

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**.'