Questions and answers for Fixed Penalty Notices issued for unauthorised Leave of Absence.

Q. What is the definition of parent?

A. All natural parents, whether they are married or not and includes any person who, although not a natural parent, has parental responsibility and/or care for the child or young person.

Q. If parents were married but have separated and the child resides with one for the majority of the time. Do both natural parents receive a fine?

A. Yes. As they both are the natural parents and also have parental responsibility.

Q. If parents have divorced, and the parent where the child resides remarries, do both natural parents still receive the fine?

A. Yes. The new spouse may also be fined as they have ‘care of the child’ by virtue of residency in the same household.

Q. If both sets of natural parents remarry, and the child resides in both homes on a regular basis, can both natural parents and their spouses be issued a Fixed Penalty Notice.

A. Yes. They all fit into the definition of parent detailed above.

Q. Who can make a request for leave of absence?

A. Only the parent where the child resides for the majority of the time. This means if someone else, for example, a non resident parent or grandparent makes a request for the leave of absence you are not obliged to consider their request at all.

Q. If a parent takes a child on holiday, but the child does not unusually reside with that parent, who receives a fine?

A. All those adults who come within the definition of ‘parent’ above, can potentially be liable. The parent taking the child away may be fined if they are the natural parent or have parental responsibility for the child. The parent with whom the child normally resides would also be potentially liable as they have care of the child on a day to day basis.

Q. If parents take the same holiday year on year, paying the fine, but not modifying their behaviour, could this move straight to prosecution?

A. No If parents pay the fine the payment itself discharges their liability for the offence to which the FPN relates so they could not then be prosecuted for that particular period of absence. If you suspect, or parents inform you that they will
continue to take their child on unauthorised leave and just pay the fine, you would need to stop issuing FPNs and simply record the absence as unauthorised. Providing you had sufficient number of absences you could then proceed straight to a prosecution under Section 444.

Q. If the code used is G and the cumulative total is 10 in two consecutive half terms. Does the school have to notify the LA?

A. No. The school can choose not to instruct the LA to issue an FPN, however there is an expectation that the school request the LA to issue an FPN in such circumstances.

Q. If a child has some O codes and some G codes and they total ten in two consecutive half terms. Can an irregular FPN be triggered?

A. Yes.

Q. What happens to the money received once the fine has been paid?

A. The fines are paid to the Local Authority. The LA acts on behalf of both schools and academies. The fines are used to cover enforcement costs associated with the issue, collection or prosecution, in the event of non-payment. (Section 7.6 Code of Conduct)

Q. If a parent says that their child has been unwell but returns to school with a suntan and or talking about a holiday, what coding should be used?

A. Record as O rather than M or I if there is no evidence to support the absence due to ill health and follow the irregular attendance route.

Q. If a parent requests a leave of absence for a Religious Observance, how many days should be recorded as R?

A. 4 days would be the maximum – one day is required; the rest is discretionary.

Q. If a parent decides to not send their child on a residential visit organised by the school but takes the child away without authorisation. What coding should be used?

A. O as the leave of absence has not been authorised.

Q. Can the Head teacher ask the LA to issue an FPN for Y11 students?

A. Yes. The LA will issue FPNs up until the last Friday in June for Y11 students. This is a change to the previous protocol. This supports the raising of the participation age whereby young people are expected to attend school, training or employment.

Q. Can two consecutive half terms include the end of one academic year and the beginning of another?
A. Yes.

Q. If a child holds an entertainment license and requests leave of absence to perform what coding should be used?

A. C There is no change as a result of the recent changes to Regulation 7 Education (Pupil Registration) (England) Regulations 2006. A letter from Michael Gove (see attached) states that Head Teachers should be sympathetic to requests, that are supported by a license, as long as the school is satisfied that this will not have a negative effect on the child’s education.

Q. Do both schools and academies **have** to provide registration certificates requested by the EWS when representing the LA on the Preventing Offending Panel or similar.

A. Yes.

Q. Who decides what is classed as ‘exceptional circumstance’?

A. **The Head teacher.** This rests solely with the Head teacher.

Q. Can a school ask the LA to issue an FPN for a reception child?

A. **No.** The legislation only applies to children of statutory school age.