

What you need to know if you have received a Penalty Fine for unauthorised holidays in school term time

Frequently asked questions (reviewed August 2016)

Why are schools in Leeds not allowed to authorise holidays in term time?

The government made a change in legislation from 1 September 2013, which affects all schools in the country not just in Leeds. The change means that schools are no longer allowed to authorise any requests for children to be taken out of school for a holiday during term time. Nationally, five million school days were missed in the academic year 2011/ 2012 because of family holidays in term time. Since the changes were introduced in 2013 the rate of absence due to term time holidays has decreased by more than one third.

The view of Leeds City Council

Improving school attendance is one of our three 'obsessions' in children's services in Leeds. We firmly believe that the best place for children to be during term time is in school, and support schools to ensure that parents understand the importance of regular attendance and the benefits to children of taking a full and active part in daily school life. Children with poor attendance tend to achieve less well in both primary and secondary school and we have always discouraged parents from taking their children out of school for any reason. In particular we have advised parents that we will always consider prosecution if holidays are taken during term time.

What is a penalty notice for irregular school attendance?

A penalty notice is a fine issued to parents or carers if they fail to ensure that their child/ren attends school regularly. This could be due to a holiday in term time or other periods of irregular school attendance that are not authorised by their child's school. A penalty notice is an alternative to prosecution in the magistrate's court, therefore, by paying the penalty notice fine you are discharging your liability for prosecution.

The *Education (Penalty Notices) Regulations 2007* set out the details of how the penalty notice scheme must operate. This includes a requirement that every local authority must draw up and publish a Code of Conduct for issuing penalty notices, after consulting all schools (including academies) and the police. The code sets out the criteria that will be used to trigger the issuing of a penalty notice.

In Leeds we have determined that a penalty notice will be issued for unauthorised absences of five days or more within a 12 week period. This includes absences for holidays as well as other unauthorised absences.

If a penalty notice is issued, it will be one fine for the whole period of the absence. So the fine would be the same amount for an absence of five days or 10 days. For example, a parent could be issued with a £60 fine if their child misses one day of school each week over a five week period, whilst another parent might be issued the same fine for one two-week block of absence. **Parents will not be fined for a single day of absence if their child's attendance is otherwise good.**

If the notice remains unpaid consideration will be given to further enforcement action, which may include prosecution at the Magistrates' Court for the original offence.

What is an 'exceptional circumstance'?

The council has provided guidance to schools about what could be classed as an exceptional circumstance. Our guidance is that a holiday would generally not be classed as an exceptional circumstance. Schools can develop their own policies on an individual basis or in groups, and parents should always make contact with their child's school directly to discuss their own individual circumstances. The council is not responsible for making the decision to authorise an absence – this is a matter for schools to decide.

Who issues the penalty notice?

The decision to issue a penalty notice is made by schools, and they request Leeds City Council to issue them. The role of the Council is to ensure it is issued in line with the Code of Conduct.

Has the Court Case in the Isle of Wight in May 2016 changed the law?

No. The recent High Court case followed a prosecution brought by the Isle of Wight Council against a parent who's child was absent from school without authorisation. The case was determined on the particular facts of that case. The High Court confirmed that the question of regular school attendance is a question of fact and degree in each individual case, which should be determined on a case by case basis taking account of the overall picture of attendance.

We have reviewed our Code of Conduct in light of the High Court ruling and will continue to issue penalty notices for five days or more unauthorised absence in a 12 week period. If the notice remains unpaid consideration will be given to further enforcement action, which may include prosecution at the Magistrates' Court for the original offence.

What is the Government's view ?

Nick Gibb MP, Minister of State for Schools in the Department for Education, issued a statement following the High Court Case to say that it ...*"remains the case - as set out in the Education (Pupil Registration) (England) Regulations 2006 amended in 2013 - that headteachers continue to have the power to authorise leave of absence, but only in exceptional circumstances. While family holidays are enriching experiences, the school year is designed to give families the opportunity for these breaks without having to disrupt their children's education. It is for schools to consider the specific details and relevant context behind each request. Schools know their pupils best and are well placed to make those judgements"*.

What should I do if I get a fine?

Details of how to pay the fine are included on the letter that accompanies it. It is important to note that the fine has to be paid in full – instalments cannot be accepted. Remember, if a fine is not paid you could be summoned to the Magistrate's Court, which has more serious consequences. If a parent is found guilty in court they can be fined up to £1000 and will have a criminal record, which may affect current or future employment.

There is no right of appeal by parents against a penalty notice. If the penalty is not paid in full by the end of the 28 day period, the council will decide whether to prosecute for the original offence to which the notice applies, or withdraw the notice.

What is the money generated from fines used for?

Revenue from payment of fines is retained by the council to cover the cost of administering the penalty notice scheme and to cover the cost of prosecuting parents that fail to pay their fine.

What if I receive a fine but I disagree with it?

The decision to issue a penalty notice is made by the Headteacher of the child's school. Parents should always speak to the school prior to any absence to discuss any information that you feel should be taken into consideration about whether it will be an authorised or unauthorised absence.

If the school asks the council to issue a penalty notice, the fine will only be withdrawn if there is sound evidence that it should not have been issued in the first place.

If you have specific concerns about the consequences of not paying the fine you should take independent legal advice.

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