

Penalty Notices FAQ

Q: What is a penalty notice?

Penalty notices are fines issued to parents as an alternative to prosecution.

Q: How much is the penalty notice?

£80 if paid within 21 days, rising to £160 if paid after 21 days but before 28 days. If the penalty notice remains unpaid then the Local Authority may instigate legal proceedings against you under section 444(1) of the Education Act 1996.

A penalty notice can be issued to each parent.

Q: When can a penalty notice be issued?

A penalty notice can be issued to parents when they have failed to ensure that their child of compulsory school age attends regularly at the school in which they are registered. Penalty notices could be issued for:

- 10 sessions of unauthorised absence in a rolling period of 10 school weeks;
- A holiday in term time that has not been agreed as Exceptional Leave by the Head Teacher.

Penalty notices are used by schools where a pupil's absence has been recorded with one or more unauthorised codes and that absence constitutes an offence. A penalty notice can be issued to each parent liable for the offence.

Q: Can't parents just take their child on holiday during term time if they want to?

Remember school attendance isn't just a rule – it's the law. The penalty is issued as an alternative to prosecution; in theory, the LA could skip the fine and prosecute straight away, which could mean much higher financial penalties and a criminal record. Parents must get permission from the Head Teacher if they want to take their child out of school during term time. They can only do this if:

- They make an application to the Head Teacher in advance (as a parent the child normally lives with); and there are exceptional circumstances.

Q: What are exceptional circumstances?

The Head Teacher may only grant leave of absence in term time for exceptional circumstances. Examples of exceptional circumstances where leave may be granted during term time are:

- If a parent is a member of service personnel and is returning from a tour of duty abroad, where there is evidence the individual will not be in receipt of leave in the near future that coincides with school holidays;
- Where an absence from school is recommended by a health professional as part of a parent or child's rehabilitation from a medical or emotional issue;
- The death or terminal illness of a close relative, only if Head Teacher is satisfied that the circumstances are truly exceptional, and there is evidence of the need to travel at that time;

- Out of school programmes such as music, arts or sport operating at a high standard of achievement. Documentary evidence of this event will be required;
- To attend a wedding or funeral of a close relative if the Head Teacher is satisfied that the circumstances are truly exceptional; leave should only be authorised for this purpose when a Head Teacher is satisfied that there is a persuasive reason for holding the wedding during term time. Parents will need to show clear evidence that the absence is for an exceptional circumstance.

In difficult family situations the Head Teacher may use his/her discretion in granting leave and each case should be addressed on its individual merits, considering the overall welfare of the child.

Where there are exceptional and unforeseen circumstances that fall outside of the above, the Head Teacher can agree to consult with the governing body prior to any authorisation being given to the parent. Evidence would be required in each case.

If a request meets the above exceptional circumstances but falls within the following times, the Head Teacher must be convinced that absence from school is the only option in/on:

- 1) The first half term of any academic year (applies to all pupils)
- 2) Year Six transition day (for pupils in Year Six)
- 3) Year Six SATs week (for pupils in Year Six)

When considering exceptional term time leave requests, the following factors may help to reach a decision:

- Time of the academic year when the leave has been requested;
- Duration of the absence – number of school days being missed;
- The child's current rate of attendance and punctuality;
- Exceptional Term time leave requested/taken in previous academic years for a similar purpose;
- Whether parent/carers have considered limiting the amount of time the child would be absent from school e.g. wrapping around school holiday;
- Alternative care arrangements considered by the parent/carer to limit the time away from school;
- Impact on any interventions, assessments or referrals being undertaken with the child or family e.g. family support, social care assessments, CAMHS, SEND;
- The impact that the absence will have on the child;
- If the absence falls within any Key Stage national test or exam period.

Q: What is not exceptional?

Examples of circumstances not considered as exceptional:

- Holidays abroad for the purpose of visiting a sick relative, excepting where that person is seriously ill. Medical evidence may be requested to support the need to travel;
- Holidays taken in term time due to lower cost/parental work commitments.

Q: What if the LA issues a penalty notice and the parent appeals?

There is no right of appeal by parents against a penalty notice. If this is not paid, the Local Authority can proceed to prosecution or withdraw the notice.

Q: What if a fine isn't paid?

The £80 fine increases to £160 if not paid within 21 days of the fine being issued. If it remains unpaid after 28 days the parent/carer will be invited to an interview under caution and may be taken to a magistrates' court under the Education Act 1996. If found guilty, a parent/carer could receive a criminal record and face a fine **and** up to £1,000 court costs.

Q: So what exactly IS the letter of the law?

In England, Section 444 of the Education Act states it is an offence to fail to ensure your child goes to school 'regularly'.

Q: What does 'regularly' mean?

In 2017 The Supreme Court ruled 'regularly' means 'in accordance with school rules'. The Department for Education believes 'regular' means a child going to school every day, except for authorised absences such as illness.

Q: Are there any educational consequences to taking a child out during term time?

The Department for Education is adamant there are. It says: 'It is irresponsible to take a child out of school without good reason. Every extra day of school missed can affect a pupil's chance of gaining good GCSEs, which has a lasting effect on their life chances. Following our reforms there are now 200,000 fewer pupils regularly missing school compared with five years ago. A child who takes a week's extra holiday each year at school will have missed at least 70 days – or the equivalent of more than three months of teaching – by the end of their time at school.'

Q: Any long-term solutions?

Parents could accept that their child's education at school is more important than a week in Europe, no matter how many museums they visit. That's especially true for young children: the evidence is unanimous that early years education is vital for future attainment.

Q: There is a Supreme Court ruling about regular school attendance. Why?

Isle of Wight resident Jon Platt battled for two years against the fine he had received for taking his daughter out of school for a term-time holiday – he argued that his daughter had still attended "regularly" as she'd had very high attendance.

Q: What if a parent, despite the Supreme Court ruling, won their case?

It is possible that considering the Supreme Court ruling, a council could try to apply to have a case reopened. It could try this if it believed magistrates made a fundamental error in law, though it would have to apply to the High Court to do so.