



Banks Road Infant and Nursery School

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Dear Parents/Carers

Term Time Absence

Nottinghamshire County Council has released the following report:

On 6th April 2017 the Supreme Court made a ruling in respect of a case where a child had an unauthorised leave of absence from school when their parent took them on holiday. The case (IOW v Platt) received a significant level of media attention over a period of about 12 months as it progressed through the Isle of Wight magistrates court, the High Court and then eventually the Supreme Court.

The parent in the case had been issued with a fine by the Isle of Wight following his child's unauthorised absence from school. He elected not to pay the fine and to contest the matter in court. He was subsequently taken to court by the Isle of Wight council who sought to prosecute him for the original offence under s441 of the 1996 Education Act for his daughter's "irregular" attendance at school.

The parent accepted that his child had been absent from school without authorisation but in his defence to court he successfully argued that his child was still a regular attender at school with an attendance rate above 90%. He did this using a particular interpretation of the term *regular* within the act that was accepted by the court. Both the Magistrates court and subsequently the High Court ruled in the parents favour. The ruling by the High Court in the autumn of 2016 created a particular level of uncertainty about the interpretation of what constituted "regular" attendance within the definition of the act. And consequently this made it very difficult for Local Authorities and Head Teachers to be confident in their application of the legislation particularly when issuing fines for unauthorised absence because of family holidays.

The Isle of Wight appealed to the Supreme Court and the case was heard at the end of January 2017. In their judgment delivered in April 2017 the Supreme Court ruled that to be a regular attender you must "**comply with the rules prescribed by the school.**" Lady Hale in the judgement made it clear that any alternative interpretation of the definition of regular such as those from earlier cases (*Crump v Gilmore* and *London Borough of Bromley v C*) should not be adopted when ruling on s441 of the 1996 Education Act.

The ruling by the Supreme Court is final and cannot be appealed. It now provides a level of certainty for Head Teachers, Parents and Local Authorities over the definition of regular attendance and the expectation that children must be at school every day that the school requires them to be.

The Supreme Court also directed that the respondent's case should be returned to the Isle of Wight Magistrates court with a direction to proceed as if their submission of no case to answer had been rejected.

What Does the Supreme Court Ruling mean for our Education Penalty Notice arrangements in Nottinghamshire?

The Supreme Court judgement is very welcome bearing in mind the uncertainty of the past year.

Having digested the written judgement in full, we are confident that there are no particular changes that we must make to our own arrangements in Nottinghamshire for issuing Education Penalty Notice fines for an unauthorised leave of absence in term time. Therefore it is business as usual with a restored level of confidence about how local Magistrates Courts should interpret the definition of “regular” attendance when ruling in a case under s441 of the Education Act 1996.

Our local arrangements for issuing Education Penalty Notices are detailed in the **Nottinghamshire Code of Conduct**. These will remain unchanged following the ruling and the Local Authority will continue to issue fines where the request meets the criteria as set out in the Code of Conduct. We will also continue to prosecute cases where the fine is unpaid.

The **Nottinghamshire Code of Conduct** is available on the Council’s public website through the following link <http://www.nottinghamshire.gov.uk/education/school-discipline-and-exclusions/attendance-absence-truancy>

In Nottinghamshire Fines are issued where a child has an unauthorised leave of absence of:

- 5 days / 10 sessions over a 6 week period where the absence is general in nature or
- 3 days / 6 sessions over a 6 week period where the absence relates to a family holiday in term-time

Fines are issued to each parent/carer for each individual child who has an unauthorised absence in line with the criteria above.

The fine is £60 to be paid within 21 days rising to £120 after that. Fines must be paid within 28 days otherwise the parent will be prosecuted at court for the original offence.

What are the implications for schools?

No specific changes are required by schools to comply with the Supreme Court ruling.

Schools can continue to request that fines are issued to parents for an unauthorised leave of absence in term time in line with the Nottinghamshire Code of Conduct.

What are the implications for Banks Road?

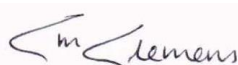
Banks Road School Policy on Attendance states that “regular” (as defined by the Supreme Court Judgement) is 96.8% which is our attendance target for the year. Anything below this is regarded as ‘poor’ attendance. We acknowledge that each family’s circumstances are different but our school is dedicated to the education of all our pupils and believes that regular attendance throughout the year is essential to every child’s success and fulfilment. A request for absence is considered on its merits at the time and many variables are taken into consideration. For any parent / carer requesting family holiday of 3 days or more over a 6 week period and current (ie academic year to date) attendance falls below 96.8% then this factor will play a greater part in the decision to agree to a request for holiday in term time and whether a penalty notice will be issued.

Our Governing Board fully support our current policy.

Please do not hesitate to contact me if you require any further information on this matter.

Yours sincerely

Mrs Carole Clemens



Head teacher

Term Time Absence Management Procedure

1. If a Parent wishes to take their child out of school during term time they must complete an '**ABSENCE REQUEST FORM**', which are kept in the school office.
2. The completed '**ABSENCE REQUEST FORM**' is returned to the SCHOOL OFFICE.
3. Head teacher to consider whether the request will be approved or declined and complete the appropriate part of the '**ABSENCE REQUEST FORM**'.
4. Result of '**ABSENCE REQUEST FORM**' to be returned to office staff where a copy is filed in the Absence file (Schools office) and the original is sent to the Parent/Carer.
5. The dates absent to be entered onto the register on SIMS using the correct codes and the Leave of Absence form to be filed in the 'Holidays and Late sessions'. (At close of academic year all **ABSENCE REQUEST FORMS** filed in child's personal file held within the school office).
6. In the event that a parent takes their child out of school for unauthorised holiday, office staff to check their attendance for the previous 6 weeks.
7. Decision made by Head Teacher on whether to notify LA of absence to issue Fixed Penalty Notice
8. Penalty Notice issued by Notts LA.



It is surprising how quickly absences can add up. 90% may sound good but the grid below highlights the number of days missed throughout the year is 19 – nearly 4 weeks of lost education. If your child’s attendance is below 94% this is seen as poor attendance.

As we say at Banks Road: “Every minute, of every hour, of every day counts”.

Percentage Attendance	Time missed in days over 1 year	Time missed in days over 3 years
90% – 95%	10 – 19 days missed	30 – 57 days missed
85% – 90%	24 – 30 days missed	72 – 90 days missed: The equivalent of more than 1 term
80% – 85%	32 – 40 days missed: More than half a term	96 – 120 days: The equivalent of two terms
Below 80%	More than one day every week is missed which is more than 40 days a year	One year missed out of three or children miss two full years of their primary education