

# IMPORTANT LEGAL INFORMATION

The law (*The School Attendance (Pupil Registration) (England) Regulations 2024*) states Headteachers/Principals can **only** grant leave of absence if exceptional circumstances can be demonstrated, **and** the absence was requested in advance.

If unauthorised absences are recorded, a Penalty Notice Fine can be issued by the Local Authority to **each parent/carer** in respect of **each child** who is absent from school. Where fines are not paid, legal proceedings would be initiated under Section 444 of the Education Act 1996.

As of 19<sup>th</sup> August, when the new Statutory DfE Legislation came into force a 3-year rolling period was introduced for the starting point of counting the number of Penalty Notices or 'offences' that occur.

There was also a national limit of 2 penalty notices that can be issued to a parent for the same child within a rolling 3-year period, so at the 3rd (or subsequent) offence(s) another form of intervention will need to be considered. This could be a prosecution under Section 444 Education Act 1996, a Family Court Order or Referral for Statutory Support:

**PENALTY NOTICES & LEGAL ACTION**  
**After 19<sup>th</sup> August 2024:**  
**1st Offence** of Term Time Leave &/or Irregular Attendance (10 sessions of Unauthorised Absence or more) = Fine of £160 per parent, per child if paid within 28 days. If paid within 21 days fine is reduced to £80 per parent, per child.  
**2nd Offence** within 3 years of 1<sup>st</sup> offence = Fine of £160 per parent, per child payable within 28 days, no reduction available.  
**Failure to pay above results in the case going to Magistrates' Court.**  
**3rd Offence** within 3 years of 1<sup>st</sup> offence = **Magistrates' Court** under s444(1) or (1a) of the Education Act. - No Penalty Notice considered. If found guilty = a fine of up to £2500 per parent, per child. Court convictions will show on DBS record.  
**NB.** The LA can choose not to use a fine at any stage (if in their Code of Conduct) if they see a notable pattern in absences, even if national absence threshold is not met.

The National Framework allows local authorities the discretion to issue a PN fine in circumstances even if the above criteria has not been met. This might apply for example, where parents are deliberately avoiding the national threshold by taking several term time holidays below threshold, or for repeated absence for term time holidays, birthdays or other events.

**Please note:** Should a child be absent due to unauthorised term time leave for an extended period (20 days or more) or not return from a period of leave within 10 days, this may cause the school place to be removed or a prosecution in relation to Section 444 Education Act 1996, may be considered.

If the school place is removed due to the above this is done under Section 9 of the School Attendance (Pupil Registration) (England) Regulations 2024 under one of the below grounds:

- **Ground G** – The pupil no longer normally lives a reasonable distance from the school; and it is agreed they will not be returning with the parents and Local Authority.
- **Ground H** – The pupil has not returned following a leave of absence; within 10 days.
- **Ground I** (Ground C if Special School) – The pupil has been continually absent from school for 20 school days, which are unauthorised, not for illness or unavoidable causes and the pupil has not been located, and it has been agreed with the Local Authority.
- **Ground J** – The pupil is detained under a sentence of detention, if the pupil will not be returning once released.

In line with our safeguarding procedures, all details will be sent to the Children Missing Education Officer at the Local Authority for further investigation and logging on relevant databases. A new school place will need to be obtained via the LA admission process if the child returns.