysgol);
- Copi o'r Ffurflen Cais Gwyliau a gyflwynir gan riant, a chopi o'r ymateb a anfonwyd i'r rhiant gan yr ysgol. Pe digwydd i gais am wyliau gael ei wrthod dylai ymateb yr ysgol ddatgan y rheswm pam y mae'r gwyliau'n anawdurdodedig a dylent eto gynhori rhiant y gallant dderbyn Rhybudd Cosb Benodol os byddant yn tynnu eu plentyn allan o'r ysgol;

- Copi o lythyr a anfonwyd gan yr ysgol i riant yn cynghori bod yr ysgol wedi cyfeirio'r mater i'r Awdurdod Lleol ac y cyhoeddir Rhybudd Cosb Benodol;
- Presenoldeb neu Dystysgrif Cofrestru disgyblion perthnasol;
- Tystysgrif wedi ei arwyddo gan y Pennaeth neu eu dirprwy enwebedig yn cadarnhau bod diffyg presenoldeb yn ystod y cyfnod yn anawdurdodedig;

Ni chyhoeddir Rhybudd Cosb mewn perthynas â phlant yng ngofal yr Awdurdod Lleol gyda pha rai y defnyddir ymyriadau eraill.

### **Ystyriaethau ac Asesiad a ddylid cyhoeddi Rhybudd Cosb Benodol**

Bydd Penaethiaid, eu dirprwyon enwebedig a'r Gwasanaeth Lles Addysg yn cymryd i gyfrif yr hyn a ganlyn wrth benderfynu a ddylid cyhoeddi Rhybudd Cost Benodol:

- Lefel absenoldeb;
- Parch at Ddeddfwriaeth Cydraddoldeb ac Amryfaliaeth ;
- Unrhyw ddatganiad o Anghenion Addysgol Arbennig;
- Anghenion Dysgu Ychwanegol;
- Hanes materion presenoldeb a'r gweithredu a wnaed;
- Amddiffyniadau a all fod ar gael;
- Arweiniad Llywodraeth Cymru (LIC);
- Effeithiolrwydd tebygol Rhybudd Cosb Benodol fel offeryn ar gyfer cael cydymffurfio;
- Lefel ymrwymiad/cydweithredu rhieni.

### **Gweithdrefn ar gyfer Cyhoeddi Rhybuddion Cosb Benodol**

Y swyddogion dynodedig o fewn y Gwasanaeth Lles Addysg (GLIA/ EWS), fydd yr unig unigolion y caniateir iddynt gyhoeddi Rhybuddion Cosb Benodol o fewn Cyngor Sir Ynys Môn, a fydd yn sicrhau cyflwyno cyson a theg ac yn caniatáu i ysgolion gynnal perthynas dda gyda rhieni a sicrhau eu bod yn atgyfnerthu unrhyw sancsiynau gorfodi eraill.

Cyhoeddir Rhybuddion Cosb Benodol yn unig drwy'r post a byth megis gweithredu yn y fan a'r lle, e.e. yn ystod Ysgubo Triwantiaeth. Bydd hyn yn galluogi swyddogion i sicrhau bod pob gofyn tystiolaethol yn ei le ac yn cyfyngu'r peryglon iechyd a diogelwch i unigolion cysylltiedig â danfon Rhybuddion o'r fath drwy law.

### **Ceisiadau ar gyfer cyhoeddi Rhybudd Cosb Benodol**

Lle bydd ysgolion, yr Heddlu neu awdurdodau lleol cyfagos yn gofyn am gyhoeddi Rhybudd Cosb Benodol, ymchwilir i'w cais a'i weithredu gan y GLIA /EWS, a chaniatáu (bod):

- Amgylchiadau achos yn cyfarfod â'r meini prawf a nodwyd yn y Côt Ymddygiad hwn;
- Y plentyn wedi ei gofrestru mewn ysgol Cyngor Sir Ynys Môn ;

- Y darperir pob tystiolaeth angenrheidiol i'r GLIA/EWS i sefydlu a oes trosedd o dan Adran 444(1) neu 444(1A) o Ddeddf Addysg 1996 neu Adran 103 o Ddeddf Addysg ac Arolygiadau 2006 wedi ei chyflawni;
- Na fyddai cyhoeddi Rhybudd Cosb Benodol yn gwrthdaro gyda strategaeth ymyriad arall sydd eisoes yn ei lle neu sancsiwn gorfodaeth arall sydd eisoes yn cael ei brosesu a cheir disgwyl rhesymol y byddai'r defnydd o Rybudd Cosb Benodol yn gwella presenoldeb ysgol plentyn neu'n atal torri Deddf Addysg ac Arolygiadau 2006 ymhellach.
- Bydd y GLIA/ EWS yn ymateb i bob cais o fewn 10 diwrnod ysgol o'i dderbyn , a lle bydd bodlonrwydd y cyfarfyddir â'r holl feini prawf perthnasol, yn cyhoeddi rhybudd ysgrifenedig ffurfiol i'r rhiant o bosibilrwydd cyhoeddi Rhybudd Cosb Benodol;
- Gosod cyfnod o 15 o ddyddiau ysgol o fewn pa rai y bydd yn rhaid i'r disgybl beidio â bod ag unrhyw absenoldeb anawdurdodedig, a rhoi cyfle i'r rhiant ymateb; gellir cynnwys yr wybodaeth hon yn y llythyr rhybudd ysgrifenedig ffurfiol, lle mae un wedi ei gyhoeddi; ac
- Wedi ystyriaeth ddyledus o ffeithiau'r achos, dim ond cyhoeddi Rhybudd Cosb Benodol drwy Bost Dosbarth Cyntaf ar ddiwedd cyfnod o 15 diwrnod, os na fydd y lefel ofynnol o bresenoldeb ysgol gwell wedi ei gyflawni.

### **Rhybuddion Cosb Benodol ar gyfer gwyliau anawdurdodedig**

Lle gofynnir am Rybudd Cosb Benodol o ysgol mewn perthynas ag absenoldeb anawdurdodedig gwyliau-berthynol, neu ei fod mewn perthynas â throedd o dan adran 103 o Ddeddf Addysg ac Arolygiadau 2006, ni fydd y llythyr rhybudd ffurfiol a chyfnod gwella 15 diwrnod yn gymwys.

### **Monitro ac Adolygu**

Bydd pob Rhybudd Cosb Benodol yn cael ei gofnodi ar ddatbas a gedwir gan y GLIA / EWS i sicrhau na chyhoeddir unrhyw Rybuddion Cosb Benodol dyblygedig ac arfarnu effeithiolrwydd y broses o fewn y Sir.

### **Disgyblion a Waharddwyd**

Nid yw seiliau grymoedd rhybudd cosb benodol, yn ymestyn i ddisgyblion a waherddir.

Daeth Adran 108 o Ddeddf Addysg ac Arolygiadau 2006 i rym yn Hydref 2010 ac mae'n newid adran 16 o Ddeddf Trosedd ac Anhrefn 1998 i ymestyn grymoedd yr Heddlu ar gyfer symud disgyblion a waharddwyd i adeilad dynodedig os bydd plentyn neu rywun ifanc a waherddir o ysgol yn cael ei ddarganfod mewn lle cyhoeddus mewn man penodedig yn ystod cyfnod penodol ac yn ystod oriau ysgol.

### **Gweithdrefn ar gyfer Tynnu Ymaith Rybuddion Cosb Benodol**

Unwaith y cyhoeddir, ni ellir ond tynnu'n ôl Rybudd Cost Benodol os bydd y GLIA /EWS yn fodlon (bod):

- Y Rhybudd Cosb Benodol wedi ei chyhoeddi i'r un anghywir;

- Nad oedd y defnydd o Rybudd Cost Benodol yn cydymffurfio â'r Côt Ymddygiad;
- Y cyflwynwyd y Rhybudd Cost Benodol i'r cyfeiriad anghywir;
- Y dystiolaeth yn arddangos na ddylai'r Rhybudd Cost Benodol fod wedi ei gyhoeddi, e.e. tystiolaeth feddygol; neu bod
- Amgylchiadau'r achos yn cyfiawnhau ei dynnu'n ôl.

### **Hawl Apelio**

Nid oes hawl apelio, ond lle mae rhiant yn ymladd cyhoeddi Cosb Benodol. Sylwch y gallant gyflwyno unrhyw gwynion i'r GLIA/EWS ac/neu ddewis wynebu gweithrediadau yn Llys yr Ynadon o dan Adran 444 o Ddeddf Addysg 1996.

### **Talu am Rybuddion Cosb Benodol**

Manylir ar drefniadau ar gyfer talu ar y Rhybudd Cosb.

Mae talu Rhybudd Cosb Benodol yn rhyddhau atebolrwydd y rhiant am y cyfnod dan sylw ac ni allant yn ddilynol gael eu herlid o dan rymoedd gorfodi eraill am y cyfnod a gwmpesir gan y Rhybudd Cosb Benodol.

Os telir y Rhybudd Cosb Benodol o fewn 28 diwrnod, y gost sy'n daladwy yw £60 neu £120 os bydd o fewn 42 diwrnod. Ni dderbynnir taliadau gan rieni ar ôl i 42 diwrnod fynd heibio ac ni ellir ei dalu'n rhandaliadau.

Bydd Cyngor Sir Ynys Môn yn cadw unrhyw gyllid o'r Rhybuddion Cosb Benodol, yn ei ddal ar wahân ac yn ei ddefnyddio i gwmpasu costau gorfodi, h.y. costau cysylltiedig â chyhoeddi, casglu neu erlyn, pe digwyddai peidio â thalu, Rhybuddion Cosb Benodol. Fodd bynnag, mae'n rhaid ildio unrhyw gyllid dros ben i Gronfa Gadarnhau Cymru.

### **Peidio â thalu Rhybuddion Cosb Benodol**

Gall peidio â thalu Rhybudd Cosb Benodol arwain at erlyn am y cyfnod a gwmpesir gan y Rhybudd Cosb Benodol o dan Adran 444 o Ddeddf Addysg 1996.

### **Cydraddoldebau a'r Iaith Gymraeg**

Mae'n rhaid i gyhoeddi Rhybuddion Cosb Benodol gydymffurfio â deddfwriaeth a rheoliadau perthynol eraill, er mwyn sicrhau y defnyddir hwy mewn modd teg a chyson a bod sylw dyledus wedi ei dalu i amgylchiadau'r plant/plentyn a'r teuluoedd cysylltiedig. Mae'r rhain yn cynnwys, ond ni chyfyngir hwy i'r hyn a ganlyn:

- Deddf Cydraddoldeb 2010 (Dyletswyddau Statudol) (Cymru) Rheoliadau 2011
- Mesur yr Iaith Gymraeg (Cymru) 2011



- Deddf Hawliau Dynol 1998

Mae polisi cydraddoldebau'r Cyngor yn cwmpasu'r ystod lawn o faterion y mae modd y bydd angen eu hystyried, yn dibynnu ar yr achos unigol.

## **Atodiad 2**

**Rhestr Wirio Cais Rhybudd Cosb Benodol (i'w chyflwyno ar gais)**

**Cais Rhybudd Cosb (Gwyliau Anawdurdodedig)**

**Cais am Rybudd Cosb Absenoldeb Anawdurdodedig**

**Rhestr wirio Rhybudd Cost Benodol (Gwyliau Anawdurdodedig)**

1. Pwy sydd â chyfrifoldeb rhiant dros y disgybl?

Enwch y sawl sydd â gofal dydd i ddydd os yw'n wahanol

Cyfrifoldeb Rhiant.....

Gofal Dydd i Ddydd.....

2. A yw'r cyfnod o absenoldeb wedi golygu bod y disgybl wedi colli o leiaf 10 sesiwn ysgol?

Ydyw / Nac ydyw

3. A yw'r rhiant a enwir yn ymateb i gwestiwn 1 wedi derbyn Rhybudd Cosb Benodol yn flaenorol ? Os ydyw, pryd?

Ydyw / Nac ydyw

Nodwch pryd:

.....  
.....  
.....

4. A wnaed cais i'r ysgol gan y rhiant am wyliau blynyddol yn ystod y cyfnod yr ydych yn dymuno cyhoeddi Rhybudd Cosb Benodol ar ei gyfer ?

Os gwnaed hynny beth oedd y rheswm dros wrthod? Atodwch gopiâu o'r ohebiaeth a gyfnewidiwyd.

Os na wnaed hynny esboniwch pam yr amheuir gwyliau anawdurdodedig.

.....  
.....  
.....  
.....  
.....

5. Beth yw hanes presenoldeb y disgybl (atodwch allbrintiau SIMS)?

.....  
.....  
.....

6. A oes gan y disgybl unrhyw ddatganiad o Anghenion Addysgol Arbennig?

.....  
.....  
.....

7. A oes gan y disgybl anabledd o dan Ddeddf Cydraddoldeb 2010?

.....  
.....  
.....

8. Beth a wyddoch am amgylchiadau personol y disgybl?

.....  
.....  
.....

9. A oes unrhyw amgylchiadau eithriadol y dylai'r Cyngor fod yn ymwybodol ohonynt?

.....  
.....  
.....

10. A yw'r disgybl wedi cael gwyliau blaenorol neu gyfnod hir o absenoldeb yn y flwyddyn addysgol y cymerwyd y gwyliau anawdurdodedig ynddi?

.....  
.....  
.....

11. A yw'r rhiant wedi bod mewn cyswllt â'r ysgol mewn perthynas â'r absenoldeb?

.....  
.....  
.....

12. A yw Côt Ymarfer Cyngor Sir Ynys Môn wedi ei ystyried?

.....  
.....  
.....

**CAIS RHYBUDD COSB BENODOL**  
**GWYLIAU ANAWDURDODEDIG - Rhestr wirio**

Disgybl cofrestredig yn : Ysgol.....

**Manylion y Disgybl:**

Enw: .....GWRYW/BENYW

Dyddiad Geni: .....

Cyfeiriad:

.....

.....

.....

.....

.....

.....

Côd Post: .....

Rhif ffôn: .....

Rhif Ffôn Symudol: .....

**Rhiant/Gofalydd**

Enw:

.....

.....

Cyfeiriad (os yw'n wahanol i'r uchod):

.....

.....

.....

.....

Côd Post: .....

Rhif ffôn: .....

Rhif ffôn symudol: .....

Enw:.....  
.....

Cyfeiriad (os yw'n wahanol i'r uchod):

.....  
.....  
.....

Côd post: .....

Rhif ffôn: .....

Rhif ffôn symudol: .....

**Dyddiadau Absenoldeb:**

Roedd y disgybl a enwyd uchod yn absennol o'r ysgol ar y dyddiadau a ganlyn ac maent wedi eu cofnodi yng nghofrestr yr ysgol fel anawdurdodedig. (Atodwch dystysgrif cofrestru yn dangos y cyfnod)


**Datganiad**

Fi yw Pennaeth/Pennaeth Gweithredol yr Ysgol a enwyd. Rwyf yn cadarnhau bod y cais gwyliau hwn wedi ei ystyried yn unol â Pholisi Presenoldeb yr Ysgol. Hyd eithaf fy ngwybodaeth nid oes unrhyw amgylchiadau eithriadol i'w hystyried.

A ofynnodd y rhieni am awdurdodi cyn y gwyliau: Do / Naddo.

Ymateb yr ysgol yn ysgrifenedig i wrthod awdurdodi gwyliau: Oes / Nac oes.

**ATODWCH GOPIAU O BOB GOHEBIAETH.**

Enw: .....

Arwyddwyd: .....Dyddiad: .....

**CAIS AM RYBUDD COSB**

**ABSENOLDEB ANAWDURDODEDIG- Adran 444, Deddf Addysg, 1996**

Defnyddir gwybodaeth a gynhwysir yn y ffurflen mewn gweithredu cyfreithiol o dan y ddeddf uchod sy'n berthynol i ddiffyg presenoldeb yn yr ysgol pe cyhoeddir Rhybudd Cosb Addysg ac yr erys heb ei dalu. Gofynnaf i'r Awdurdod Lleol ystyried cyhoeddi Rhybudd Cosb i riant/rhieni\* y disgybl a ganlyn:

**Manylion Disgybl**

Ysgol gofrestredig.....

Enw'r Disgybl..... Dyddiad Geni ..... Blwyddyn  
.....

Cyfeiriad.....  
.....  
.....  
.....

**Rhiant 1**

Enw llawn ..... Dyddiad  
Geni.....

Cyfeiriad.....  
.....  
.....  
.....

**Rhiant 2**

Enw llawn.....Dyddiad  
Geni.....

Cyfeiriad.....  
.....  
.....  
.....



Mae'r ymadrodd "rhiant", mewn perthynas â phlentyn neu unigolyn ifanc, yn cynnwys unrhywun nad yw'n rhiant y plentyn ond sydd â chyfrifoldeb rhiant drosto ef neu hi, neu sydd â gofal o'r plentyn.

Wrth wneud y cais hwn, rwyf yn cadarnhau na fyddai gweithredu o'r fath yn gwrthdaro â strategaeth ymyrryd eraill sydd eisoes yn eu lle neu fesurau gorfodi eraill sy'n cael eu prosesu eisoes. Gallaf hefyd gadarnhau bod corff llywodraethu'r ysgol hon wedi adolygu ei bolisi presenoldeb ac wedi cytuno y bydd yr ysgol hon yn gofyn i'r Awdurdod Lleol gyhoeddi Rhybuddion Cosb mewn achosion priodol.

Sut y cysylltwyd â'r rhiant mewn perthynas ag absenoldebau anawdurdodedig?

Cyfarfod ysgol  Llythyr  Galwad ffôn

A yw'r teulu'n adnabyddus i Wasanaethau eraill, ee: Gwasanaethau Plant, CAMHS?  
Ydyw / Nac ydyw

A oes unrhyw amgylchiadau nodedig i'w hystyried, ee: iechyd meddwl, galar, dynameg teulu/trais yn y cartref? Oes / Nac oes

Os oes, rhowch fanylion llawn:

Arwyddwyd ..... Teitl ..... Dyddiad:.....

**Amgaewch dystysgrif cofrestru cyfredol .**



### **Atodiad 3**

Mae Deddfwriaeth berthnasol berthynol i Rybuddion Cosb Benodol yn cynnwys:

#### **Deddf Plant 1989**

Mae'r diffiniad o "riant" yn golygu pob rhiant naturiol, p'run a ydynt yn briod ai peidio; ac yn cynnwys unrhywun, er nad yw'n rhiant naturiol, sydd â chyfrifoldeb rhiant a/neu (g)ofal o blentyn neu un ifanc.

#### **Deddf Addysg 1996**

Adran 7	Dyletswydd rhieni i sicrhau addysg plant o oed ysgol gorfodol;
Adran 8	Diffiniad o oed ysgol gorfodol;
Adran 444	Trosedd: Methu â sicrhau presenoldeb rheolaidd disgybl cofrestredig yn yr ysgol;
Adran 444A	Rhybudd cosb mewn perthynas â methu â sicrhau presenoldeb rheolaidd disgybl cofrestredig yn yr ysgol;
Adran 444B	Rhybuddion cosb: atodol;
Adran 444ZA	Cymhwyso adran 444 i ddarpariaeth addysgol wahanol
Adran 576	Ystyr "riant"

#### **Deddf Addysg ac Arolygiadau 2006**

Adran 103	Dyletswydd rhiant mewn perthynas â phlentyn a waharddwyd;
Adran 104	Rhybudd i riant mewn perthynas â disgybl a waharddwyd;
Adran 105	Rhybudd cosb mewn perthynas â phresenoldeb disgybl a waharddwyd mewn man cyhoeddus;
Adran 106	Rhybuddion cosb: atodol



CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL

# **Local Code of Conduct**

## **Fixed Penalty Notices**

### **Lifelong Learning Department**

*This publication is available in Welsh on request.  
Mae'r cyhoeddiad hwn ar gael yn Gymraeg ar gais.*

## 1. Legal Framework

- 1.1. The law empowers designated Isle of Anglesey County Council Officers, head teachers, including their nominated deputies and the Police to issue Fixed Penalty Notices to the parents of children who have unauthorised absence from school.

The rules governing the implementation of these powers and the factors that should be taken into account when issuing a Fixed Penalty Notice are outlined in:

- The Education Act 1996;
- The Education (Penalty Notices) (Wales) Regulations 2013; and
- Guidance published by the Department for Education, in particular the “Guidance on Education–Related Parenting Contracts, Parenting Orders and Penalty Notices 2007 and Ensuring Children’s Rights to Education”.

In addition, the issuing of Fixed Penalty Notices must comply with other legislation, such as the Human Rights Act and all relevant Equal Opportunities legislation, in order to ensure that they are used in a fair and consistent manner.

Isle of Anglesey County Council is responsible for developing a protocol with which all the partners named in legislation will work.

## 2. Rationale

- 2.1 Section 7 of the Education Act 1996 states that:

“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability aptitude and to any special educational needs he may have, either by regular attendance at school or otherwise.”

- 2.1.1. Regular and punctual attendance at school or alternative provision is a Legal requirement and is essential to enable children to maximise their educational attainments and opportunities available to them.
- 2.1.2. Evidence shows that children with poor attendance are unlikely to succeed academically and they are more likely to not to be in education, employment or training (NEET) when they leave school. NEET young people are likely to have a history of non attendance and persistence absences in years 10 and 11.
- 2.1.3. Section 444 of the Education Act 1996, makes it a criminal offence for a parent’s failure to secure their child’s attendance at the school at which they are registered and where absences are not authorised by the school.
- 2.1.4. The definition of “parent” includes all natural parents, whether they are married or not and includes any person who, although not a natural parent, has the parental responsibility and/or care for a child or young person.

2.1.5. Targeted intervention plays a vital role in resolving issues of poor school attendance, however where this fails to have the desired effect there are a number of sanctions available to LAs to try and secure regular attendance.

2.2. Fixed Penalty Notices are one of the sanctions available for this offence and offer a means of suitable and effective intervention for improving levels of unauthorised absences, before they become entrenched and persistence absences, whilst reducing the need for lengthy and costly prosecutions.

2.2.1. Fixed Penalty Notices and other sanctions will only be used where parental co-operation with this process is either absent or deemed to be insufficient to resolve the problem. They will be used as a means to support parents to meet their legal responsibilities and only where there is a reasonable expectation that their use will secure improved school attendance.

### **3. Legal practicalities**

A penalty notice is £60 if paid within 28 days of receipt of the notice, rising to £120 if paid after 28 days but within 42 days of receipt. If the penalty is not paid in full by the end of the 42 days the LA must either prosecute for the offence or withdraw the notice.

This prosecution is for the offence of failing to secure attendance at school and not for non-payment of the fine. It is brought under section 444 of the Education Act 1996.

Withdrawal of the notice can only take place in very limited circumstances as set out in this code of conduct.

### **4. Policy and Publicity.**

School Attendance Policies will include information on the issuing of Fixed Penalty Notices and this will be brought to the attention of parents.

### **5. Monitoring and review.**

Isle of Anglesey County Council will evaluate the effectiveness of Fixed Penalty Notices every two years and amend its general enforcement strategy as appropriate. Annual reports will be made available to the Head of Service, Director of Lifelong Learning, Scrutiny Committee and the Welsh Government.

## **Appendix 1**

### **Isle of Anglesey County Council protocols and procedures in relation to Fixed Penalty Notices.**

#### **Issue of a Penalty Notice**

- There will be no restriction on the number of times a parent may receive a formal warning of a possible Fixed Penalty Notice;
- A Fixed Penalty Notice can only be issued in cases of unauthorised absence;
- Use of Fixed Penalty Notice will be restricted to one notice per parent of a pupil per academic year;
- In cases where there is more than one poorly-attending pupil in a family, notices may be issued for more than one child.

#### **Penalty Notices will be considered appropriate when:**

- At least 10 sessions (5 school days) are lost due to unauthorised absence during the current term. These do not need to be consecutive;
- Unauthorised absences of at least 10 sessions (5 school days) due to holidays in term time or delayed return from extended holidays; or
- Persistent late arrival at school, i.e. after the register has closed (9.30am), in the current term. "Persistent" means at least 10 sessions of late arrival;
- Truancy; defined as The action of staying away from school without good reason (Oxford dictionary)

The Local Authority will only issue Fixed Penalty Notices requested by a school in response to a holiday related unauthorised absence where the school has provided the necessary paperwork. This paperwork should comprise:

- A copy of newsletter or letter sent to all parents during the current Academic year which clearly states that parents may receive a Fixed Penalty Notice for an unauthorised holiday in term time. (The LA will not need a hard copy of this newsletter/letter each time a school applies for an unauthorised holiday Fixed Penalty Notice, just on the first occasion each academic year);
- A copy of the Holiday Request Form submitted by parent, and a copy of the response sent to the parent by school. In the event the holiday request is being denied the school's response should state the reason why the holiday is unauthorised and should again advise parent that they may receive a Fixed Penalty Notice if they take their child out of school;
- A copy of letter sent by school to the parent advising that the school has referred the matter to the Local Authority and that a Fixed Penalty Notice will be issued;
- Relevant pupil Attendance or Registration Certificate;
- Signed certificate from the Headteacher or their nominated deputy confirming that non-attendance during the period was unauthorised;

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

### **Considerations and Assessment as to whether a Fixed Penalty Notice should be issued.**

Headteachers, their nominated deputies and the Education Welfare Service will take into account the following when determining whether a Fixed Penalty Notice should be issued:

- Level of absence;
- Regard to Equality and Diversity Legislation;
- Any statement of Special Educational Needs;
- Additional Learning Needs;
- History of the attendance issues and action taken;
- Defences which may be available;
- Welsh Government (WG) Guidance;
- Likely effectiveness of Fixed Penalty Notice as a tool for obtaining compliance;
- Level of parent engagement/cooperation.

### **Procedure for Issuing Fixed Penalty Notices**

The designated officers within the Education Welfare Service (EWS), will be the only individuals permitted to issue Fixed Penalty Notices within Isle of Anglesey County, which will ensure consistent and equitable delivery and allow schools to maintain good relationships with parents and ensure that they reinforce any other enforcement sanctions.

Fixed Penalty Notices will only 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 and limit the health and safety risks to individuals associated with delivering such Notices by hand.

### **Requests for issue of a Fixed Penalty Notice**

Where schools, Police or neighbouring local authorities request the issue of a Fixed Penalty Notice, their request will be investigated and actioned by the EWS, provided that:

- The circumstances of the case meet the criteria specified in this Code of Conduct;
- The pupil is registered at an Isle of Anglesey County Council school;
- All necessary evidence is provided to the EWS to establish whether an offence under Section 444(1) or 444(1A) of the Education Act 1996 or Section 103 of the Education and Inspections Act 2006 has been committed;
- Issuing a Fixed Penalty Notice would not conflict with another intervention strategy already in place or another enforcement sanction already being processed and there is a reasonable expectation that the use of a Fixed Penalty Notice would improve the child's school attendance or prevent further contravention of the Education and Inspections Act 2006.
- The EWS will respond to all requests within 10 school days of receipt, and where satisfied that all of the relevant criteria are met, will issue a formal written warning to the parent of the possibility of a Fixed Penalty Notice being issued;
- Set a period of 15 school days within which the pupil must have no unauthorised absence, and give the parent an opportunity to respond; this information can be included in the formal written warning letter, where one has been issued; and
- After due consideration of the facts of the case, only issue a Fixed Penalty Notice via First Class Post at the end of the 15 day period, if the required level of improved school attendance has not been achieved.



### **Fixed Penalty Notices for unauthorised holidays.**

Where the Fixed Penalty Notice is requested from a school in response to a holiday related unauthorised absence, or is in relation to an offence under section 103 of the Education and Inspections Act 2006, the formal warning letter and 15 day improvement period will not apply.

### **Monitoring and Review**

All Fixed Penalty Notices will be entered onto a database maintained by the EWS to ensure that no duplicate Fixed Penalty Notices are issued and to evaluate the effectiveness of the process within the County.

### **Excluded Pupils**

The basis of the fixed penalty notice powers, do not extend to excluded pupils.

Section 108 of the Education and Inspections Act 2006 came into force in October 2010 and amends section 16 of the Crime and Disorder Act 1998 to extend Police powers for the removal of excluded pupils to designated premises if a child or young person excluded from school is found in a public place in a specified area during a specific period and during school hours.

### **Procedure for the Withdrawal of Fixed Penalty Notices**

Once issued, a Fixed Penalty Notice can only be withdrawn if the EWS is satisfied that:

- The Fixed Penalty Notice was issued to the wrong person;
- The use of the Fixed Penalty Notice did not conform to this Code of Conduct;
- The Fixed Penalty Notice was delivered to the wrong address;
- The evidence demonstrates that the Fixed Penalty Notice should not have been issued, e.g. medical evidence; or
- The circumstances of the case warrant its withdrawal.

### **Right of appeal**

There is no right of appeal, but where a parent contests the issuing of a Fixed Penalty Notice they can submit any complaints to the EWS and/or opt to face proceedings in the Magistrates' Court under section 444 of the Education Act 1996.

### **Payment of Fixed Penalty Notices**

Arrangements for payment will be detailed on the Penalty Notice.

Payment of a Fixed Penalty Notice discharges the parent's liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Fixed Penalty Notice.

If the Fixed Penalty Notice is paid within 28 days, the penalty payable is £60 or £120 if within 42 days. Payments will not be accepted from parents after 42 days has elapsed and cannot be paid by instalments.

Isle of Anglesey County Council will retain any revenue from the Fixed Penalty Notices, hold it separately and use it to cover enforcement costs, i.e. costs associated with the issue, collection or prosecution, in the event of non-payment, of Fixed Penalty Notices. However, any surplus must be surrendered to the Welsh Consolidated Fund.

### **Non-Payment of Fixed Penalty Notices**

Non-payment of a Fixed Penalty Notice may result in prosecution for the period covered by the Fixed Penalty Notice under Section 444 of the Education Act 1996.

### **Equalities and Welsh Language**

The issuing of Fixed Penalty Notices must comply with other related legislation and regulations, in order to ensure that they are used in a fair and consistent manner and have paid due regard to the circumstances of the child/children and families involved. These include, but are not limited to the following:-

- Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
- Welsh Language (Wales) Measure 2011
- Human Rights Act 1998

The Council's Equalities Policy covers the full range of issues that may need to be considered, depending on the individual case.

**Appendix 2**

**Fixed Penalty Notice Request Check List (to be submitted with Request)**

**Penalty Notice Request (Unauthorised Holiday)**

**Request for Penalty Notice Unauthorised Absence**

**Fixed Penalty Notice (Unauthorised Holiday) Check List**

1. Who has parental responsibility over the pupil?

Please name person who has day to day care if different

Parental Responsibility.....

Day to Day Care.....

2. Has the period of absence meant the pupil has missed at least 10 school sessions?

Yes / No

3. Has the parent named in response to question 1 previously received a Fixed Penalty Notice? If yes, when?

Yes / No

Please specify when:

.....  
.....

4. Was a request made to the school by the parent for holiday leave during the period you wish to issue a Fixed Penalty Notice for?

If 'yes' what was the reason for refusal? Please attach copies of the correspondence exchanged.

If 'no' please explain why an unauthorised holiday is suspected.

.....  
.....  
.....  
.....

5. What is the pupil's attendance history (please attach SIMS print outs)?

.....  
.....

6. Does the pupil have any statement of Special Educational Needs?

.....  
.....

7. Does the pupil have a Disability under the Equality Act 2010?

.....  
.....

8. What is known of the pupil's personal circumstances?

.....  
.....

9. Are there any exceptional circumstances that the Council should be aware of?

.....  
.....

10. Has the pupil had a previous holiday or long period of absence in the academic year the unauthorised holiday was taken in?

.....  
.....

11. Has parent been in contact with the school in relation to the absence?

.....  
.....

12. Has Isle of Anglesey County Council's Code of Conduct been considered?

.....  
.....

**FIXED PENALTY NOTICE REQUEST**  
**UNAUTHORISED HOLIDAY - Check List**

Registered pupil at: .....School

**Pupil Details:**

Name: .....MALE/FEMALE

D.O.B. ....

Address:

.....  
.....  
.....

Postcode: .....

Telephone No: .....

Mobile No: .....

**Parent/Carer**

Name:

.....

Address (if different from above):

.....  
.....

Postcode: .....

Telephone No: .....

Mobile No: .....

Name:.....

Address (if different from above):

.....  
.....

Postcode: .....

Telephone No: .....

Mobile No: .....

**Dates of Absence:**

The above named pupil was absent from school on the following dates and are recorded in the school register as unauthorised. (Please attach a registration certificate showing the period)


**Declaration**

I am the Head teacher/Acting Head Teacher of the School named. I certify that this holiday request has been considered in line with the School Attendance Policy. To the best of my knowledge there are no exceptional circumstances to consider.

Did parents request authorisation prior to holiday: Yes / No.

School response in writing to decline authorisation of holiday: Yes / No.

**PLEASE ATTACH COPIES OF ALL CORRESPONDENCE.**

Name: .....

Signature: .....Date: .....

**REQUEST FOR PENALTY NOTICE**

**UNAUTHORISED ABSENCE - Section 444, Education Act, 1996**

Information contained in the form will be used in legal action under the above Act relating to non-attendance at school in the event that an Education Penalty Notice is issued and remains unpaid. I request that the Local Authority consider issuing a Penalty Notice to the parent(s)\* of the following pupil:

**Pupil Details**

Registered School.....

Name of Pupil ..... DOB ..... Year .....

Address.....  
.....  
.....

**Parent 1**

Full name ..... DOB.....

Address.....  
.....  
.....

**Parent 2**

Full name..... DOB.....

Address.....  
.....  
.....

The expression "parent", in relation to a child or young person, includes any person who is not a parent of the child but who has parental responsibility for him or her, or who has care of the child.

In making this request, I confirm that such action would not conflict with other intervention strategies already in place or other enforcement measures already being processed. I can also confirm that the governing body of this school has reviewed its attendance policy and agreed that this school will request the Local Authority to issue Penalty Notices in appropriate cases.

How has the parent been contacted regarding the unauthorised absences?



School Meeting  Letter  Telephone Call

Is the family known to other Services, eg: Children's Services, CAMHS?

Yes / No

Are there any notable circumstances to consider, eg: mental health, bereavement, family dynamics/domestic violence? Yes / No

If yes, please give full details:

Signed ..... Designation ..... Date:.....

**Please enclose an up to date registration certificate.**

### **Appendix 3**

Relevant legislation that relates to Fixed Penalty Notices includes:

#### **The Children Act 1989**

The definition of “parent” means all natural parents, whether they are married or not; and includes any person who, although not a natural parent, has parental responsibility and/or care for a child or young person.

#### **The Education Act 1996**

Section 7	Duty of parents to secure education of children of compulsory school age;
Section 8	Definition of compulsory school age;
Section 444	Offence: Failure to secure regular attendance at school of registered pupil;
Section 444A	Penalty notice in respect of failure to secure regular attendance at school of registered pupil;
Section 444B	Penalty notices: supplemental;
Section 444ZA	Application of section 444 to alternative educational provision
Section 576	Meaning of “parent”