

## Taking children on holiday during term time

### A guide for parents and carers

Improving regular attendance at school is a key priority, both locally and nationally.

The Department for Education (DfE) has announced important amendments to legislation surrounding holidays in term time. 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 amendments to the 2006 Regulations remove any reference to family holidays, extended leave and the statutory threshold of 10 school days. It states that there is no entitlement for parents to take their child/children on holiday during term time. The amendments make clear that Head Teachers may not grant any leave of absence (holiday) during term time unless there are exceptional circumstances.

Any applications for leave of absence must be in exceptional circumstances and the Head Teacher must be satisfied that the circumstances warrant the granting of leave. Should a parent/carer decide to take a holiday during term time they must apply in writing to the school explaining the exceptional circumstances for the leave of absence.

Following guidance from the DfE the Head Teacher and the School’s Governing Body will determine what the exceptional circumstances are and if the request has been agreed or declined.

If the holiday goes ahead after the application has been declined the absence will be recorded as unauthorised and the school will decide if a Fixed Penalty Notice should be issued and will inform the Local Authority who will then issue the notice on their behalf.

A Fixed Penalty Notice can only be issued if the unauthorised leave of absence is for at least 10 sessions (five school days) during term time. These have to be consecutive school days.

Where both parents have responsibility for their child, each parent will receive a Fixed Penalty Notice. 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 parental responsibility and/or care for a child or young person.

#### **Penalties for unauthorised absence from 19th August 2024**

The law stipulates that the current penalties payable by parents are £160 if paid within 28 days reducing to £80 if paid within 21 days per parent/carer per child.

The National Framework for penalty notices introduces a new national limit of 2 penalty notices that can now be issued to a parent for the same child within a rolling 3-year period. If a second Fixed Penalty Notice is issued to the same parent for the same child, within three years of a first Fixed Penalty Notice, the second Fixed Penalty Notice is charged at a flat rate of £160 if paid within 28 days.

Once two Fixed Penalty Notices have been issued, if a 3<sup>rd</sup> unauthorised leave of absence occurs within a 3-year period, the Local Authority is able to move to prosecution immediately. If the fixed penalty is not paid this could lead to you being prosecuted in the Magistrates’ Court.

Section 444 of the Education Act 1996, makes it a criminal offence for a parent to fail to secure their child's attendance at the school at which they are registered, where that absence is not authorised by the school. Therefore If the Fixed Penalty Notice is paid within the time limits above no further action will be taken in connection with the offence. If the fixed penalty notice remains unpaid the parent/carer could get prosecuted in the magistrate's court for the offence.

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 Education Welfare Service and/or opt to face proceedings in the Magistrates' Court under Section 444 of the Education Act 1996 in relation to absences or under section 103 of the Education and Inspections Act 2006 in relation to excluded children, where all of the issues relating to their Fixed Penalty Notice can be fully debated.

If you require any further information please contact:

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4 Civic Way

Ellesmere Port CH65 0BE

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