

The Supreme Court judgment on whether a father acted lawfully when he took his daughter to Florida in term-time has implications for anyone with a child / young person at school.

The Supreme Court has decided that a parent cannot, unless authorised by a Head teacher to do so, be absent from school without potentially being liable for a Penalty Notice and/or Magistrates Court proceedings. The Court's judgment applies to all pupils registered at a school in England.

Can I take my children out of school for a 'holiday' during term-time?

- The short answer is **NO**, unless for some reason the Head teacher considers that the 'holiday' is an 'exceptional circumstance' for that individual child. (Such instances will be rare).
- Parents have the right to request/apply for a 'leave of absence' by providing a Head teacher / Principal (in advance of the absence) any details or circumstances they would want the Head teacher to take into consideration in deciding if the reason/s provided can be considered as 'exceptional circumstances'.
- Parents should appreciate that it is the Head teachers/school's definition and not the parent's definition of what is an 'exceptional circumstance' that decides the matter.
- In determining an 'exceptional circumstance' Head teachers have access to 'advice and guidance' from a range of organisations as to what might constitute an 'exceptional circumstance'. Any 'exceptional circumstance' should be "rare, significant, unavoidable and short".
- It is for individual Head teachers to decide, given the information and detail provided to them by a parent (in the application/request) whether they consider these meet their definition of an 'exceptional circumstance'.
- Should an absence not be 'authorised' by the Head teacher / Principal then the education provider may make a Referral to the Local Authority to issue a Penalty Notice/s and/or consider Magistrates Court action for irregular attendance.

What is defined as an 'unauthorised' absence?

- Any absence where a reason has not been provided to the school for that absence, or,
- When a reason has been provided and the school have not accepted that reason. (This at the Head teacher's discretion), or,
- When an application/request for a 'leave of absence' has not been agreed.

How do I get permission to take my child out of school?

- Every school should have a process to allow a parent to request/apply for a 'leave of absence' by explaining and detailing the circumstances the parent would want the head teacher to take into consideration.
- Each school may have their own individual process: Some may have a standard form for requesting a 'leave of absence' during term time.
- If your school/academy does not have a standard form, you should write to your school's Head teacher explaining the circumstances and dates you are requesting be considered for a 'leave of absence'. The school should respond to your letter stating whether authorisation is granted and which dates it applies to.
- Parents will need to ensure that the school have sufficient time to consider and process any request and respond to you before you take the leave.
- Parents should not assume that their request/application will be granted and are advised not to make plans or make payments that could not be refunded.

What are the consequences if the rules are ignored?

- Where parents choose to take their children out of school for an unauthorised holiday / leave of absence they may be liable for a fixed penalty fine.
- In England, local authorities can, at the request of education provider's fine parents £60 per parent, per child.
- If the fine is not paid within 21 days, the fine goes up to £120 per parent, per child.
- If the fine is not paid within 28 days, it is regarded as a breach of section 444 of the 1996 Education Act and parents are liable for prosecution.
- The maximum sentence, if found guilty, is a fine of £2,500, a three-month jail term and other penalties / costs.

If you need more help please get in touch with the

Attendance and Prosecution Service on
Tel: 0121 569 8147
or Email: attendance_service@sandwell.gov.uk

