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All Directors of Education in Wales

cc: Managing Directors of Regional Education Consortia

11 December 2015

The [Pupil Registration \(Wales\) Regulations 2010](#) provide head teachers with a discretionary power to authorise leave for a family holiday during term time where parents seek permission. Save in exceptional circumstances, no more than 10 days leave should be granted for this purpose.

The [Education \(Penalty Notice\) \(Wales\) Regulations 2013](#) came into force in September 2013. The Regulations were accompanied by guidance (guidance document no: [116/2013](#)), also issued in September 2013.

I have been made aware that the arrangements put in place in some areas across Wales do not reflect the intention of the Regulations. In particular I am concerned that some local authority or consortia guidance indicates that head teachers should *not* exercise their discretion and should instead refuse all requests for term time absence as a matter of course regardless of the particular circumstances leading to such a request. This is contrary to the Regulations which allow a margin of discretion for the school in such matters so that each request can be considered fairly and on its merits. The public law requires that such discretion is exercised fairly and that decision makers do not adopt a closed mind (i.e. a blanket policy regardless of particular circumstances).

You might also have identified from recent media reports the link being made between requests for term time holidays and 'automatic' issuing of fixed penalty notices. Again this does not reflect the spirit of the Penalty Notices Regulations nor the policy intent; FPNs are intended as a possible tool in helping to tackle regular non attendance.

I have been very clear about how the arrangements for holidays in term time should operate across Wales. The Regulations in Wales provide for head teachers to exercise their discretion in relation to authorising absence. The term 'exceptional circumstances' relates only to requests for absences of *more than ten school days*. I am concerned at the growing number of examples that are being drawn to my attention which suggest that the Regulations are not being implemented as outlined above.

I am aware of a number of local authority websites where the approach taken may not currently comply with the law for the reasons outlined and equally where the information around the arrangements is not easily identifiable. Local authorities imposing 'blanket bans' or 'zero tolerance', misuse of 'exceptional' circumstances and FPN Codes of Conduct not available on websites are just a few examples of issues that have brought to my attention. This is not acceptable and I should be grateful if you could give this matter your urgent attention.

In view of the seriousness of these circumstances, I am seeking your personal assurance that your authority is:

- ensuring consistent and accurate implementation of the Regulations, which has been approved by your legal teams, and
- providing clear information for parents and schools that is compliant with the law.

I shall also be writing to head teachers in the New Year to make my position clear.

To avoid any further ambiguity could you please ensure the above actions are in place and confirm this is the case. In responding could you also provide a link to the information that is available on your website so that I might reassure myself that the information is accurate and clear.

I would appreciate your assurances by Friday 18 December. Please forward your response to [wellbeingshare@wales.gsi.gov.uk](mailto:wellbeingshare@wales.gsi.gov.uk).



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