

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

Frequently asked questions (reviewed April 2017)

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 affected all schools in the country not just in Leeds. The change meant that schools were no longer allowed to authorise any requests for children to be taken out of school for a holiday during term time. This was because the legislation only permits absence to be granted in “exceptional circumstances”. Nationally, 5 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 decreased by more than one third.

The view of Leeds City Council

Improving school attendance is one of our ‘obsessions’ for children in Leeds. We firmly believe that the best place for children to be during term time is in school and we will 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. Evidence shows that children with poor attendance tend to achieve less well in both primary and secondary school. We have always discouraged parents from taking their children out of school for any reason. In particular, since September 2013 we have advised parents that we will always consider taking enforcement action if holidays are taken during term time.

Has the decision of the Supreme Court on 6th April 2017 in the *Isle of Wight Council v Platt* case changed the law?No. The judgment of the Supreme Court followed a prosecution brought by the Isle of Wight Council against a parent whose child was absent from school without authorisation. The parent was issued with a penalty notice which he did not pay. The parent was subsequently prosecuted for failing to ensure that his child attended school regularly. The parent argued that his daughter had 92% attendance therefore did attend school regularly. The Supreme Court has clarified the position regarding what constitutes regular school attendance and decided that the correct interpretation is “*in accordance with the rules prescribed by the school*”. Leeds schools have very clear rules regarding attendance and ultimately head teachers have the power to decide whether to authorise absence in any given circumstance. The Supreme Court’s judgment has not changed the council’s approach to the issuing of penalty notices.

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 or children attend school regularly. This could be due to a holiday in term time or other periods of absence that are not authorised by their child’s school. Penalty notices give parents an opportunity to avoid prosecution. If a penalty notice is paid parents will not be prosecuted.

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 5 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 for the whole period of the absence. So the penalty would be the same for an absence of 5 days or 10 days. For example, a parent could be issued with a £60 penalty if their child misses 1 day of school each week over a 5 week period, whilst another parent might be issued the same penalty for a single 2 week absence.

The penalty will increase to £120 if the notice is not paid within 21 working days. If it remains unpaid

within a further 7 days consideration will be given to prosecution at the Magistrates' Court which could lead to a criminal conviction.

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 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. The school make a request to the council to issue a penalty notice. The role of the council is to ensure it is issued in line with the code of conduct.

What should I do if I get a penalty notice?

Details of how to pay the penalty notice are included in the letter that accompanies it. It is important to note that the amount specified in the penalty notice has to be paid in full – instalments cannot be accepted. Remember, if a penalty notice is not paid you could be summoned to the Magistrates' Court, and prosecuted. If a parent is found guilty in court they can be fined up to £1000..

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 penalty notice.

What is the money generated from penalty notices used for?

Revenue from payment of penalty notices 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 penalty notices.

What if I receive a penalty notice but I disagree with it?

The decision to issue a penalty notice is made by the head teacher of the child's school. Parents should always speak to the school prior to any absence to discuss any information that they feel should be taken into consideration by the head teacher in deciding whether to authorise the absence.

A penalty notice 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 a penalty notice you should take independent legal advice.

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