

Urgent: Hampshire's current legal position regarding penalty notices for unauthorised absence from school (November 2015) Information for parents/carers

There is much research that shows a strong correlation between high attendance and high attainment for all children. A recent publication from the Department for Education (DfE) publication indicated that even missing a short amount of time from school can reduce every pupil's chance of securing the grades they are capable of achieving (DfE (February 2015) The link between absence and attainment at KS2 and KS4 2012/13).

Following the recent decision by Isle of Wight magistrates to not hear a case against a father who removed his child from school for a holiday during term time, we wish to clarify for all our parents and carers both the current implications of this case; and the current position on absence from school particularly regarding holidays during term time.

The first is that:

the Isle of Wight decision did not set a legal precedent, because magistrates' decisions are not binding on other courts

headteachers must continue to comply with the 2013 amendment to the Education (Pupil Registration) (England) (2006) Regulations 2013 which means that they cannot authorise a leave of absence from school unless it is exceptional

parents/carers must comply with Section 444 of the Education Act 1996 that states that:

(1) If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence

(1A) If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence

Despite the recent decision of the magistrates on the Isle of Wight (which may be subject to appeal), parents and carers can be failing to comply with section 444 of the Education Act if their child has unauthorised absences even if those unauthorised absences are for a family holiday.

As such all local authorities and their Headteachers must continue to follow the law on attendance and implement the government's guidance around attendance. This remains the legal expectation for all education authorities, and supports children in attending their statutory entitlement of 190 days per year. As a result the Isle of Wight and Hampshire County Council has reviewed the legal position in relation to the code of conduct for issuing penalty notices for unauthorised absence from school, and our code of conduct currently remains unchanged.

It is of vital importance that all of us – the local authority, families, schools and children – do all we can to ensure children achieve the highest levels of attendance.

I have recently received a penalty notice, does the case on the Isle of Wight affect whether I should pay?

If you have received a penalty notice regarding school attendance, you are expected to pay this within the statutory period as detailed within the paperwork issued, or you may be subject to legal action.