

## Taking children on holiday during term time

Improving regular attendance at school is a key priority, for local authorities and government alike. The Education Act 1996 makes it a criminal offence for a parent to “fail to secure their child’s regular attendance at the school”.

In 2013, the Department for Education (DFE) announced important amendments to legislation surrounding the taking of holidays in term time.

As of 1 September 2013, the legislation which previously granted Head Teachers the discretion to approve up to two weeks (ie 10 school days) leave of absence during term time for the purposes of a family holiday in special circumstances has changed.

The Education (Pupil Registration) Regulations 2006 (as amended) now state that a leave of absence during term time can only be approved by a Head Teacher/School Governing Body when:

- A written request is made in advance of the leave being taken and the circumstances of the requested leave are ‘exceptional’.

There is no longer any provision for ‘holidays’ in the regulations.

Following guidance from the DfE, the Head Teacher and the School’s Governing Body on receipt of a written request for an absence of leave from a parent/carer will consider whether the circumstances of the request are ‘exceptional’ and communicate to the parent/carer if their request has been approved or not. A leave of absence during term time for the purposes of a holiday is not normally considered to qualify as exceptional.

If a leave of absence goes ahead after a request for approval has been declined, the absence will be recorded on the pupil’s registration record as unauthorised.

Should an unauthorised leave of absence be of duration of 10 consecutive school sessions (ie five school days) or more, on the request of the Head Teacher or School Governing Body, the local authority will issue a Fixed Penalty Notice (FPN) to **each** of the child’s parents/carers.

### Penalties for unauthorised absence

The Education (Penalty Notices) Regulations 2007 (as amended) set out the amounts of and periods in which penalties are to be paid as follows:

#### Period for Payment of FPN

- Penalty Amount Paid within 21 days of the FPN being issued - £60 (per parent, per child)
- After 21 days but before 28 days of the FPN being issued - £120 (per parent, per child)

Payments will not be accepted after the 28th day and payments cannot be paid in part or by instalments.

The 2007 Regulations also provide that FPN’s can be issued to each parent/carer of each child taken out of school without the authorisation of the school. Parent/carers should also be aware that if more than one child is taken out of school a FPN can be issued to **each parent/carer of each child**.

If a FPN is paid within the time limits, the parent/carer will have discharged his liability in relation to the offence and no further action will be taken.

Should the FPN not be paid in the amounts or within the periods provided for by the Regulations, the matter will then be referred to the Council's Legal Services department for proceedings in the Magistrates' Court to be instigated in respect of the offence.

There is no right of appeal to a Fixed Penalty Notice, but where a parent/carer contests the issuing of a Fixed Penalty Notice, a complaint can be made to the Council's Education Welfare Service and/or opt to face proceedings in the Magistrates' Court under Section 444 of the Education Act 1996 where all of the issues relating to the FPN can be fully debated.

## **Where to find help**

If you require any further information please email us:

- Email: [FPNQueries@cheshirewestandchester.gov.uk](mailto:FPNQueries@cheshirewestandchester.gov.uk)
- Telephone: 01244 976175 (Payment and Parent Enquiry Line)

<https://www.cheshirewestandchester.gov.uk/residents/education-and-learning/early-years-and-childcare/education-welfare-service/term-time-holidays.aspx>