

**Targeted Services**

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**Holidays in term time update.****Date – 15<sup>th</sup> July 2016**

Further to my communication in May 2016, I'm now in a position to give you an update on the issuing of Penalty Notices for Leave in term time, and guidance with regard to requesting the Local Authority to issue such a Penalty Notice.

**Legal Framework**

In light of the recent High Court decision in the case of *Isle of Wight Council v Platt* [2016] EWHC 1283 (Admin), and taking into account the law set out in *London Borough of Bromley v C* [2006] EWHC 1110 (Admin), I have undertaken a review of the current criteria we use within the Code of Conduct. The recommendations below are an interim measure, until the formal consultation process on amending the code of conduct can take place.

It is important not to confuse two separate issues here. The reason that the Isle of Wight Council originally lost the court case was because they could not convince the Magistrates that the child was not attending school regularly, and not because they concluded that the school was wrong to unauthorise the absence. It remains the case that leave must only be granted by schools in exceptional circumstances, and this case has no impact at all on this.

The case of *London Borough of Bromley v C* did make it clear that failure to secure regular attendance at school is not proved just by taking any unauthorised holiday of any length, and that fact and degree is important when making a judgment. This was very much the argument used in the *Isle of Wight* case. The two cases did not differ in the law applied, but in the facts applicable to the two cases.

The *Bromley v C* case involved 9 days (18 sessions) of unauthorised holiday over a period of 57 days (114 school sessions) and the High Court made it very clear that in their view this did amount to a failure to secure regular attendance. In the *Isle of Wight* case the authority had presented attendance figures for the whole of the academic year to date. After the parent had successfully argued under the *Bromley v C* rules that the period of irregular attendance must be judged over a longer period than just the period of holiday absence (which is the significant point of that case) then this left the court in the position of judging irregular attendance over the whole year, given that these are the figures that it had available to it, rather than the period of a term as was used in the *Bromley* case.

Therefore this issue of irregular attendance remains a matter for the court to conclude on in each individual case, dependant on the facts and degree presented to them. You will no doubt be aware that the Isle of Wight Council is seeking to appeal the High Court judgment to the Supreme Court, so we wait again to see the outcome of that appeal. Notwithstanding the above, we have taken account of the comments in the decision and concerns in Magistrates Court and more widely in society, to make interim amendments to the criteria for issuing Penalty Notices in the Staffordshire County Council Code of Conduct for issuing Penalty Notices, (as detailed below) whilst the required consultation to amend the Code of Conduct takes place.

#### Interim Criteria and Guidance

Penalty Notices for leave in term time may be considered appropriate if the following criteria is met:

- For unauthorised leave of absence, there must be a minimum of 20 sessions (10 school days) of unauthorised absence from school during the period of two consecutive half terms.
- This absence must include at least 10 sessions of unauthorised leave- (G Code) in the specified time period, however, the remaining 10 sessions may relate to other unauthorised absence. The absences do not have to be consecutive

Therefore, with immediate effect, if a child's unauthorised absence for leave meets the above criteria the school should refer the case to the Local Support Team (LST), as they have previously done, with the supporting evidence.

If you have any further questions about this interim measure please feel free to contact your LST in the first instance or email Karl Hobson at [karl.hobson@staffordshire.gov.uk](mailto:karl.hobson@staffordshire.gov.uk)

Parents of course have the option at any time to seek legal advice on this matter, and should they chose not to pay the Penalty Notice, the case will be referred to the Magistrates Court where they will make a decision based on our evidence and parental representations.

I have prepared a short statement below which you may find useful to include in a future communication with parents.

Yours sincerely



**Karl Hobson**  
**County Manager Targeted Services (East)**

Dear parents

Attendance at school is extremely important and being regularly absent will affect your child's ability to learn and do well.

You may be aware of a recent court case which focused national attention on the fining of parents for taking their children on holidays in school term time.

As a result of this, the county council are reviewing the rules around unauthorised absence and issuing penalty notices to parents.

Whilst the review is ongoing, head teachers will continue to review all requests for leave in term time and report all unauthorised absences to the county council.

As a temporary measure when a child has 10 days or more unauthorised absence over two half terms in a row, then a penalty notice may be issued to the parents/carers of that child.

If you have any questions with regards to this, please contact your Local Support Team. Contact details can be found online at [www.staffordshire.gov.uk/LST](http://www.staffordshire.gov.uk/LST)