9 June 2016

Department for Education

High Court judgment on unauthorised pupil absence

Dear Colleague,

I am writing to set out the Government's position on unauthorised school absence and next steps following the judgment by the High Court on Friday 13 May regarding the case of the *Isle of Wight Council v Jon Platt*.

I am disappointed with the High Court ruling. I am clear that no child should miss school apart from in exceptional circumstances.

Over the past six years, schools and local authorities have taken the lead in reducing overall absence to make sure more children attend school every day. Overall absence in primary, secondary and special schools has been on a downward trend since 2010/11. In particular, since introducing the changes to the regulations in 2013 so that absence is only granted in exceptional circumstances, the rate of absence due to term time holidays has decreased by more than a third.

This is a significant achievement. As you will be aware there is clear evidence that absence from school is linked to lower levels of attainment. The Department's latest analysis published in March shows that every extra day missed was associated with lower attainment at age 11 and at age 16. In other words, every extra day of school that is missed can affect a pupil's chance of gaining good GCSE results.

I wish to advise you on two matters.

1. The High Court's judgment did not establish a hard and fast rule that a pupil's attendance above 90% is regarded as 'regular' attendance. Instead a decision will have to depend on the individual facts of each case. In the Isle of Wight case, for example, the magistrates thought it was a pertinent fact that the school itself had described 90% attendance as 'satisfactory'.

2. We understand that some parents who have already been given penalty notices and have paid the penalty are asking local authorities to withdraw the notices under regulation 8 of the Education (Penalty notices) (England) Regulations 2007 and refund their payments. However, the view of the Department is that the decision in the Isle of Wight case does not require local authorities to do this, and I would expect applications of this kind to be refused in the ordinary course of events. We will set out any additional steps necessary to secure children's attendance at school in due course.

In the meantime, it remains the case - as set out in the Education (Pupil Registration) (England) Regulations 2006 amended in 2013 - that headteachers continue to have the power to authorise leave of absence, but only in exceptional circumstances. While family holidays are enriching experiences, the school year is designed to give families the opportunity for these breaks without having to disrupt their children's education. It is for schools to consider the specific details and relevant context behind each request. Schools know their pupils best and are well placed to make those judgements.

I am clear that we need to continue reducing absence, building on the success schools and local authorities have already achieved, to support attainment and ensure all pupils fulfil their potential.

With best wishes.

Yours sincerely,



Nick Gibb MP

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