

CIRCUMSTANCES WHEN PENALTY NOTICES CAN BE ISSUED

Unauthorised Absence/Truancy:

- Persistent late arrival at school (after the register has closed). (6 sessions within a period of 6 school weeks)
- Pupils whose attendance has not reached a satisfactory level during a 6 week period following intensive support.
- Where parents allow their child to be present in a public place during school hours without reasonable justification in a fixed term or permanent exclusion.
- 6 or more sessions of **unauthorised absence** within a term.(O coded)
- **All unauthorised holidays taken during term time. As agreed with schools the recommendation is that this is for any unauthorised leave of six sessions or more.**

Unauthorised leave during Term Time

The Education (Pupil Registration) (England) (Amendment) Regulations 2013, state head teachers may not grant any leave of absence during term time unless there are exceptional circumstances (*no definition is given within this legislation*). Head teachers should refer to NAHT guidance when determining whether a leave of absence is authorised. <http://www.naht.org.uk/welcome/news-and-media/key-topics/parents-and-pupils/naht-issues-new-guidance-on-authorised-absence/>

This has been supported by the Supreme Court judgement of April 2017 on unauthorised holidays taken in term time.

Headteachers should determine the number of sessions a child can be away from school if the leave is granted. Where permission for term time absence is requested with sufficient notice and the decision is made not to authorise, a letter to the parent confirming that it has not been authorised must be sent by the Head teacher or designated representative including a warning that a penalty notice may be issued.

If a holiday is then taken without authorisation the school must complete a request, signed by the head teacher (or designated deputy), that consideration be given to the issue of a penalty notice. The request should be sent to the Access to Education team within two weeks of the pupil returning to school. The Access to Education team will then issue a penalty notice if appropriate.

The Access to Education team will issue penalty notices on behalf of schools and will always serve them by first class post. The team will also ensure that the issuing of penalty notices is closely monitored with the relevant financial penalty being imposed.

If the penalty notice has not been paid within the 28 day deadline the case may be escalated and consideration given to prosecution for the original attendance offence.

A parent may receive more than one separate penalty notice resulting from the unauthorised absence, but not in excess of 3 penalty notices for an individual child in any twelve-month period. A penalty notice will be issued to each parent of each child.

If an initial Fixed Penalty Notice has failed to secure an improvement in attendance, the Access to Education team reserves the right to proceed with prosecution, providing the necessary casework has been completed by the school. Each case will be considered on its own merit.

WITHDRAWAL OF PENALTY NOTICE

Penalty notices may only be withdrawn in the following circumstances:

- a. when it is issued to the wrong person
- b. when issued outside the terms of the Code of Conduct
- c. when an offence has not been committed
- d. if a parent can prove it was delivered to the wrong address
- e. if there are unforeseen exceptional circumstances the leave of absence maybe authorised.

PROSECUTION FOR NON PAYMENT OF A FINE

The prosecution would not be for non- payment of the fine, but for the original offence of failing to ensure child's regular attendance at school. The Access to Education team may use the fact that a penalty notice has been issued and remains unpaid as evidence.

The Access to Education team would look at all the circumstances of the case when assessing the likelihood of securing a conviction for the original attendance offence.

If the decision is made to proceed with prosecution the parent or carer will be issued with a notice of intended prosecution (NIP) in the first instance; then as a matter of good practice, in any subsequent interviews with parents, the Local Authority will act in accordance with the spirit of the Codes of Practice set out in the Police and Criminal Evidence Act 1984 (PACE), ensuring that the parent understands the basis for the interview, their needs are taken into account, their rights are explained and the interviews are conducted fairly.

FREQUENTLY ASKED QUESTIONS

- **Am I entitled to take my child out of school for a family holiday?**

No. Parents have a legal duty to ensure that their children attend school or alternative provision on a regular basis. The Education Act 1996 makes it a criminal offence for a parent to "fail to secure their child's regular attendance at the school" This has been strengthened by the Supreme Court ruling April 17 that "regular" attendance at school means "in accordance with the rules prescribed by the school", rather than "with sufficient frequency"

Headteachers may not grant any leave of absence (e.g. for holidays) during term time unless there are exceptional circumstances

The Regulation amendments give **parents no entitlement** to take their child out of school for a holiday in term time. The Headteacher and Governing Body will determine what the exceptional circumstances are as there is no official definition.

- **If we decide to take a holiday during term time what should we do?**

The parent/carers must apply in writing to the school with sufficient notice

The letter/application must explain any exceptional circumstances and provide evidence as appropriate surrounding the request for the leave of absence.

- **What will the school do then?**

The Headteacher will determine whether the request can be considered as an exceptional circumstance. If not, the application will be declined.

You will receive a written response from the Headteacher or their representative letting you know if your application has been approved provided sufficient notice was given to the school. If the holiday goes ahead without permission having been granted, the absence will be recorded as unauthorised.

Only the Headteacher has the power to approve leave of absence applications. The decision will be made in accordance with the rules prescribed by the school.

Each academic year schools should inform parents/carers via a letter, newsletter or some other communication that they may receive a Penalty Notice if their child has unauthorised absences in term time.

- **What if I disagree with the Head teacher's decision?**

The school will not review the decision unless there is previously undisclosed evidence regarding exceptional circumstances that was not available at the time of the original request.

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