

Huw Lewis  
Minister for Education and Skills  
Welsh Government  
Tŷ Hywel  
Cardiff Bay CF99 1NA

3 December 2015

Dear *Huw*

**Petitions about allowing children leave of absence from school during term time (Petitions P-04-576 and P-04-606)**

Thank you for attending the Petitions Committee meeting on 10 November and for answering our questions about the issues underlying the above petitions.

The Committee has reviewed your oral evidence and the evidence given by the lead petitioners, Bethany Walpole-Wroe and Jane Douglas and Helen Weedon of *Pembs Parents Want a Say*.

The Committee welcomed your assurances that the legal position in Wales is different to England and that head teachers here have clear discretion to allow pupils up to ten days leave of absence from school for holidays. The Committee noted that the requirement that holidays only be allowed in 'exceptional circumstances' relates to absences of more than ten school days.

You indicated that you want the current discretion in the *Education (Pupil Registration) (Wales) Regulations 2010* to continue and that you were against blanket bans or permissions; the Committee shares your view. You went on to say that you were not aware of any blanket bans that would not be compliant with the 2010 regulations. You also explained that government officials monitor compliance with the regulations and intervene if there is cause for concern. You said that you would be prepared to consider evidence from the Committee that demonstrated concerns about the way the regulations were being applied.

In the light of this, the Committee received a summary of the information publically available from each local authority relating to their position on authorising term time holidays. This information is not complete because in a number of cases the information is not easy to find. Where the information was





difficult to find, the Committee has considered information contained within other documents or on school websites etc. The fact that this information is not always easily accessible to the public is itself a possible cause for concern, particularly given the legal requirement for every local authority to produce a code of conduct under the *Education (Penalty Notices) (Wales) Regulations 2013*.

However, the information we have seen tends to show that there is a great deal of confusion within local authorities about the legal position, with many advising schools and parents that some sort of 'exceptional' or 'special' circumstances must apply in order for a request for leave to be authorised. As you know, this is not correct.

Blaenau Gwent, Caerphilly, Conwy, Denbighshire, Monmouthshire, Rhondda Cynon Taff, Torfaen and Vale of Glamorgan refer to schools being able to authorise term time holidays only in 'exceptional circumstances', while the Isle of Anglesey and Pembrokeshire refer to schools only being able to authorise in 'special circumstances'. Cardiff ask head teachers not to authorise at all. Ceredigion refer to head teachers having been advised by the ERW consortium not to authorise holidays taken in term time. The model attendance policy of the EAS consortium, (whose area covers Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen) also makes reference to authorising term-time holidays only in exceptional circumstances.

The attached document sets out this information in more detail. The Committee are particularly concerned that some local authorities are misstating the legal position. By way of example, in a letter to parents from Conwy's Chief Education Officer, Richard Ellis Owen, which appears on the website of a school within Conwy CBC it states:

*"Welsh Government regulations state that Headteachers may, in exceptional circumstances agree up to 10 days absence during an academic year outside statutory school holiday dates".*

On the website of Torfaen County Borough Council, under the heading "*the Law*", it states:

*"The law says that parents do not have the right to take their child out of school for holidays during the term-time. In exceptional circumstances, however, schools can allow parents to take their child out of class for up to ten days in a school year".*

In the light of this, the Committee agreed that I should write to you to express its concern at the information we have received and to ask that your officials investigate the situation as a matter of urgency. Should you agree that there is widespread misunderstanding or misstatement of the legal position, the Committee asks that you take whatever steps are appropriate to ensure that local authorities and consortia rectify the position as a matter of urgency.



We are particularly concerned that parents may have, received or paid Fixed Penalty Notices based on a misunderstanding or misapplication of the regulations by head teachers which has at least in part been contributed to by advice or in some cases instructions given to them by local authorities or the relevant education consortium.

The situation in Cardiff Council and Rhondda Cynon Taf CBC is of considerable concern. We understand, from the response to a Freedom of Information request in August this year, that 529 parents in Cardiff received fixed penalty notices for taking their children out of school for a holiday in term time and that 4 of these parents had been prosecuted. Media reports in May this year indicated that Rhondda Cynon Taf Council had issued 196 fixed penalty notices for the same reason. Many more parents may have been affected since then.

Whilst the Committee appreciates that Fixed Penalty Notices are issued for all types of unauthorised absence, given the published statements on these authorities' websites, which is set out in the enclosed document, we have real concerns that many parents may have been dealt with unfairly and unlawfully where the reason for the unauthorised absence is a holiday during term-time. Although the parents concerned would have recourse through the courts, if they were unwilling to pay any fine, it is conceivable that many of those affected will not have been able or willing to pursue this given the possible cost, inconvenience and uncertainty involved. Indeed, presumably many parents would be unaware of their right to challenge.

I am copying this to the petitioners and to Ann Jones AM, the Chair of the Children and Young People's Committee, for information.

I look forward to an early response.

Yours sincerely

William Powell AC/AM  
Cadeirydd/ Chair