



DEBATE PACK

Number CDP 2016-0140 , 7 July 2016

E-petition 129698 relating to school penalty fines and authorised absence from school

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Summary

This briefing has been prepared for the Westminster Hall debate on e-petition 129698, relating to school penalty fines and authorised absence from school, on Monday 11 July 2016 from 4.30 to 7.30pm. It contains a summary of the issues and press and Parliamentary coverage. Steve Double MP will lead the debate.

Contents

1.	Holidays in school term-time	2
1.1	High Court judgment	2
1.2	What is the existing position? Fines for unauthorised absences	2 3
1.3	Petitions and Government comment	3
1.4	The impact of absence: 2016 report	4
2.	Petition	5
3.	Press articles	6
4.	Parliamentary questions and debates	7
4.1	PQs	7
4.2	Debates	10
5.	Further reading	11

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1. Holidays in school term-time

1.1 High Court judgment

On 13 May 2016, the High Court ruled in favour of Jon Platt, a father from the Isle of Wight who had refused to pay a £120 fine for taking his daughter on holiday during term time. Following a ruling by magistrates, the Isle of Wight Council had taken the issue of whether a seven day absence from school amounted to a breach of the requirement for regular school attendance to the High Court.¹

In response to the ruling, the Department for Education [stated](#) that it would look to change the legislation to enforce school attendance:

We are disappointed with the High Court judgment.

The evidence is clear that every extra day of school missed can affect a pupil's chance of gaining good GCSEs, which has a lasting effect on their life chances.

We are confident our policy to reduce school absence is clear and correct.

We will examine today's judgment in detail but are clear that children's attendance at school is non-negotiable so we will now look to change the legislation. We also plan to strengthen statutory guidance to schools and local authorities.²

The Isle of Wight Council has been granted permission to appeal the decision to Supreme Court.³

The Schools Minister, Nick Gibb, has since described the High Court judgment as "a significant threat to one of the Government's most important achievements in education over the last six years, improving school attendance."⁴

1.2 What is the existing position?

Parents cannot authorise absence; only schools can do this. Head teachers have discretion to grant leave during school term time, but this is not an automatic entitlement. The law governing such leave of absences was tightened up from September 2013.

The [Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2013](#), SI 2013 No 756, amended the [Education \(Pupil Registration\) \(England\) Regulations 2006](#), SI 2006 No. 1751, to remove references to family holiday and extended leave as well as the statutory threshold of ten school days.

¹ BBC News, [Term-time holiday father wins at High Court](#), 13 May 2016.

² [Department for Education Twitter feed](#), @educationgovuk, 13 May 2016

³ TES, [Council gets green light for Supreme Court challenge over term time holidays](#), 30 June 2016

⁴ [PQ 40958, 29 June 2016](#)

Prior to the changes, head teachers could grant a leave of absence for the purpose of a family holiday during term time in “special circumstances” of up to ten school days per year.

Under the new regulations, **head teachers may not grant leave of absence during term-time unless there are exceptional circumstances**. The regulations took effect from 1 September 2013.

Section 7 of the [Education Act 1996](#) sets out that parents have a duty to ensure that children of compulsory school age receive an education “either by regular attendance at school or otherwise.”

Department for Education [advice](#) summarises the legal powers and duties that govern school attendance, and explains how they apply to local authorities, head teachers, school staff, governing bodies, pupils and parents. The frequently asked questions section states:

Can a parent take their child on holiday during term time?

Head teachers should only authorise leave of absence in exceptional circumstances. If a head teacher grants a leave request, it will be for the head teacher to determine the length of time that the child can be away from school. Leave is unlikely, however, to be granted for the purposes of a family holiday as a norm.⁵

Fines for unauthorised absences

The imposition of penalty notices (fines) for unauthorised absence from school is not new; however, the rules on enforcing fines were also tightened up from September 2013. Since then, the amount of time a parent has to pay a fine has been reduced to allow swifter enforcement of unpaid notices. Parents now have to pay £60 within 21 days; and this will rise to £120 if paid within 22 to 28 days of the notice being issued.⁶ If the fine is not paid the parent can be prosecuted.

Penalty notices can only be issued by a head teacher or someone authorised by them (a deputy or assistant head authorised by the head teacher), a local authority officer or the police. Penalty notices can be issued to each parent liable for the attendance offence or offences.⁷

1.3 Petitions and Government comment

The restrictions on term-time holidays have proved controversial. A [petition](#) arguing for the introduction of an allowance for up to two weeks term time leave from school for holidays was submitted to Parliament in summer 2015, and received over 120,000 signatures. A May 2016 [petition](#) on the same subject has received over 190,000 signatures.

⁵ DfE, [School attendance: Departmental advice for maintained schools, academies, independent schools and local authorities](#), p16

⁶ [The Education \(Penalty Notices\) \(England\) \(Amendment\) Regulations 2013](#), SI 2013 No 757, see also the DfE [Explanatory Memorandum](#) on the 2013 regulations.

⁷ [The Education \(Penalty Notices\) \(England\) Regulations 2007](#); DfE guidance [Parental responsibility measures for school attendance and behaviour: Statutory guidance for maintained schools, academies, local authorities and the police](#), provides further information

The earlier petition received a Parliamentary [debate](#), which took place in Westminster Hall on 26 October 2015. The Schools Minister, Nick Gibb, stated that the Government would not be relaxing the rules:

When evidence attests to the benefits of good school attendance so clearly, parents have a duty to ensure that their children attend school regularly. No one in the Department for Education says that holidays are not enriching experiences—of course they are—but schools are in session for 190 out of 365 days a year, leaving 175 days in a year in which parents can take their children away on holiday. [...]

In his 2012 report "[Improving attendance at school](#)",⁸ Charlie Taylor [the Government's expert adviser on behaviour] calculated that if children are taken away for a two-week holiday during term time every year and have an average number of days off for sickness and appointments, by the time they leave school at 16 they will have missed a year of school. It is for that reason that I cannot support the request set out in the petition.⁹

An online discussion was run in advance of the debate by the online parenting organisation, netmums.com.¹⁰

1.4 The impact of absence: 2016 report

In March 2016, the Department for Education published statistics on [Absence and attainment at key stages 2 and 4: 2013 to 2014](#), which included the Department's conclusion that all absence had an adverse impact on attainment:

The analysis of the link between overall absence (and individual reasons for absence) and attainment when taking prior attainment and pupil characteristics into account showed that, for each KS2 and KS4 measure, overall absence had a statistically significant negative link to attainment – i.e. every extra day missed was associated with a lower attainment outcome. Extending this to look at individual reasons for absence did not add a greater understanding of the link between absence and attainment.¹¹

⁸ Department for Education, [Improving attendance at school](#), April 2012

⁹ [HC Deb 26 Oct 2015 c27WH](#)

¹⁰ <http://www.netmums.com/coffeehouse/general-coffeehouse-chat-514/news-current-affairs-topical-discussion-12/1387678-netmums-government-wants-talk-you-about-term-time-holidays-all.html>

¹¹ Department for Education, [Absence and attainment at key stages 2 and 4, 2013 to 2014](#), March 2016, p4

2. Petition

Here is the text of e-petition 129698:

[No more school penalty fines and bring back the 10 day authorised absence](#)

Back in 2013 the government changed the law on taking your children out of school in term time so that now you receive a penalty fine of £60 per child per parent. This can increase. The law prevents families from taking term time holidays forcing families to pay extra during school holidays.

Myself and my wife received a fine for our two eldest children (two fines each parent) for taking our children on holiday for 5 days in term time which was the only week free from surgery and radiotherapy (school knew of cancer diagnosis) This apparently is not an exceptional circumstance. The council quote is S.444 A or 1 of the Education act 1996 which in its own term indicates truancy and not a one off family holiday. Councils are too ready to fine and won't consider exceptional circumstances.

At the time of printing the petition had 194,660 signatures and awaited a Government response.

3. Press articles

Guardian, 7 July 2016

[90,000 parents fined for taking children out of school in term-time](#)

Freedom of information request reveals parents in England and Wales fined an estimated £5.6m in last academic year

TES, 30 June 2016

[Council gets green light for Supreme Court challenge over term time holidays](#)

Guardian, June 9, 2016

[Minister tells schools to ignore high court ruling on term-time holidays](#)

Telegraph, 21 May 2016

[A holiday to Disney World is no excuse for term-time absence, minister says](#)

Daily Telegraph, May 14 2016

[Thousands of parents could get term-time holiday fines lifted; Ruling could end penalties for taking children away](#)

Independent, 13 May 2016

[Term-time holidays verdict: High Court decision paves way for parents to lawfully remove children from school](#)

FT, May 13 2016

[Law on truancy set to be tightened after UK court backs parent](#)

Telegraph, May 13 2016

[Term-time family holidays: a lawyer's advice](#)

Independent, 1 April 2016

[Almost half of parents prepared to pay £60 fines for taking their children on holiday during term time, reveals survey](#)

Telegraph, 28 October 2015

[Majority of teachers 'don't understand ban on termtime holidays'](#)

The Guardian, October 27 2015

[Schools should be able to approve family holidays in term-time, says LGA;](#)

Telegraph, October 21 2015

[Thousands of parents fined for taking their children on holiday during term time, figures show](#)

The figure has trebled in two years amid concerns they are being "criminalised"

4. Parliamentary questions and debates

4.1 PQs

[Pupils: Absenteeism](#)

Asked by: Wragg, William

To ask the Secretary of State for Education, pursuant to the Oral Statement of the Minister of State for Schools of 19 May 2016, on term-time holidays, what progress the Government has made on improving levels of school attendance.

Answering member: Nick Gibb

The High Court oral judgment represents a significant threat to one of the Government's most important achievements in education over the last six years, improving school attendance.

There is abundant academic research which shows that time spent in school is one of the single strongest determinants of a pupil's academic success. The most recent was published by the Department on 24 March, and shows that every extra day of school missed can affect a child's attainment at the end of key stage 2 and key stage 4. This is unfair on children and potentially damaging to their life chances.

That is why we have unashamedly pursued a zero tolerance policy on unauthorised absence. We have increased the penalty notices issued to parents for pupils with unauthorised absence, shortened the time it takes to pay a notice from 42 day to 21 days, placed a greater emphasis on school attendance levels in inspection outcomes. We have also tightened the regulations in relation to term time holidays, so that headteachers should only grant such leave in exceptional circumstances. These measures have been very successful.

The number of persistent absentees in England's schools has dropped by over 40% from 433,000 in 2009/10 to 246,000 in 2014/15. Some 6 million fewer days were lost due to authorised absences in the first five half terms in 2014/15 compared to the equivalent period in 2012/13 - a drop from a total of 47.9 million days missed to 41.8 million days missed. Overall absence rates have followed a significant downward trend: from 6.5% in the academic year ending in 2007 to 4.6% in the academic year ending in 2015. In 2012/13, 7.0% of all absences were accounted for by authorised term time holiday. This figure dropped to 2.6% of all absences in 2013/14 and 1.6% of all absences in 2014/15.

This means that pupils are spending many more hours in school being taught the knowledge and skills they need to succeed in life. If we are going to address entrenched academic underachievement, continuing to improve school attendance will play a central role in achieving such an ambition.

[Pupils: Holidays](#)

Asked by: Pugh, John

To ask the Secretary of State for Education, how much parents and guardians have been fined for taking their children on term-time holidays in the academic year 2013-14.

Answering member: Nick Gibb

The Department for Education does not hold information on the reason for a penalty notice (fine) being issued to a parent or guardian.

The department collects and publishes local authority level annual data on the number of penalty notices (fines) issued to parents in England, for offences relating to Section 444(1) of the Education Act 1996. The most recent data published by the department is for the academic year 2012/13.

07 Jan 2016 | Written questions | 20659

[Pupils: Absenteeism](#)

Asked by: Bone, Mr Peter

To ask the Secretary of State for Education, what her policy is on children being absent from school to be on holiday.

Answering member: Nick Gibb

Reducing absence from school is a top priority for this government as good attendance is clearly linked to attainment. Evidence shows that missing the equivalent of just one week a year from school can damage a pupil's life chances and reduce a pupil's chances of succeeding at school[1]. Parents should avoid taking their child out of school during term time if this is not absolutely necessary.

Head teachers continue to have the discretion to approve term-time absence, but only in exceptional circumstances.

[1] : "The link between absence and attainment at KS2 and KS4: 2012 to 2013 academic year" research report at:

<https://www.gov.uk/government/publications/absence-and-attainment-at-key-stages-2-and-4-2012-to-2013>

26 Oct 2015 | Written questions | 12760

[Pupils: Holidays](#)

Asked by: Shannon, Jim

To ask the Secretary of State for Education, what steps she is taking to ensure that pupils are not taken out of schools for holidays in term time.

Answering member: Nick Gibb

We want schools to reduce their overall absence rates because evidence shows there is a link between regular school attendance and high levels of academic attainment [1]. In September 2013 we changed the law so that schools in England can only grant leave of absence in exceptional circumstances. The most recent figures show that almost 2.4 million

fewer school days were missed because of term-time family holidays in the 2013/14 academic year, compared to the 2012/13 academic year.

[1] <http://tinyurl.com/nazrpd2>

17 Jun 2015 | Written questions | Answered | House of Commons | 1680
<http://data.parliament.uk/writtenparliamentaryquestion/commons/2015-16/12760> - [indexing](#) - 2016-07-05 18:24:13

[Pupils: Holidays](#)

Asked by: Lord Temple-Morris

To ask Her Majesty's Government how many parents have been imprisoned for non-payment of fines in respect of taking their school-age children on holiday during term time.[HL169]

Answering member: The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con)

Parents who have been issued a penalty notice (fine) for failing to secure their child's regular attendance at school cannot be imprisoned for not paying the fine. However, if a parent knowingly

and deliberately takes their child on holiday during term time (without a leave of absence granted by the school) they could face a term of imprisonment for doing so if they are prosecuted under the substantive offence set out in section 444(1A) of the Education Act 1996 (the Act). It will be a matter for the prosecuting authority (the Local Authority) to decide on the particular facts and circumstances of the case whether to bring formal proceedings and under what offence.

23 Jun 2014 | Written questions | HL169 | 754 c131WA

[Absenteeism in Schools](#)

Asked by: Sheryll Murray

I have been approached by many parents in my constituency who work in the tourism industry and simply cannot afford to take holidays during the busiest time, school holidays. What can be done to help these small business owners take holidays with their families without fearing punishment or hurting their children's education?

Answered by: Mr Laws

I know that this is a real issue in constituencies such as that of my hon. Friend. Indeed, last year about a third of all children in Cornwall's primary schools missed school for a term-time holiday, a figure higher than the national figure for primary schools, which is about 20%. That is clearly not acceptable. I would say two things to my hon. Friend. First, head teachers retain the discretion to grant leave in exceptional circumstances. Secondly, and more significantly as regards the cases she raises, we are deregulating so that all schools control their own term dates from 2015. That might give schools in her area greater flexibility to make a judgment about when to have their holidays and about what the right time might be for them.

16 Jun 2014 | Oral questions - 1st Supplementary | 582 c834
<http://hansard.intranet.data.parliament.uk/Commons/2014-06-16/14061610000149> - [indexing](#) - 2014-09-18 19:40:10

[Holidays in Term Time](#)

Asked by: Mr Turner

There have been examples on the Isle of Wight, and I am sure elsewhere, of parents being told that the Government have banned all term-time holidays, which is particularly difficult for those who work during the holidays. Will the Minister confirm that the definition of exceptional circumstances is made by the head teachers, and not the Government, the council or even the governing body, and that the normal use of language should be sufficiently clear for heads to make those decisions?

Answered by: Michael Gove

As ever, my hon. Friend is absolutely right: the decision as to what constitutes exceptional circumstances is a matter for the head teacher. It is important, however, to stress that children wherever possible should be in school and learning, and a drive to reduce truancy and push up the number of days and hours that children spend in school is at the heart of our long-term plan to raise standards in our state schools.

24 Mar 2014 | Oral questions - 1st Supplementary | 578 c4

4.2 Debates

[Term-time Holidays](#)

Urgent question on the recent decision by the High Court on the right of parents to take ... their children on holiday during term time.

19 May 2016 | Urgent questions | House of Commons | 611 cc138-145

[Term-time Leave](#)

That this House has considered an e-petition relating to term-time leave from school for holiday.

26 Oct 2015 | Parliamentary proceedings | 601 cc1-32WH

5. Further reading

DfE, [The link between absence and attainment at KS2 and KS4, 2013/14 academic year, Research report](#), March 2016

DfE, [School attendance parental responsibility measures](#), January 2015

Statutory guidance for local authorities, school leaders, school staff, governing bodies and the police.

DfE, [School attendance](#), October 2014

Departmental advice for maintained schools, academies, independent schools and local authorities

DfE, [Improving attendance at school](#), (first published) April 2012

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