

FIXED PENALTY NOTICES FOR UNAUTHORISED ABSENCES

- A GUIDE FOR PARENTS AND CARERS

It is a legal requirement under the Education Act 1996 that parents of children of compulsory school age ensure that their children receive full-time education that is suitable to their age, ability and aptitude and to any special educational needs that they may have.

The Government considers children whose attendance is below 85% to be 'persistently absent' from school (this will be rising to children whose attendance is below 90% from September 2015). If a pupil fails to attend, the school must establish the reason for the absence, identify whether the absence is approved or not and mark the attendance register accordingly. Schools are expected to act early to address patterns of absence and ensure that proper safeguarding action is taken.

Under Section 444 of the Education Act 1996, parents are responsible for ensuring their child attends school regularly. If your child does not attend school regularly, the Local Authority may consider legal proceedings against you under Section 444 of the Education Act 1996. Alternatively the school may request that the Local Authority issues a penalty notice for £60 per parent per child to be paid within 21 days. If the penalty is not paid within the time scale the penalty will increase to £120. If the higher penalty is not paid within 28 days, you may be prosecuted.

What is a Fixed Penalty Notice?

A Penalty Notice is an alternative to prosecution. It doesn't require the parent or carer to appear in court as long as the Penalty Notice is paid within the time limits specified.

When will a Fixed Penalty Notice be issued?

If a parent or carer fails to secure their child's regular attendance at school, they are committing a criminal offence. Penalty notices will be issued following assessment of poor attendance which the LA considers to be 4 half day sessions or more within a term. This does not only relate to unauthorised holidays but **any** other unauthorised absence.

A Penalty Notice may be issued in cases of 'Unauthorised Absence' including:

- Unauthorised leave during term time, including holidays
- Pupils found during truancy patrols
- Persistent late arrivals at school (after the register has closed)
- Pupils whose attendance has not reached a satisfactory (90% attendance – 2015 threshold) level during a 6 week period following intensive support

Will parents receive a formal written warning before receiving a Fixed Penalty Notice?

Yes, the Academy will send parents or carers a written warning before a Fixed Penalty Notice is issued.

What are the fines?

- £60 per parent per child, if payment is made within 21 days from the date of issue of the FPN
- This increases to £120 per parent per child if paid after 21 days but within 28 days

There is no right of appeal once a Fixed Penalty Notice has been issued.

What happens if a Fixed Penalty Notice is not paid?

If a penalty notice has not been paid within 28 days of issue, the case may be escalated to the Magistrates Court for Prosecution under Section 444 of the Education Act 1996 for non-school attendance. No decision to proceed with court action will be taken until the 28 day deadline has passed.

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

Am I entitled to take my child out of school during term time?

No. Parents have a legal duty to ensure that their child attends school or the 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”*

The current law does not give any entitlement to parents to take their child out of school during term time. The Education (Pupil Registration) (England) (Amendment) Regulations 2013 prohibits Head teachers granting leave of absence during term time except where an application has been made in advance and the Head teacher considers that there are exceptional circumstances relating to the application.

If I decide to take my child out of school during term time what should I do?

The parent/carer with whom the child resides must apply in writing to the Principal. The letter must explain the exceptional circumstance surrounding the request for the leave of absence.

What will the school do then?

The Principal will determine whether the request can be considered as exceptional circumstances. You will receive a written response from the Principal letting you know whether your application has been approved. Only the Principal has the power to approve leave of absence applications.

If the leave of absence is not authorised and you decide to take your child out of the Academy for this period, the Local Authority may issue you with a Fixed Penalty Notice.

We would like to emphasise that we only refer cases to the Local Authority as a last resort.

Useful Facts

90% attendance = 19 days absence a year

15 minutes late every day = 10 days of schools lost a year

There are 195 school days a year – that leaves 170 days to spend on family time, visits, holidays and appointments.