

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Deisebau

National Assembly for Wales
Petitions Committee

Huw Lewis
Minister for Education and Skills
Welsh Government
Tŷ Hywel
Cardiff Bay CF99 1NA

3 December 2015

Dear Huw

Petitions about allowing children leave of absence from school during term time (Petitions P-04-576 and P-04-606)

Thank you for attending the Petitions Committee meeting on 10 November and for answering our questions about the issues underlying the above petitions.

The Committee has reviewed your oral evidence and the evidence given by the lead petitioners, Bethany Walpole-Wroe and Jane Douglas and Helen Weedon of *Pembs Parents Want a Say*.

The Committee welcomed your assurances that the legal position in Wales is different to England and that head teachers here have clear discretion to allow pupils up to ten days leave of absence from school for holidays. The Committee noted that the requirement that holidays only be allowed in 'exceptional circumstances' relates to absences of more than ten school days.

You indicated that you want the current discretion in the *Education (Pupil Registration) (Wales) Regulations 2010* to continue and that you were against blanket bans or permissions; the Committee shares your view. You went on to say that you were not aware of any blanket bans that would not be compliant with the 2010 regulations. You also explained that government officials monitor compliance with the regulations and intervene if there is cause for concern. You said that you would be prepared to consider evidence from the Committee that demonstrated concerns about the way the regulations were being applied.

In the light of this, the Committee received a summary of the information publicly available from each local authority relating to their position on authorising term time holidays. This information is not complete because in a number of cases the information is not easy to find. Where the information was



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difficult to find, the Committee has considered information contained within other documents or on school websites etc. The fact that this information is not always easily accessible to the public is itself a possible cause for concern, particularly given the legal requirement for every local authority to produce a code of conduct under the *Education (Penalty Notices) (Wales) Regulations 2013*.

However, the information we have seen tends to show that there is a great deal of confusion within local authorities about the legal position, with many advising schools and parents that some sort of 'exceptional' or 'special' circumstances must apply in order for a request for leave to be authorised. As you know, this is not correct.

Blaenau Gwent, Caerphilly, Conwy, Denbighshire, Monmouthshire, Rhondda Cynon Taff, Torfaen and Vale of Glamorgan refer to schools being able to authorise term time holidays only in 'exceptional circumstances', while the Isle of Anglesey and Pembrokeshire refer to schools only being able to authorise in 'special circumstances'. Cardiff ask head teachers not to authorise at all. Ceredigion refer to head teachers having been advised by the ERW consortium not to authorise holidays taken in term time. The model attendance policy of the EAS consortium, (whose area covers Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen) also makes reference to authorising term-time holidays only in exceptional circumstances.

The attached document sets out this information in more detail. The Committee are particularly concerned that some local authorities are misstating the legal position. By way of example, in a letter to parents from Conwy's Chief Education Officer, Richard Ellis Owen, which appears on the website of a school within Conwy CBC it states:

"Welsh Government regulations state that Headteachers may, in exceptional circumstances agree up to 10 days absence during an academic year outside statutory school holiday dates".

On the website of Torfaen County Borough Council, under the heading "*the Law*", it states:

"The law says that parents do not have the right to take their child out of school for holidays during the term-time. In exceptional circumstances, however, schools can allow parents to take their child out of class for up to ten days in a school year".

In the light of this, the Committee agreed that I should write to you to express its concern at the information we have received and to ask that your officials investigate the situation as a matter of urgency. Should you agree that there is widespread misunderstanding or misstatement of the legal position, the Committee asks that you take whatever steps are appropriate to ensure that local authorities and consortia rectify the position as a matter of urgency.



We are particularly concerned that parents may have, received or paid Fixed Penalty Notices based on a misunderstanding or misapplication of the regulations by head teachers which has at least in part been contributed to by advice or in some cases instructions given to them by local authorities or the relevant education consortium.

The situation in Cardiff Council and Rhondda Cynon Taf CBC is of considerable concern. We understand, from the response to a Freedom of Information request in August this year, that 529 parents in Cardiff received fixed penalty notices for taking their children out of school for a holiday in term time and that 4 of these parents had been prosecuted. Media reports in May this year indicated that Rhondda Cynon Taf Council had issued 196 fixed penalty notices for the same reason. Many more parents may have been affected since then.

Whilst the Committee appreciates that Fixed Penalty Notices are issued for all types of unauthorised absence, given the published statements on these authorities' websites, which is set out in the enclosed document, we have real concerns that many parents may have been dealt with unfairly and unlawfully where the reason for the unauthorised absence is a holiday during term-time. Although the parents concerned would have recourse through the courts, if they were unwilling to pay any fine, it is conceivable that many of those affected will not have been able or willing to pursue this given the possible cost, inconvenience and uncertainty involved. Indeed, presumably many parents would be unaware of their right to challenge.

I am copying this to the petitioners and to Ann Jones AM, the Chair of the Children and Young People's Committee, for information.

I look forward to an early response.

Yours sincerely

William Powell AC/AM
Cadeirydd/ Chair

Blaenau Gwent County Borough Council

Code of conduct

No relevant information.

Website :-

Taking Holidays during term time

You don't have the right to withdraw your child from school during term-time.

In exceptional circumstances, the school's head teacher and governing body may agree to allow up to 10 school days of authorized absence.

This is at the discretion of head teacher and the governing body.

School Admissions Booklet/Parents Information:-

The law advises that parents do not have the right to take their child(ren) out of school for holidays during term time. In line with other authorities in Wales and England, **Blaenau Gwent has decided that holidays in term will no longer be authorised.** The Local Authority will administer Fixed Penalty Notices in line with the other Local Authorities in Wales, and in accordance with the code of conduct for Fixed Penalty Notices. You can access the Code of conduct for Fixed Penalty Notices on the Blaenau Gwent website.

Bridgend County Borough Council

Code of conduct

No relevant information.

Website

No relevant information.

School Admissions Booklet/Parents Information:-

Parents/carers should not normally take children on holidays in term time. However, the regulations do allow schools the discretion to grant up to 10 days authorised absence for family holidays. Parents/carers have to apply for the 'leave' in advance and each request is considered individually, taking account of:

- the age of the child;
- the time of the year;
- the child's stage of education and progress;
- the child's overall pattern of attendance.

Schools should invite parents/carers to discuss any proposed holiday in term time and except in the most exceptional circumstances will only authorise absences up to 10 days. Should parents exceed this any extra days will be deemed unauthorised and trigger the involvement of the Educational Welfare Services.

Caerphilly County Borough Council

Code of conduct

No relevant information

Website:-

You do not have the automatic right to withdraw their children from school for an annual holiday and will be reminded of the effect absences can have on a pupil's potential achievement.

If you wish to take a holiday during term time they must apply in advance in writing to the school explaining the circumstances for the leave of absence.

The school will consider any application for leave of absence and will only agree to authorise the absence in exceptional circumstances.

School Admissions Booklet/Parents Information:-

Family holidays during term time.

Parents are advised that they do not have an automatic right to withdraw pupils for holidays while schools are in session. Prior application should be made to the Headteacher who will take into account relevant factors such as:

- age of the child.
- the time of year proposed for the trip.
- its nature and parental wishes.
- the overall attendance pattern of the pupil.

Where a school does not grant leave of absence and the pupil still goes on holiday, such absence will be recorded as unauthorised and could result in the issue of a fixed term penalty notice.

The City of Cardiff Council

Code of conduct

No relevant information.

Website:-

Cardiff Council has now asked head teachers not to authorise requests for a holiday in term-time. There is no right that enables parents and carers to take a child out of school for a term-time holiday. To put this in context, schools are open to pupils on 190 days of the year which leaves 175 days for holidays and visiting family.

It is unacceptable to take your child out of school for any of the following reasons:

To look after brothers or sisters

Shopping trips

Days off for birthdays

To visit relatives

Sleeping in

Arriving late for school

Minding the house

To go on day trips or holidays

School Admissions Booklet/Parents Information:-

Given the need to ensure high attendance, we have reviewed the impact of holidays in term time. **We are now asking headteachers not to authorise requests for a holiday in term-time.** There is no right that enables parents and carers to take a child out of school for a term-time holiday. To put this in context, schools are open to pupils on 190 days of the year which leaves 175 days for holidays and visiting family. The policy that Cardiff Council used to have on Extended Holidays has also been withdrawn. Families are requested to make arrangements to take these in the 6 week break in July and August in order to help schools to support your child in achieving success.

Carmarthenshire County Council

Code of conduct

Unable to find on website

Website

No relevant information

School Admissions Booklet/Parents Information

No relevant information

Ceredigion County Council

Code of conduct

No relevant information

Website

No relevant information

School Admissions Booklet/Parents Information

HOLIDAYS DURING TERM TIME

Can I take my child on holiday during term time?

Parents do not have an automatic right to withdraw pupils from school for a holiday and, by law, have to apply for permission in advance. The LA actively discourages holidays in term time in that they are damaging to the pupil's continuity of learning and **headteachers have been advised by the ERW Consortium not to authorise holidays taken in term time.**

Conwy County Borough Council

Code of conduct:-

No relevant information

Website:-

Your child's school will not authorise absences for the following reasons:
shopping during school hours
day trips
term time holidays
birthdays
looking after brothers or sisters or ill relatives

School Admissions Booklet/Parents Information

No relevant information

Letter to parents July 2014 from Chief Education Officer:-

Taking your child/children out of school during term time will impact on their attendance and overall attainment. Regular attendance is central to Welsh Government's agenda and drive to raise attainment in Wales, and research indicates that attendance and attainments are strongly linked. The law does not grant parents an automatic right to take their child/children out of school during term time. All requests for holidays will be considered by the Headteacher on an individual basis. Parents must always request permission for holiday leave allowing 4 weeks for the school to consider and respond. **Welsh Government regulations state that Headteachers may, in exceptional circumstances agree up to 10 days absence during an academic year outside statutory school holiday dates.** If you consider that your request for a holiday is exceptional you will need to complete the attached form and you may be asked to attend an interview in the school to discuss your request. If the holiday is not considered to be an exceptional circumstance, but nevertheless you still take your child/children out of school, the absence will be recorded as unauthorised.

Denbighshire County Council

Code of conduct

Unable to find on website

Website:-

Am I entitled to take my child out of school for a family holiday?

- No. Parents have a legal duty to ensure that their children attend school or the alternative provision on a regular basis
- The Education Act 1996 makes it a criminal offence for a parent to “fail to secure their child’s regular school attendance at the school”
- **Our view is no term time holidays should be approved**
- **Headteachers must not grant any leave of absence (holiday) during term time unless there are exceptional circumstances**
- Parents do not have entitlement to take their child out of school for a holiday in term time

School Admissions Booklet:-

3.2.1 The Law

The law advises that parents do not have the right to take their child(ren) out of school for holidays during term-time. In exceptional circumstances schools may allow parents to take their child(ren) out of class for up to ten days in a school year. If parents take their child(ren) on holiday without the school’s permission, or if the child(ren) do not return on the agreed date, this will be recorded as unauthorised absence (truancy). The school has the right to take child(ren) off roll if attendance is poor. This could result in parents having to apply to a different school for their child(ren). Parents may also receive a Fixed Penalty Notice (fine) from the Local Authority.

3.2.2 School’s decision

When deciding whether to allow term time leave, the school will consider:-

- ☐ the child’s age;
- ☐ the time and duration of the leave;
- ☐ the child’s record of attendance;
- ☐ previous term-time absences.

It is important that parents carefully consider the implications of taking their child out of school during term-time.

Flintshire County Council

Code of conduct

No relevant information

Website:-

In total there are 175 non-school days a year. This gives families the opportunity to:

Spend time together

Go on family visits and days out

Go on holiday

Go shopping

Attend routine appointments

Students are not granted leave of absence unless there are exceptional circumstances. Any such absences are at the discretion of the Headteacher. Taking a holiday during term time, seriously affects your child's attendance and in turn their attainment. If an unauthorised holiday is taken, this may result in a Fixed Penalty Notice being served

School Admissions Booklet/Parent's Information:-

Family holidays term time

There is no automatic right to withdraw pupils from school for a holiday and, in law, parents must request permission from the headteacher in advance. Please contact the school to obtain a holiday form before booking holidays, as permission is not automatic.

Holidays during term-time guideline:-

You should not normally take your child on holiday in term time as it can be disruptive both to your child's education and to the school. Holidays in term time can only be agreed by the Head teacher or someone with appropriate authority. Schools can use their discretion to grant up to 10 days' authorised absence in a school year if: the parent the child normally lives with applies to the school in advance of the holiday **there are special reasons for the holiday**

Schools can only agree to more than 10 school days' absence in any school year in exceptional circumstances. Schools must judge each holiday request on a case by case basis. They can take into consideration:

- the time of year for the proposed trip
- if it's near any exam dates

your child's overall attendance pattern
any holidays already taken in the school year
the age and stage of education of your child
your wishes
the ability of your child to catch up the work that they have missed
the reason why you are taking the time off during term time

Schools should not take into consideration:

availability of cheap holidays
availability of desired accommodation
poor weather experienced in school holiday periods
overlap with the beginning or end of term

Gwynedd Council

Code of conduct

Unable to find on website.

Website:-

Going on holiday during school term

Taking children on holiday during term time can lead to a series of problems such as:

your child's education suffering

missing lessons and extra curricular activities

continuity of work being lost

As a result we ask you to avoid going on holiday during term time if possible. If you have to take your child out of school during term time, you will have to discuss and agree with your school.

School Admissions Booklet/Parent's Information:-

No relevant information.

Isle of Anglesey County Council

Code of conduct

Unable to find on website

Website

No relevant information

School Admissions Booklet/Parents Information:-

No relevant information

Letter from the Director Lifelong learning 21st September 2015:-

Term time Holidays As directed by the LA the school can only authorise up to 10 days (Foundation Phase, Key Stage 2). Parents should not normally take pupils on holidays in term time and parents must apply for the leave in advance of booking the holiday (form available from the school). Each request for holiday absence will be considered individually, taking account of: the age of the child; the time of year proposed for the trip; its nature and parental wishes; the overall attendance pattern of the pupil; the child's stage of education and progress; and whether circumstances warrant it. **Schools can only agree to absence for a family holiday if they believe there are special circumstances which warrant it.** The school will then return the holiday form stating whether they authorise the holiday or not. If not the school will state the reason and also point out that if the family choose to go ahead and book the holiday then they will be considered for a Fixed Penalty Notice of £60 (if paid within 28 days) or increasing to £120 (if paid within 29 and 42 days).

Merthyr Tydfil County Borough Council

Code of conduct

Unable to find on website.

Website:-

Holidays During Term Time

Local Authorities in Wales following the introduction of the Welsh Government's Education (Penalty Notices) (Wales) Regulations 2013, and in conjunction with the previous Education (Pupil Registration) (Wales) Regulations 2010 **are discouraging holidays from being taken in term time, except in exceptional circumstances**; and such 'unauthorised' holidays may result in the issuing of a Fixed Penalty Notice. If the applications for holidays during term time are to be requested the following should be considered where possible:

closeness to examinations or tests, proximity of GCSE.

the first year at a new school;

the beginning of a new school term.

children who are taken out of school during term time may never catch up with important work they have missed.

younger children could find it difficult to renew friendships with their classmates

Parents do not have an automatic right to withdraw pupils for holidays while schools are in session. No school in Merthyr Tydfil operates a 'blanket approval' policy to requests for holidays during term time. They consider each request individually, and take into account relevant factors such as:

the pupil's age

the timing of the proposed holiday

its nature and parental wishes (bearing in mind that working in the family business would not come within the scope of the relevant regulation)

the overall attendance pattern of the pupil

the stage of the pupil's education and progress

Where a school does not grant leave of absence and the pupil still goes on holiday, they will record the absence as unauthorised, and may be subject to the issuing of a FPN.

If parents fail to abide by any agreement reached with the school and keep a child away for a period in excess of that agreed, any extra time may be recorded as unauthorised.

Only in exceptional circumstances will the school agree leave of absence in excess of 10 school days in any school year (and 10 days should not be regarded as the norm in any event).

School Admissions Booklet

No relevant information

Monmouthshire County Council

Code of conduct

No relevant information

Website:-

Holidays in term time

Monmouthshire strongly discourages the taking of holidays in term time and advises Head Teachers to consider any requests on an individual pupil basis. The All Wales Attendance Framework allows Head Teachers to authorise up to 10 days per year. This is not an automatic right for parents or pupils. Head Teachers will take into consideration pupils' previous attendance records when considering parental requests for holidays in term time. If you are considering booking a holiday in term time you are strongly advised to contact the Head Teacher before confirming any booking. Term dates can be obtained from the school either verbally, in writing or on a school's website.

School Admissions Booklet/Parents Information:-

No relevant information

Local Authority Attendance Policy:-

Absence during term time

Parents do not have an automatic right to withdraw pupils from school for a holiday and, in law, have to apply for permission in advance.

Monmouthshire County Council advises all Governing Bodies not to authorise any holiday requests during term time, except where there are exceptional and extenuating circumstances.

Exceptional and extenuating circumstances include and would normally be limited to:

- family holiday request from parents who are employed by the Ministry of Defence;
- family requests for holiday due to religious beliefs.

Such considerations, in exceptional circumstances, may result in the school agreeing with the request and authorising the absence accordingly.

This means that holiday requests during term time will not be authorised by the school unless there is agreement between the school and the parent/carer that exceptional and extenuating circumstances apply, as aforementioned.

There is an expectation that parents and carers will abide by these arrangements in order to continue to secure the best possible educational outcomes for their child/children during their time in schools in Monmouthshire.

However, where parents fail to abide by the agreement reached with the school and keep a child away from school or where parents fail to seek permission, the time taken will be treated as an unauthorised absence in accordance with the application of this policy.

Where schools are experiencing difficulties with family holidays taken during term time, they may wish to:

- issue a letter on the matter to parents, requesting a meeting to discuss further; or
- contact the school EWO for advice and support.

All requests for holiday in exceptional circumstances during term time should be in writing, which should be made by a parent / carer of the child even if they are not going on holiday with them. If the parent with whom the child lives does not give consent to the holiday, leave cannot be given lawfully by the school except by a court order.

Neath Port Talbot County Borough Council

Code of conduct

No relevant information

Website

No relevant information

School Admissions Booklet/Parents Information:-

No relevant information

Newport City Council

Code of conduct

No relevant information

Website

No relevant information

School Admissions Booklet/Parent's Information:-

No relevant information

Extract from a School Attendance Policy

NB – it is not clear whether Newport CC have a standard attendance policy which all schools must use.

Family Holidays during Term Time

Whilst Regulation 8 of the Education (Pupil Registration) Regulations 1995 (amended) gives schools discretionary power to grant leave for the purpose of an annual family holiday during term time. **Newport City Council does not support this and encourages Headteachers not to authorise such absences.**

Pembrokeshire County Council

Code of conduct

No relevant information

Website:-

Family Holidays during Term Time

Schools have been strongly advised to authorise holidays in term time only in special circumstances. It is important that your child attends school regularly throughout the term in order to gain the maximum benefit from the education provided. Any requests will be viewed by the head teacher on an individual basis, and it is at their discretion whether to authorise the absence or unauthorise the absence. The decision was taken by ERW, our regional education consortium, to strongly recommend to headteachers and governing bodies that they do not authorise any absences due to holidays during term times.

School Admissions booklet/Parents Information

No relevant information

Powys County Council

Code of conduct

No relevant information

Website

School Admissions booklet/Parents Information:-

No relevant information

Extract from School Attendance Policy:-

ERW (the consortium which covers Carmarthen, Ceredigion, Neath Port Talbot, Pembrokeshire, Powys and Swansea) has developed a model attendance policy which has been utilised by schools in the area. It provides:-

Holidays

Headteachers do have the discretionary power to grant leave for the purpose of a family holiday or trips. However, the ERW Consortium is strongly advising that any holidays or day trips in term time should be unauthorised, and that there should be no exceptions to this policy. The school adheres to this and family holidays during term time will not be authorised.

Rhondda Cynon Taf County Borough Council

Code of conduct

No relevant information.

Website:-

If you are planning a family holiday that falls during school the school term, you must make a formal request for time off to the Head Teacher prior to booking any holiday

From September 2014, the Local Authority has introduced a “zero-tolerance” approach to holidays during term time, and head teachers have been asked to unauthorise holiday requests in line with this decision, although each request should be considered on its own merits.

Should there be any exceptional family circumstances that prohibit a family taking a holiday during the school holiday periods, the head teacher may possibly decide to authorise the request. Such exceptions include:

Families of serving armed forces personnel (parents);

Parent or child experiencing a life limiting illness;

Families that have suffered an acute trauma.

If your holiday request is not authorised, you may receive a Fixed Penalty Notice, if the pupil is of compulsory school age.

School Admissions Booklet/Parents Information

In accordance with The Education (Penalty Notices) (Wales) Regulations 2013, the local authority has introduced a new Code of conduct for the issuing of fixed penalty notices for regular non-school attendance. All penalty notices issued for non-school attendance will be processed in line with this Code, a copy of which can be obtained from any RCT school or the Attendance and Wellbeing Service (aws@rctcbc.gov.uk). **Furthermore, the Council has adopted a 'zero tolerance' approach to holidays in term time, resulting in holiday absences being unauthorised unless the family situation is considered to be an exceptional circumstance.**

City and County of Swansea

Code of conduct

No relevant information

Website:-

Will I have a penalty notice for taking my child on holidays?

The headteacher has the discretion to authorise holidays. If the holiday is not authorised then you may receive a penalty notice if the holiday means your child misses 10 school sessions and your child's attendance falls below 90% in the school year to date.

School Admissions Booklet/Parent's Information

No relevant information

Torfaen County Borough Council

Code of conduct

No relevant information

Website

The law

The law says that parents do not have the right to take their child out of school for holidays during term-time. **In exceptional circumstances, however, schools can allow parents to take their child out of class for up to ten days in a school year.** If you take a holiday without the school's permission or if the child fails to return on the agreed date this will be recorded as unauthorised absence (truancy), and noted on the child's attendance certificate and could result in [Non Attendance \(Fixed Penalty Notices\)](#).

School's decision

Holidays in term time will not be authorised **unless there are exceptional circumstances**. When deciding whether to allow term-time leave, the school will ask the parents what are the exceptional circumstances for the request to go on holiday.

It is important that parents carefully consider the implications of taking their child out of school during term-time. There are 175 days (weekends and school holidays) available to use for holidays, which would not have a detrimental effect on your child's education. Every school day counts!

School Admissions Booklet/Parents Information:-

Family holidays during term time

Torfaen County Borough Council's approach is **to no longer approve pupils taking holidays during term time except for exceptional circumstances at the discretion of the Headteacher**. Where a school does not grant leave of absence and the pupil still goes on holiday, such absence will be recorded as unauthorised.

Vale of Glamorgan

Code of conduct

No relevant information

Website

No relevant information

School Admissions Booklet

No relevant information

Revised School Attendance Policy 2014:-

Absence during term time

Parents do not have an automatic right to withdraw pupils from school for a holiday and, in law, have to apply for permission in advance. **The Vale of Glamorgan Council advises all Governing Bodies not to authorise any holiday requests during term time, except where there are exceptional and extenuating circumstances.**

Exceptional and extenuating circumstances include and would normally be limited to:

- i. family holiday request from parents who are employed by the Ministry of Defence;
- ii. family requests for holiday due to religious beliefs.

Such considerations, in exceptional circumstances, may result in the school agreeing with the request and authorising the absence accordingly.

This means that holiday requests during term time will not be authorised by the school unless there is agreement between the school and the parent/carers that exceptional and extenuating circumstances apply, as aforementioned.

There is an expectation that parents and carers will abide by these arrangements in order to continue to secure the best possible educational outcomes for their child/children during their time in schools in the Vale of Glamorgan.

However, where parents fail to abide by the agreement reached with the school and keep a child away from school or where parents fail to seek permission, the time taken will be treated as an **unauthorised absence** in accordance with the application of this policy.

Wrexham County Borough Council

Code of conduct

No relevant information

Website:-

No further information

School Admissions Booklet/Parent's Information:-

Absence for other reasons, including holidays in term time, should be discussed with the headteacher. Permission for holiday leave can only be given by the headteacher. The Welsh Government guidance says "schools should use their discretion sparingly". Also "save in exceptional circumstances a parent shall not be granted more than ten school days leave of absence in any school year" but "ten school days should not be regarded as the norm".



Eich cyf/Your ref P-04-576 and P-04-606
Ein cyf/Our ref HL/02362/15

William Powell AM
Chair - Petitions Committee
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

15 December 2015

Dear William,

Thank you for your letter, dated 3 December, following your review of evidence at Petitions Committee on holidays in term time in Wales.

I am pleased to see that we are in agreement on the principles, and the interpretation of the law, in respect of parents taking their children on holiday in term time.

As you will know, I have been very clear about my position on the implementation of the Regulations and am concerned at the additional information that you have now provided. Based on the examples you have provided, there appear to be continuing issues around interpretation of the Regulations which needs to be addressed, as you suggest, with some urgency. I have therefore written to all Directors of Education in Wales – and regional education consortia – asking for their personal assurance that the arrangements are being implemented fairly and to provide my officials with evidence to support that. We will undertake an analysis of the information as soon as it is received from local authorities.

I will also be writing to all head teachers and Chairs of Governors in Wales, supported by guidance through Frequently Asked Questions, early in the New Year to ensure that schools are clear about how the arrangements need to operate.

Your letter also raised the potential impact that these arrangements might have on parents receiving fines due to the misapplication of the regulations. As you appreciate, it is for local authorities and their legal teams to ensure they are compliant with the regulations. Similarly, it is for the judicial system to decide whether parents have been dealt with fairly and lawfully.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

English Enquiry Line 0300 0603300
Llinell Ymholiadau Cymraeg 0300 0604400
Correspondence.Huw.Lewis@wales.gsi.gov.uk

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The 'guidance on penalty notices for regular non-attendance at school' advises that all school attendance policies include information on issuing penalties and that it is brought to the attention of parents. In doing so parents should be aware of their right to challenge.

I have attached a copy of the letter that has issued to local authorities and regional consortia for your information.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Huw Lewis'.

Huw Lewis AC / AM

Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



Ein cyf/Our ref
All Directors of Education in Wales

cc: Managing Directors of Regional Education Consortia

11 December 2015

The [Pupil Registration \(Wales\) Regulations 2010](#) provide head teachers with a discretionary power to authorise leave for a family holiday during term time where parents seek permission. Save in exceptional circumstances, no more than 10 days leave should be granted for this purpose.

The [Education \(Penalty Notice\) \(Wales\) Regulations 2013](#) came into force in September 2013. The Regulations were accompanied by guidance (guidance document no: [116/2013](#)), also issued in September 2013.

I have been made aware that the arrangements put in place in some areas across Wales do not reflect the intention of the Regulations. In particular I am concerned that some local authority or consortia guidance indicates that head teachers should *not* exercise their discretion and should instead refuse all requests for term time absence as a matter of course regardless of the particular circumstances leading to such a request. This is contrary to the Regulations which allow a margin of discretion for the school in such matters so that each request can be considered fairly and on its merits. The public law requires that such discretion is exercised fairly and that decision makers do not adopt a closed mind (i.e. a blanket policy regardless of particular circumstances).

You might also have identified from recent media reports the link being made between requests for term time holidays and 'automatic' issuing of fixed penalty notices. Again this does not reflect the spirit of the Penalty Notices Regulations nor the policy intent; FPNs are intended as a possible tool in helping to tackle regular non attendance.

I have been very clear about how the arrangements for holidays in term time should operate across Wales. The Regulations in Wales provide for head teachers to exercise their discretion in relation to authorising absence. The term 'exceptional circumstances' relates only to requests for absences of *more than ten school days*. I am concerned at the growing number of examples that are being drawn to my attention which suggest that the Regulations are not being implemented as outlined above.

I am aware of a number of local authority websites where the approach taken may not currently comply with the law for the reasons outlined and equally where the information around the arrangements is not easily identifiable. Local authorities imposing 'blanket bans' or 'zero tolerance', misuse of 'exceptional' circumstances and FPN Codes of Conduct not available on websites are just a few examples of issues that have brought to my attention. This is not acceptable and I should be grateful if you could give this matter your urgent attention.

In view of the seriousness of these circumstances, I am seeking your personal assurance that your authority is:

- ensuring consistent and accurate implementation of the Regulations, which has been approved by your legal teams, and
- providing clear information for parents and schools that is compliant with the law.

I shall also be writing to head teachers in the New Year to make my position clear.

To avoid any further ambiguity could you please ensure the above actions are in place and confirm this is the case. In responding could you also provide a link to the information that is available on your website so that I might reassure myself that the information is accurate and clear.

I would appreciate your assurances by Friday 18 December. Please forward your response to wellbeingshare@wales.gsi.gov.uk.

A handwritten signature in cursive script, appearing to read 'Huw Lewis', written in dark ink.

Huw Lewis AC / AM

Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills