

LEAVE OF ABSENCE IN TERM TIME GUIDANCE FOR SCHOOLS



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**Introduction**

This guidance reflects the changes to *The Education (Pupil Registration) (England) (Amendment) Regulations 2006* which came into force on the 1 September 2013. All children of statutory school age who are registered at a school must, by law attend that school regularly. Any absence from school can seriously disrupt a pupil’s continuity of learning and have a detrimental effect on their future progress. This guidance has been prepared in accordance with the Northumberland County Council Penalty Notice code of conduct and the purpose of this guidance is to address two key issues:

* The discretion to authorise leave if there are “exceptional circumstances”
* Whether to make an application for a fixed penalty notice (FPN) following a period of unauthorised leave of absence (LOA)

**Leave of absence in term time**

By virtue of *The Education (Pupil Registration) (England) (Amendment) Regulations 2013,* the *The Education (Pupil Registration) (England) (Amendment) Regulations 2006* were amended in respect of leave of absence in term time:-

Regulation 7: Leave of Absence

(1) Leave of absence may only be granted by a person authorised in that behalf by the proprietor of the school.

(1A) Subject to paragraph (2) leave of absence shall not be granted unless-

(a) An application has been made in advance to the proprietor by a parent

with whom the pupil normally resides and,

(b) The proprietor, or a person authorised by the proprietor in accordance

with paragraph (1) considers that leave of absence should be granted

due to the exceptional circumstances relating to that application.

These amendments removed references to family holidays, extended leave and the threshold of ten school days. These amendments also made it clear that headteachers “***shall not***” grant any leave of absence during term time unless ***“exceptional circumstances”*** exist. Headteachers should determine the number of school days a child can be away from school if leave is granted for “exceptional circumstances”. In other words, the decision whether to authorise leave of absence (LOA) in term time is entirely at the discretion of the headteacher.

All decisions in relation to whether leave of absence is granted or not should be applied consistently and equitably and on a case by case basis.

There is no established guidance as to what amounts to exceptional circumstances - a common sense approach is perhaps sensible.

In deciding whether or not to grant the request for leave of absence the following may be taken into account, please note this is not an exhaustive list and each request for leave of absence in term time should be considered individually and on its own merits:-

* Overall pattern of attendance;
* Age of the child(ren);
* Phase of their education;
* Time of the year and examinations;
* Length, destination and purpose of the leave and whether it is likely to be a rare event in the life of the child;
* Family circumstances and the parents/carers reasons for wanting to take their annual holiday during term time.

Schools should have a clear attendance policy that should be communicated to all parents/carers and students, which sets out the school’s ethos toward leave of absence in term time including:-

* Clear guidance to parents/carers on how they should apply for leave of absence in term time;
* Information about the possible consequences of taking a child out of school without permission of the headteacher.

**The application process for a parent/carer to request leave of absence:**

It is recommended that the following process is followed:-

* A parent/carer requesting leave of absence during term time should make the application in writing at least two weeks in advance of the leave and this should also be in accordance with the individual school policy if appropriate.
* School may invite the parent/carer into school to discuss the reasons for the application and the impact the absence may have on the child’s education.
* The school should reply to all applications received and when replying they should ensure that the correct name of the parent(s)/carer(s) and the correct contact address is on that correspondence. All correspondence to parents/carers should be sent by post (1st class).
* All replies should be signed and dated by the Headteacher and/or duly authorised person in accordance with Section 579 (1) of the Education Act 1996.
* If the LOA is not authorised, then the reason for not authorising the request must be clearly stated and should explain why there are no exceptional circumstances. It is not sufficient to merely state that ‘no exceptional’ circumstances were found.
* Parents/carers should be advised of the possible consequences of disregarding the refusal to grant absence such as a request to the Local Authority to issue a Fixed Penalty Notice (FPN).
* If a period of LOA is authorised, the length of authorised absence must be clearly stated in the reply including the date the child is expected to return to school including possible consequences if the child fails to return on that date.

**What should schools do if the parent/carer does not request a leave of absence**

* Where a parent/carer has failed to request a leave of absence from school, and the child is absent from school, it should not be marked as “G” but should be marked as “O” .
* Should the school be satisfied and can evidence the fact that the unauthorised absence is unauthorised family holiday, then the register should be marked as “G”. The school should write to the parents/carers giving them the opportunity to explain the situation and the possible consequences of the unauthorised leave of absence.
* In accordance with Departmental advice issued by the Department of Education - “School Attendance” revised July 2019, schools should not give retrospective approval, if no leave of absence has been requested in advance the absence must be recorded as unauthorised.

**Application for Fixed Penalty Notice**

It is at the Headteacher’s discretion as to whether a case should be referred to the Local Authority for an FPN to be issued.

Northumberland County Council will consider applications for FPN’s in accordance with its code of conduct on the grounds that an unauthorised LOA (holiday) is capable of being irregular attendance and could possibly trigger an FPN. ***However,*** before making any application for a FPN, attendance in the wider context may be considered, including attendance in a previous academic year if appropriate. Each individual case should be decided on its own merits and in accordance with The Education (Pupil Registration)(England) Regulations 2006 (Regulation 7). If the headteacher believes that the threshold *(see below)* has been met, a request with all accompanying information, can be made to the Local Authority to issue an FPN.

The current threshold as set out in the current Northumberland County Council code of conduct for fixed penalty notices is:-

*“A minimum absence of ten sessions (five school days) which are unauthorised must be recorded against the pupils named within a 6 to 12 school week period”*

A FPN request form will need to be submitted with ALL supporting documentation (see below). The information supplied must be complete, current and correct. A form can be obtained from your EWO who will advise you on how to complete the form.

A Penalty Notice will be considered by authorised officers within Education Welfare following an application by a duly authorised person from the school where a parent/carer has failed to make a request in accordance with the Regulations and the child has been absent from school for a minimum absence as set out in the threshold test above.

A Penalty Notice will be considered by authorised officers within Education Welfare following an application by an appropriately authorised person from the school where an application has been made, but the leave of absence has not been authorised as there are no exceptional circumstances and the child has been absent from school for a minimum absence as set out in the threshold test above.

The authorised officers will issue a FPN taking into account current case law and guidance and will apply the code of conduct. However, if the Local Authority are of the opinion that a FPN should not be issued then the school will be informed accordingly.

**WITHDRAWAL OF PENALTY NOTICE**

There is no statutory right of appeal. Once a Penalty Notice has been issued, it can only be withdrawn if it can be shown that :

* + It has been issued outside the terms of the code of conduct;
  + No offence has been committed;
  + It has been issued to the wrong person;
  + It contains material errors.

Should a parent contest a FPN because they believe an error has been made we will as appropriate refer the parent back to the head teacher. The PEWO/SEWO will also contact the school.

If a parent does not pay the FPN, court proceedings may be implemented based solely on the evidence provided by the Headteacher and the school.

If you have any queries regarding this guidance please speak with your named EWO in the first instance.

Supporting Documentation required:

Parent request form

School correspondence

Registration certificate

Headteacher certificate

School attendance policy