

Leave of Absence in Term Time

Frequently Asked Questions

What does the law say about leave of absence in term time?

It says Head Teachers may not grant any leave of absence during term time unless there are exceptional circumstances. The associated guidance states the need or desire for a holiday or leave for the purpose of leisure or recreation would not normally be considered exceptional. Head Teachers should determine the number of school days a child can be away from school if the leave is granted.

If my child's school refuses to authorise my term time leave of absence request, will I receive a Fixed Penalty Notice and can I be prosecuted?

Durham County Council's Fixed Penalty Notice Protocol acknowledges that regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

Penalty Notices are issued in accordance with the national framework and local code of conduct. Penalty Notices can be issued in circumstances where **10 unauthorised absence sessions (a session being a morning or afternoon registration period) have been recorded in any 10 school week period**. You can be prosecuted if you receive a fixed penalty notice and it is not paid.

Under the Education Act 1996, parents commit an offence if they fail to ensure their child's regular school attendance. Taking a child out of school for a leave of absence without permission, and where the absence amounts to 10 sessions or more of unauthorised absence in a 10 school week period is viewed as failing to ensure your child's regular attendance at school.

Payment of a Penalty Notice, where offered, is an alternative to prosecution by discharging liability for the offence. If unpaid, prosecution for the original offence under the Education Act can follow. A fixed penalty notice can be issued to **each person with parental responsibility** for the child / children who are deemed liable for the offence / offences, but usually to the parent or parents who have allowed the absence.

Who has parental responsibility for a child?

The Department for Education (DfE) state a parent means:

- All **natural parents**, whether they are married or not;
- Any person who **has parental responsibility** for a child or young person; and,
- Any person who **has care of a child or young person i.e. lives with and looks after the child**.

The DfE further state: '**generally parents include all those with day-to-day responsibility for a child.**'

1 Overview

Penalty notices are issued as an alternative to prosecution where parents have failed to ensure their child attends school regularly. They can be used in cases where absence has not been authorised by a head teacher.

The notices are used to prevent the need for court action, for example, when support has not been engaged with or is not appropriate (for example, leave of absence during term time). **Changes from September 2024 are shown below.**

2 Leave

Head Teachers are unable to grant leave of absence during term time unless there are **exceptional circumstances**.

Generally, a need or desire for a holiday or other absence for the purpose of leisure and recreation **would not** constitute an exceptional circumstance.

3 Absence

A Fixed Penalty Notice may be issued if there are **5 days / 10 sessions** of absence in a period of **10 school weeks** (where absence has not been authorised).

A notice may be issued where the 5-day level of absence has not been reached, for example, if there are several periods of leave.

4 Amount

Within a 3-year period:

The first penalty notice is **£160** if paid within 28 days, reduced to **£80** if paid within 21 days.

A second penalty notice is **£160** to be paid within 28 days.

A third penalty notice cannot be issued. **Legal action** may result (for example, prosecution).