



Witham St Hughs Academy

'Education For Lifelong Learning'

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Dear Parent / Carer

Re: Absence from School

As you know from previous newsletters, the government recently altered rules regarding holidays in term time. The changes were announced at Easter 2013, and came into effect from 1st September 2013. The main change was that the power for a school to authorise holidays in term time had largely been removed. In addition to this, increased emphasis was placed on the use of Fixed Penalty Notices (FPN) to impose fines on parents who removed children from school without authorisation. This caused issues for several reasons, with two of the main problems being:

- Some people had already booked holidays or received authorisation for absence from schools prior to the Easter 2013 announcement
- Local authorities had limited time in which to review their stance in relation to the new rules

This placed some parents in a difficult position. Schools were also in a difficult position as parents were requesting additional information regarding the policy, for which schools could not necessarily give definitive answers as Local Authority policies had not been fully reviewed in light of the new regulations. Lincolnshire County Council (LCC) recently clarified its policy regarding absence from school. Extracts of LCC's policy have been attached overleaf for your information. The full document can be accessed via LCC's website. For us, LCC's clarification has meant that the Governors of Witham St Hughs Academy have been able to consider their stance in relation to absence and the use of Fixed Penalty Notices. The Governors wish to promote high attendance and access to education during term time. Consequently, the governors have decided to implement the policy as defined by LCC. Some of the main points of the policy are detailed below:

- A Fixed Penalty Notice will be sought in respect of any child who has been absent from school for 15% or more over any six week period
- The issuing of any Fixed Penalty Notice will relate to any absence due to holidays booked after 5th June 2013 (the date at which the school first made parents aware of changes in the regulations)



- Teachers will not set work for children absent from school through holiday. The Governors ensure education is provided for pupils during term time in school.

From conversations with many of you, we are very aware that there are a wide range of opinions regarding this policy. Governors and academy staff also have a range of views. For example, none of us would doubt that a holiday can provide very valuable time for families to interact together. We also recognise and agree that many holidays develop children's wider knowledge of the world. However, we are still bound by the regulations developed by the government, and the Governors will implement the regulations as described above.

We hope this letter helps to explain the policy and its implications. As always, if you require any further information, please do not hesitate to contact us.

Yours sincerely

Neil Spencelayh
Headteacher

Local Authority (LA) Information Regarding the Use of Fixed Penalty Notices
(Extracts from Lincolnshire County Council Fixed Penalty Notices Code of
Conduct)

Where a Penalty Notice may be Issued

Fixed term penalties will only be issued in circumstance where the LA is satisfied that the criteria for prosecution would be met if the option of a fixed penalty notice is not taken up by the parent. The circumstances in which a notice may be issued are:

- **Where a child is absent from school due to unauthorised absence of 15% or above over a six week period.**
- Where a child is present in a public place during school hours without reasonable justification during the first five days of any exclusion.

Non-Attendance: It must be remembered that to count as non-attendance at school the absence must be unauthorised. **The Education (Pupil Registration) (England) (Amendment) Regulations 2013** have removed the reference to holidays during term time and now provides that a leave of absence during term time will only be granted where an application is made in advance to the school and the school consider that the leave of absence should be granted due to exceptional circumstances relating to that application.

What amounts to "exceptional circumstances" is a matter for the discretion of the Head Teacher and should be judged on a case by case basis but it is unlikely to amount to an exceptional circumstance if it is merely claimed that a holiday abroad can only be afforded in term time or that a parent is unable to take leave during school holidays (this is a matter between the parent and their employer). Head teachers should also consider asking for evidence of the circumstances that has arisen where appropriate.

Effect of Penalty Notice being issued

- The penalty notice is presumed to be served on the parent to whom it is sent on the second working day after it was posted.
- If a parent pays the penalty notice within 21 days from the date it is served the sum due from the parent to discharge the penalty notice is £60.00
- The parent can still pay the notice after 21 days but the payment increases to £120 and this must be paid before 28 days have passed from the date of service.

- If a parent pays the amount due within the times set out above then no further action will be taken against that parent for the offence on the date(s) set out in the penalty notice.
- Once a penalty notice has been issued no prosecution for the offence detailed in the penalty notice can be brought against the parent until the payment period has passed and the fixed penalty has not been paid.
- All payments must be made to the LA.

Appeal against the Penalty Notice

There is no right of appeal against a penalty notice and a parent can either accept and pay the same or decline payment subject to them being aware that further action as set out below may be taken by the LA if the penalty notice remains unpaid.

However, the LA has the discretion to withdraw the notice if the LA is satisfied that:

- The fixed penalty notice has been sent to the wrong person
- It contains a material error (in these circumstances a fresh amended penalty notice could still be issued).
- If for any other reason the LA is of the opinion that it should not have been issued.

Non Payment of the Penalty Notice

- Non-payment of a fixed term penalty notice is not of itself an offence. The fixed penalty notice is issued as an alternative to bringing a prosecution in the magistrates' court for the offence set out in the notice. However, if the offer of dealing with the offence as a fixed penalty matter is not taken up by payment of the sum due within the 28 day period then consideration will be given to issuing criminal proceedings against the parent in the magistrates' court.
- If a fixed penalty notice has not been paid after 28 days from the day it is taken to be served then the LA will contact the school or police officer who made the application for the penalty notice to be issued and discuss with them the available evidence to bring proceedings in the magistrates' court for the alleged offence under Section 444 of the Education Act 1996 or Section 103 of the Education and Inspection Act 2006.
- If it is the view of the LA that prosecution is a viable option then a request will be made that the school or police officer concerned submits a report to the

Education Welfare Service Legal Panel for a formal decision to be taken to proceed with the matter by issuing criminal proceedings before the magistrates' court.

- Prosecution of offences is a matter within the discretion of the local authority. A decision will be taken in line with the LA prosecution policy for these matters and proceedings, where commenced, will be issued by the LA.
- If a prosecution is brought and the parent is found guilty or pleads guilty then a conviction for an offence under Section 444(1) of the Education Act 1996 or for an offence under Section 103 of the Education and inspection Act 2006 will be given. Both carry a fine of up to a maximum of £1000 and in addition the LA will seek to recover costs in respect of bringing the proceedings. Further, a successful prosecution will result in a parent having a criminal record which could be disclosed should they apply for a position where a DBS check is required.

Administration of Fixed Penalty Notices.

All administrative functions in respect of the issue of fixed penalty notices and the collection of payments for the same will be undertaken by the LA.

The LA will keep central records in respect of the issue of such notices within Lincolnshire which must include:

- A copy of each notice issued,
- A record of all payments made and the date of payment,
- Whether the notice was withdrawn and on what grounds,
- Whether the parent(s) following non-payment of the same, was subsequently prosecuted for the offence set out in the notice or for an offence arising out of the same circumstances