

## **Fixed Penalty Notices – Frequently Asked Questions**

Pupil Entitlement: Investigation (PE:I) issue Fixed Penalty Notices (FPNs) having considered information presented to them by your child's school. This information evidences that your child was absent from school without authority; an offence under S.444 Education Act 1996 (EA 1996); failure to secure the regular school attendance of a child. The use of a FPN is a time limited offer to a parent to accept their liability for the offence under the Education Act rather than the matter going before a Magistrates Court. FPNs are issued to any adult considered to be a parent as defined by EA 1996 and you do not have to be a biological parent.

### **Can I appeal a Fixed Penalty Notice?**

There is no statutory right of appeal for a FPN. If you do not feel you should be held accountable for the offence your only option is to decline the offer of the FPN and not pay it within the designated time scales. This will lead to PE:I referring the offence to the Courts. The Court process will offer an opportunity to outline your reasons for disputing the offence. The defences to the charge are limited and you may wish to consider taking legal advice before choosing not to pay the FPN. Please note that should the Court find you guilty of the offence they can impose a higher punishment than the level of the FPN. The court may also order you to pay WSCC's legal costs incurred.

### **Why do some schools authorise absence and another doesn't?**

The only individual who can authorise absence from school is the Head Teacher and they hold the authority as to how attendance is recorded. Head Teacher's have been directed to only authorise absence if the reason for the absences is "exceptional". There is no legal definition on the term "exceptional" and so it remains the decision of each Head Teacher to decide. This means Head Teachers within the same geographical area may respond to requests differently.

If you think there are circumstances that justify the absence being authorised, you should notify the school. There is no expectation for a Head Teacher to consider information offered after the fact as the original decision was based upon information presented at the time. Nonetheless, Head Teachers will consider your reasons for not sharing all information at the earliest opportunity. If the Head Teacher/School having considered the additional information maintain the absence remains unauthorised then the FPN will stand.

### **I don't dispute the Fixed Penalty Notice, but I want to argue mitigation. How do I proceed?**

The scheme does not allow for mitigation to be presented. A FPN is actually a "conditional offer" for the offence of non-school attendance. In all cases the proposal is a £120 fine (£60 if paid within 21 days) and there is no flexibility and this means mitigation is not relevant. You either take the proposal of the FPN or allow the matter to go before a Court. This will result in our legal services sending out documents to you which offer instruction on the Court process. It is important if you receive such documents to respond to them at the earliest opportunity. Please be advised to take the matter further can often result in higher punishment and substantially more expense, particularly if the Court imposes its right to means test you before deciding on a fine.

### **Will Pupil Entitlement: Investigation consider my reasons for the absence, the attendance history of my child and whether this is the first time my child has been absent without authority?**

We are willing to consider representations from parents and all contacts will be responded to. Please note we cannot amend how the school have recorded the absences. A FPN is as it says, a "fixed penalty" and the punishment is fixed for the offence evidenced. If you believe you have a statutory defence or "special reasons" as to why you should not have a FPN then please advise us. It should be stressed previous good levels of attendance, remorse and promises not to re-offend are not "special reasons."

### **I cannot afford to pay the fine, can I ask for extra time or can I pay by instalments?**

The issue of the FPN is based on the non-authorisation of absence from school of your child and there are 28 days to make the payment of £120 and the sum is reduced to £60 if payment is offered within 21 days. The time frame of the payment and the amount payable are stated in law and cannot be amended on a case by case basis. This means instalment plans are not possible. If you cannot afford the payment or can only afford to pay by instalments the only place where a payment plan can be agreed is at Court. The Court can and do consider individual financial circumstances.

Should you remain dissatisfied with the handling of the FPNs process you may follow the County Council's complaints procedure which can be found on the [Internet](#)