

Frequently Asked Questions – Fixed Penalty Notices (FPNs)

Section 444 of the 1996 Education Act states that if a child of compulsory school age who is a registered pupil at school fails to attend regularly their parent is guilty of an offence.

Schools and the Local Authorities are required to follow government guidance in relation to absence from school. The DFE state 'Generally, a need or desire for a holiday for the purpose of leisure and recreation would not constitute an exceptional circumstance.'

When a child is absent from school without authorised leave

Only a headteacher can authorise an absence from school. If your child is absent from school and the absence is not authorised the school is required to consider whether the absence meets the threshold for a Fixed Penalty Notice which is set in the Local Authority Code of Conduct. In many cases schools and the Local Authority will offer support to try to improve your child's attendance, however if the absence is for a holiday or events such as a family gathering or birthday there would be no support need and the school is required to notify the Local Authority.

When your child is unwell immediately before or after a leave of absence

You should notify the school of your child's illness following the normal procedure. The school may request official booking details of the holiday to demonstrate the sickness was genuine and not a way of avoiding a penalty notice.

Understanding FPNs

A FPN is issued as an alternative to prosecution in the Magistrates Court. The FPN scheme does not allow for mitigation as the notice is a 'conditional offer' for the offence of failing to secure regular attendance and in all cases the proposal is a fine of £160. In some cases, you may be offered the opportunity to £80 if paid within 21 days. There is no flexibility in the disposal, so mitigation is not relevant.

When an FPN is issued

The National Framework sets out when an FPN can be issued and includes the following:

- 10 sessions of unauthorised absence within a 10-school week period. Unauthorised absence could include late arrival after the registration period, absence for holiday or other leisure activities and/or other unexplained absence. The absence does not have to be consecutive.
- Unauthorised absence which falls below the threshold of 10 sessions in 10 school weeks, but parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for birthdays or other family events.

Who can be issued an FPN

FPN's can be issued to any adult considered to be a parent as defined by the Education Act 1996, this includes:

- All natural (biological) parents, whether they are married or not
- Any person who although not the natural parent has parental responsibility for the child or young person.
- Any person although not a natural parent has care of the child or young person. Having care of the child means a person with whom the child lives and who looks after the child irrespective of what their relationship is with the child.

To make sure penalty notices are issued fairly and legally, all Local Authorities are required to have a local Code of Conduct which explains the circumstances in which FPN's will be issued. The Code of Conduct must include the national threshold, and also any circumstances falling outside the national threshold in which a FPN will be considered. The Westmorland and Furness Code of Conduct is published on the council website and is available here: [School attendance | Westmorland and Furness Council](#)

Appealing a Fixed Penalty Notice

There is no right of appeal against a FPN. It is important you make the school aware of any circumstances or information regarding absence at the earliest opportunity. There is no requirement for information to be considered after the fact, however, if you have additional information which has not previously been shared you may wish to share this with the Attendance Team and should do so using the e-mail address provided on the FPN. The Attendance Support Team is only able to review a decision if **significant new information** is provided. Information already provided to the school will not initiate a review.

The penalty notice cannot be paused, should a review be requested with new information. The notice should still be paid within the timescales, and should it be agreed that the additional information constitutes exceptional circumstances any payments received will then be refunded.

How Notices to Improve are used

A notice to improve is not issued in situations where support is not appropriate, as in the case of an unauthorised leave of absence in term time.

Unauthorised absences below the national threshold

The legislation requires schools and local authorities to consider individual situations and is clear that a FPN can be issued in some circumstances before the threshold is met, for example taking several term time holidays below threshold, or for repeated absence for birthdays or other family events. This is detailed in the Code of Conduct.

Examples would include:

Jo misses three days of school in September due to a family holiday and then misses a further two days of school in January for a weekend break Jo's parents could be issued an FPN.

Bob misses nine sessions of school in February for a holiday and this has happened for the last three years. This is a pattern and Bob's parents could be issued with an FPN.

Sarah goes on holiday with her family during the first week in May every year missing four days of school because the Monday is a bank holiday. Sarah's family went on holiday at the same time the previous year missing four days of school. Sarah's parents could be issued with an FPN because there is a pattern of absence and it appears her parents are taking steps to avoid an FPN by choosing a week with a bank holiday.

*Please note these examples are not exhaustive

Paying penalty notices

Payment cannot be made in part or by instalments.

Not paying a Fixed Penalty Notice

If you don't pay within the 28 days, the offer of a FPN is withdrawn. The Local Authority will then consider instigating a prosecution in the Magistrates Court for the offence of failing to secure regular school attendance. If a guilty finding is made this could result in a fine of up to £2500 per parent per child and/or a parenting order or a community service order. In addition, the court may impose court costs. It is not possible to pay the FPN after the 28 days have passed.

How many FPNs can be issued

You can be issued a maximum of two FPN's within a rolling three-year period. The first time a FPN is issued, the amount of the fine will be £80 if paid within 21 days, increasing to £160 if paid between days 22 and 28. The second time a penalty notice is issued within a three-year period, the amount is £160 payable within 28 days. If there is a third period of unauthorised absence within a three-year period, a penalty notice will not be issued, and the Local Authority must consider other available measures including prosecution in the magistrate's court. Penalty notices are issued per parent per child.