

5. I cannot afford to pay the fine - can I pay in instalments?

The Local Authority has issued the Fixed Penalty Notice in accordance within the timeframe as laid out in law. The Local Authority is unable to assist with instalment payments. If you cannot afford to pay the only place where this can be resolved is in the magistrate's court following non-payment. The magistrate's court can make collection orders (paying by instalments) and will take your financial circumstances into account.

6. What are the implications of the Isle of Wight High Court judgement?

The judgement allowed Magistrates to look at a pupil's wider attendance record and said that an unauthorised term time holiday in itself is not 'irregular attendance', it is a matter of degree and scale. Norfolk County Council approves each referral on an individual basis and has amended its criteria for issuing Fixed Penalty Notices based on legal advice following the High Court judgement. Headteachers cannot authorise absence due to term time holiday (see question 3).

7. Can the Local Authority withdraw the Penalty Notice?

The only grounds in which a Penalty Notice can be withdrawn are:

- It ought not to have been issued i.e. where it has been issued outside of the terms of the Local Protocol or where no offence has been committed.
- It has been issued to the wrong person
- It contains material errors
- The Fixed Penalty Notice remains unpaid and the Local Authority opt not to proceed with a prosecution under Education Act 1996 Section 444 (1).

If your question has not been answered here, please contact:

**Norfolk County Council Customer Services on:
0344 800 8020 or via Norfolk County Council website**

Details on how to pay your Fixed Penalty Notice are listed on your invoice.

Fixed Penalty Notices

Information for Parents

Regular and punctual attendance at school is a legal requirement under Section 7 of the Education Act 1996.

Norfolk County Council is committed to ensuring Norfolk pupils achieve full school attendance.

You have been issued with a Fixed Penalty Notice in relation to your child's unauthorised absence from school.

This guide is produced to answer any questions you may have.



The Legal Context

Under Section 444 of the Education Act, an offence occurs if a parent/carer fails to secure their child's regular attendance at the school where they are a registered pupil, and the absence is not authorised by the school. Only headteachers can authorise absence and the only legal reasons for absence are:

1. that the absences are with leave (i.e. that they have been agreed by the headteacher)
2. that the absences are because of sickness or unavoidable cause. Parents may be asked to provide evidence to support absences due to ill-health, this can be through a copy of an appointment card or prescription or information from a medical practitioner
3. that the absences fall on days of religious observance for the religion to which parents belong
4. that the child is entitled to free transport to school and the Local Authority have failed to provide this.

If absences do not fall into any of these four categories or the school have not been informed of reasons for absence, absences will be marked as unauthorised.

Section 23 of the Anti-Social Behaviour Act 2003 introduced powers for issuing Fixed Penalty Notices for unauthorised absence from school. The Education (Penalty Notices)(England) Regulations came into force on 27th February 2004. This was updated with amendments in 2007, 2012 and 2013.

In Norfolk, Penalty Notices are issued in accordance with the Norfolk Local Protocol (May 2014). Your child's school will have provided you with information regarding the criteria in which they will refer cases of unauthorised absence to the Local Authority for issuing of a Fixed Penalty. The criteria are:

- 15% or more unauthorised absence for reasons other than a term-time holiday within a six week period.
- Where in a 12 week period, there are unauthorised absences bringing attendance below 90% and some or all of the absence may be attributed to an unauthorised holiday in term-time.

Failure to pay a Fixed Penalty Notice reverts back to a Section 444 1 Education Act 1996 offence and you will face prosecution in the Magistrates Court.

Frequently asked questions

1. Can I dispute the Fixed Penalty Notice?

Only a headteacher can authorise absence from school. If there are other exceptional and compelling circumstances of which the school were not aware of, you can make a representation to the headteacher. If the school maintain the absence was unauthorised, the Penalty Notice will stand. There is no right to appeal against a Fixed Penalty Notice, but you may choose not to pay and make your representations in the Magistrate's Court. You should be aware that should the court find you guilty of the offence of irregular school attendance, they can impose a higher punishment upon conviction. The court may also charge you with court costs.

2. I do not live with the child or I am a step-parent, can I still be fined?

Yes, Section 576 Education Act 1996 defines 'parent' as:

- Any natural parent, whether married or not
- Any parent who, although not a natural parent, has parental responsibility as defined in the Children Act (1989) for a child or young person
- Any person who, although not a natural parent, has care of a child or young person.

3. Why do some schools authorise absence and another does not?

The headteacher is the only person who can authorise absence. Headteachers are only able to authorise absence requests for exceptional reasons and each circumstance will be individual and likely to receive a different response.

4. My child has never had unauthorised absence before?

The notice has been issued based on the referral criteria; which meets the threshold for irregular attendance at school. School attendance is crucial to children and any absence will have an impact upon your child's education. Your child's headteacher will have based their decision on whether the absence request was exceptional rather than based on your child's attendance level.