

My Ref: NB/SC/HAE
Your Ref:

26th January, 2016



County Hall
Cardiff,
CF10 4UW
Tel: (029) 2087 2087

Neuadd y Sir
Caerdydd,
CF10 4UW
Ffôn: (029) 2087 2088

Dear Head teacher

Re: Holidays in term time and fixed penalty notices for unauthorised absence.

Further to the Minister's letter to you last week which I attach and the recent reports in the media suggesting that guidelines about holidays in term time have changed and parents may now take their children on holiday in term time, I would like to clarify the local authority's position on the matter.

Local Authorities have not received a directive from Welsh Government to change practices. The Council will continue to operate the FPN scheme in line with its existing Code of Conduct.

In 2012, the LA asked schools and head teachers not to authorise holidays in most circumstances, whilst acknowledging that the regulations make provision for holidays and that a pupil *may* be granted leave of absence from school to go on holiday. As head teachers, you ultimately retain discretion in this.

Parents do not have an automatic right to withdraw their child from school for a holiday and, in law, have to apply for permission from the school in advance. Therefore, I would request your continued support for Cardiff's approach to holidays in term time and that you continue not to authorise requests for holidays in term time where, in your opinion, there would be a negative impact on the pupil on the basis of factors as stated in the Minister's letter to schools:

- The time of year of the proposed trip;
- The length and purpose of the holiday;
- The duration of the holiday and its impact on continuity of learning;
- The circumstances of the family and wishes of the parents; and
- The overall attendance pattern of the child.

As a fixed penalty notice is not a mandatory accompaniment to an unauthorised holiday request, should you feel that a family's circumstances do not warrant an FPN being issued, you have the discretion not to request a penalty notice. However, if, in your opinion, there would be a negative impact on the pupil on the basis of factors as stated in the Minister's letter to schools, we would continue to encourage you to request a penalty notice.

The approach to holidays in term time and fixed penalty notices were introduced in Cardiff to help raise attendance. Both have helped to achieve

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this aim as part of a suite of interventions backed by strong and consistent messages.

In the academic year 2012-13, holidays in term time in Cardiff schools accounted for 46,264 days (92,529 sessions) of absence and a huge amount of lost learning and disruption to classes and teaching. In 2014-15, this number had reduced to 36,508 days or (73,016 sessions). This is still too many days of lost learning.

The level of holiday absence in 2014/15 equates to approximately 7300 pupils taking a holiday of a week in term time (this was 9200 in 12/13). Given that 798 FPN's were issued to parents, this would demonstrate that although you as head teachers are choosing in most case not to authorise holidays, you are clearly using discretion as to whether an FPN should be issued.

Cardiff has taken legal advice and is confident that schools and the LA have acted lawfully using discretion appropriately. However, schools are advised to check that their attendance policies, websites and literature fully reflect the guidelines and ensure that there are no reference to zero tolerance or a blanket ban etc. If there are any such references, these should be removed.

For schools wishing to continue to raise and maintain their attendance levels by tackling holidays in term time through the use of FPN's, support from both the LA and the EWS will continue to be provided to issue penalty notices in line with the existing Code of Conduct.

As our Code of Conduct states that it will be reviewed on an annual basis, the EWS has started the review process and feels that it is opportune to look at this with a working group of head teachers to ensure that our code reflects current views and that there is clarity for schools.

I understand that a number of heads have agreed to participate with this although further volunteers would be helpful.

Should you require further guidance or would be prepared to participate in the review of the code of conduct, please contact the Sian Cadwalladr on 029 2233 0759 or email scadwalladr@cardiff.gov.uk / ewsreferrals@cardiff.gov.uk

Yours sincerely



Nick Batchelar
Director of Education and Lifelong Learning/
Cyfarwyddwr Addysg a Dysgu Gydol Oes



Ein cyf/Our ref
All Head Teachers in Wales

January 2016

The Welsh Government, and I as Minister for Education and Skills, take absences from school very seriously. My focus is on ensuring all children attend school at every possible opportunity. I want to minimise any adverse impact on their education, ensure they are supported in reaching their full potential and that they achieve the very best from their experiences in school. I am confident you will feel the same.

The Pupil Registration (Wales) Regulations 2010 provide head teachers with a discretionary power to authorise leave for a family holiday during term time where parents seek permission. Save in exceptional circumstances, no more than 10 days leave should be granted for this purpose.

I have been made aware that the arrangements implemented in some areas of Wales may not reflect the intention of the Regulations. In particular, I am concerned that some local authority or consortia guidance appears to indicate that head teachers should *not* exercise their discretion and should instead refuse all requests for term time absence as a matter of course regardless of the particular circumstances leading to such a request. In some instances head teachers have also adopted this approach.

This is contrary to the Regulations which allow a margin of discretion for the school in such matters so that each request is considered fairly and on its merits. The public law requires that such discretion is exercised fairly and that decision makers do not adopt a closed mind (i.e. a blanket policy regardless of particular circumstances). Whilst it is entirely appropriate for schools to develop a policy as to how it will deal with such matters that policy should not preclude individual cases being considered on their merits.

In December 2015, I wrote to all Directors of Education in Wales to emphasise the importance of implementing the Regulations fairly and have requested evidence to support that.

I have been very clear about how the arrangements for holidays in term time should operate. The Regulations in Wales provide for you, as head teachers, to exercise your discretion in relation to authorising absence. The term 'exceptional circumstances' relates only to requests for absences of *more than ten school days*.

There may well be circumstances that warrant a pupil taking time off in term time. You will no doubt consider the time of year of the proposed trip, length and purpose of the holiday, impact on continuity of learning, circumstances of the family and the wishes of parents as well as the overall attendance pattern of the child. You will know the pupil and family best and this is why you are best placed to make that decision. The Regulations also allow you to adopt a consistent approach within your school and ensure equity for all pupils. You have my full support on this matter.

Huw Lewis AC / AM
Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills