

Term Time Leave (Pupils)

(Updated) Guidance for Schools and Academies

Birmingham City Council

September 2019

With Reference to the Statutory Instrument 2006 No. 1751
The Education (Pupil Registration) (England) Regulations 2006 and the Education
(Pupil Registration) (England) (Amendment) Regulations 2010, 2011, 2013, and
2016



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Term Time Leave (pupils)

Please note that this is general guidance and relates to children of compulsory school age only.

1. Introduction

From 1st September 2013, amendments to the **Education (Pupil Registration) (England) Regulations 2006** made clear that **Head Teachers may not grant any leave of absence during term time unless there are exceptional circumstances.**

The **Education (Pupil Registration) (England) Regulations 2006** apply to all maintained schools, academies, studio schools, free schools and independent schools.

From 1st September 2016, further amendments were made to the Regulations relating to removal from roll (page 7).

Term time holidays continue to cause significant concern and debate. While there are many different views, the direct correlation between attendance and attainment is undeniable. Absence from school interrupts teaching and learning and compromises progress. Birmingham City Council therefore seeks to support Birmingham schools and academies in reducing the amount of education lost to pupil leave of absence in term time.

Birmingham City Council strongly discourages pupil leave of absence during term time.

The expectation is that such leave would only be authorised in the most exceptional circumstances.

Birmingham City Council's Penalty Notice 'Code of Conduct', which governs the issuing of the Local Authority's penalty notices in relation to pupil absence, can be found via the link below.

https://www.birmingham.gov.uk/downloads/file/5116/birmingham_city_council_absence_code_of_conduct_2016

2. Making the decision following an application for 'Term Time' leave

***Please Note: Funerals Abroad** - Parents requesting leave because of the death of a close relative such as the child's Aunty, Uncle or Grandparent should have their applications viewed on their merits. Such events can be distressing for families. Applications must not be treated differently from applications to attend a funeral in the UK because the relative lives abroad. However, before making a decision to authorise the request schools are advised to review the child's historic attendance records to see whether requests for similar circumstances are a regular occurrence. School could request written confirmation of the date plane tickets were booked in order to ascertain whether the claim is genuine, if such requests have been made previously. If the application is genuine, schools can code the absence as 'C' to reflect the circumstances. It is recommended that schools authorise no more than a week's leave if funerals are taking place abroad.*

When parents request permission to take their children out of school during term time where there are exceptional circumstances, an application form should be completed and submitted to the school at least two weeks before they are due to leave.

Parents must contact the school and allow the school to consider their application before booking flights or leaving the country, even when unforeseen events occur (e.g. family bereavement)

It is essential that all schools operate a formal process of application, interview and contract.

***Please Note:** A recommended letter of application and an agreement / contract form can be found via <https://www.birmingham.gov.uk/school-attendance>*

Head Teachers may, on rare occasions, make a judgement that there are genuine and exceptional circumstances pertaining to an application to take a pupil out of school during term. **Head Teachers should not operate a blanket ban on all term time leave and should consider each application on its merits.** There is no formal list of exceptional circumstances but examples could include:

- death of parent/carer or sibling of the pupil
- life threatening or critical illness of parent or sibling of the pupil
- parent/carer recuperation and convalescence from critical illness or surgery (leave request to be made within 6 months of recovery and medical evidence required)
- leave for armed forces personnel who are prevented by operational duties to take their leave at any other time
- leave of absence already granted by a previous school or local authority (granted within the last six months and supported by documentation from the previous school)

Family emergencies need careful consideration. It is not always in the best interests of the pupil nor appropriate for them to miss school for family emergencies that are being dealt with by adult family members. School and school relationships can provide pupils with stability and care during difficult times.

If leave is granted, the Head Teacher is the person who determines the number of school days a child can be away from school.

Please Note: Parents should be informed by the school of the law regarding term time leave. Schools may use the letter '**School Attendance - A very important message for all parents**' <https://www.birmingham.gov.uk/school-attendance> for this purpose. Information for parents/carers clarifying their legal responsibilities regarding attendance and highlighting the impact of absence during term time should be made available each year to all parents/carers, through new parent and pupil induction, as part of parent evenings and in the school's prospectus.

Head Teachers are within their rights to turn such applications down and refuse authorisation for parents/carers to take their children out of school during term time.

Schools should record the number and frequency of absence taken for this purpose throughout a pupil's school career in order to assess the potential impact on a pupil's education of any proposed further term time leave.

Head Teachers should also take into account the following circumstances:

- the pupils current absence record
- the number of previous similar requests
- the year group the pupil is in
- proximity of major tests/exams
- the time of the academic year proposed
- the duration of the absence and its impact on continuity of learning

If the school decides not to agree to the request and the parents/carers take their child/ren on unauthorised leave, the 'Leave in Term Time (Penalty Notice) Process' should be followed in the first instance.

Where children do not attend school, but unauthorised leave in term time is suspected (parents have not made a request for example) the usual school absence procedures must be followed. Schools must then follow the Children Missing Education procedures, for safeguarding purposes, jointly making reasonable enquiries to try to locate the pupil. (See Section 6)

Please note: In circumstances where the parents/carers do not apply for authorisation prior to departure, retrospective authorisation of leave in term time by the Head Teacher is not permitted under the regulations

3. **Penalty Notices**

Where a child has unauthorised term time leave but does not meet the criteria for 'FAST-track to Attendance', schools can use an 'add on' legal process, the 'Leave in Term Time (Penalty Notice) Process'. Guidance and the letter templates are available on the website:

<https://www.birmingham.gov.uk/school-attendance>

Click on Option 2 for legal processes.

This process enables the Local Authority to issue a penalty notice for removing their child from school for an unauthorised leave of absence in term time.

If the Leave in Term Time (Penalty Notice) Process is followed correctly, parents may be issued with a penalty notice for taking their child on two weeks unauthorised leave in term time with no previous unauthorised absence.

Parents may also be issued with a penalty notice for taking their children out of school for a week of unauthorised leave as long as there are at least 10 sessions (5 days) of unauthorised absence over the previous 12 calendar months. This could include registration codes 'O', 'G' or 'U'.

For pupils who have taken unauthorised leave in term time for four weeks or more, penalty notices may not be issued as cases may proceed straight to court. In these cases, schools should continue to follow the usual Leave in Term Time (Penalty Notice) Process. Decisions as to whether a penalty notice is to be issued or the matter proceeds straight to court lie with the Education Legal Intervention Team.

Please note: The 'Leave in Term Time (Penalty Notice) Process should not be used in isolation but as an additional programme to 'FAST-track to Attendance'. Penalty Notices for unauthorised Leave in Term Time absence may not be issued for schools who do not use 'FAST-track to tackle high levels of ongoing unauthorised absence. ('FAST-track to Attendance' is an Early Help approach to improving pupil attendance. It gives parents clear guidance and promptly uses legal action to prevent further unauthorised absence in cases of serious concern). Further details can be found at <https://www.birmingham.gov.uk/school-attendance> - click on Option 2 for Legal Processes)

4. **Absence Coding**

For the purposes of registration codes, leave in term time granted in exceptional circumstances should be coded as 'H' and counts as authorised absence.

Where leave in term time has not been agreed or for the days taken in excess of an agreement, it should be coded 'G' and count as **unauthorised** absence.

5. Taking Pupils Off Roll

Pupils may not be removed from roll just because they have taken unauthorised term time leave and may only be deleted from the Admissions register if the grounds for deletion outlined in The Education (Pupil Registration) (England) Regulations 2006 and subsequent amendments are met.

From 1st September 2016, The Education (Pupil Registration) (England) (Amendment) Regulations 2016 amended the grounds upon which children can be deleted from the Admissions register.

In addition, the Regulations now require schools to inform the Local Authority of all circumstances in which a pupil is removed from the register. Schools must use the Pupil Movement Form which is online. The link to the form can be obtained by your School Admissions link

In most cases of unauthorised leave in term time the 'Leave in Term Time (Penalty Notice) Process' should be used rather than deletion from roll.

For further advice about deletion from roll, please see the 'BCC Deletion from Roll' guidance:

https://www.birmingham.gov.uk/downloads/file/5477/deletion_from_roll_guidance_july_2019

6. CHILDREN MISSING EDUCATION (CME)

On 1st September 2016 new statutory guidance on CME came into effect. The actual document, 'Children missing education, Statutory guidance for local authorities', which highlights the CME responsibilities of local authorities and schools, is available for download at <https://www.gov.uk/government/publications/children-missing-education>

In respect of pupils absent from school without authorisation whose whereabouts are unknown, the guidance clarifies that the local authority must carry out reasonable enquiries into the pupil's whereabouts with schools jointly. It is vital, therefore, that schools refer any pupil whose whereabouts is unknown promptly, and no later than five days from the first day of absence, to the Children Missing Education Team at cme@birmingham.gov.uk so that they can carry out their enquiry in tandem with yours.

Schools are encouraged to call the CME team for guidance and support during the 'reasonable enquiry' phase as invariably, CME Officers will be able to conduct background checks on the pupil during those crucial first five days of absence. Deletion notices are issued by the CME team where a referral has been accepted and investigated but the pupil's whereabouts remain unknown and reasonable enquiries have been exhausted. The deletion notice signifies compliance with the

Pupil Regulations section 8 (1) (h), '20 days unauthorised absence and both the local authority and the school jointly have tried to locate the pupil'.

Useful Links

BCC guidance and procedures

Birmingham City Council Penalty Notice Code of Conduct

https://www.birmingham.gov.uk/downloads/file/5116/birmingham_city_council_absence_code_of_conduct_2016

Leave in Term Time (Penalty Notice) Process

<https://www.birmingham.gov.uk/school-attendance>

'Deletion from Roll' Guidance

https://www.birmingham.gov.uk/downloads/file/5477/deletion_from_roll_guidance_july_2019

Department for Education guidance (including statutory guidance) and useful information

Children Missing Education

<https://www.gov.uk/government/publications/children-missing-education>

Keeping children safe in education - Statutory guidance for schools and colleges

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

School attendance - Departmental advice for maintained schools, academies, independent schools and local authorities

<https://www.gov.uk/government/publications/school-attendance>

Supporting pupils at school with medical conditions - Statutory guidance for governing bodies of maintained schools and proprietors of academies in England

<https://www.gov.uk/government/publications/education-for-children-with-health-needs-who-cannot-attend-school>

The link between absence and attainment at KS2 and KS4 - 2013/14 academic year

<https://www.gov.uk/government/publications/absence-and-attainment-at-key-stages-2-and-4-2013-to-2014>

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Ministry of Defence Advice to Head Teachers Term Time Absence for Service Children

Since September 2013, by law, Head Teachers are only able to grant requests for leave during term time in “exceptional” circumstances.

Firstly and most importantly, the Ministry of Defence recognises that the educational needs of the Service child(ren) affected will always be a critical factor when determining whether term-time absence should be granted. The purpose of this advice note is to give additional guidance from the MOD to Head Teachers on when the operational needs of the Armed Forces may legitimately prevent Service families from taking leave during school holidays; and also to explain how Head Teachers can seek further advice from the MOD when dealing with specific cases.

As well as operational tours overseas or afloat, there are many situations where the unusual and often unpredictable demands of life in the Armed Forces may prevent Service families taking holidays together outside term time. These demands may see Service personnel deployed for lengthy periods on training as well as on operational activities, and may also see individuals remaining in their Base location, but with full-time duties preventing them taking leave during normal holiday periods.

As with all children, the decision on whether to authorise term-time holidays for the children of Service personnel sits solely with the Head Teacher of their school. Separate advice is being provided to Service families explaining how they should present evidence when requesting absence during term-time, and reminding them firmly that the educational needs of their child(ren) will remain of great importance. Advice is also being provided to Unit Commanding Officers and their Welfare Staffs to ensure support is only given to those legitimate applications made by their personnel.

To assist Head Teachers in making their decisions on absence applications, Unit Commanding Officers and their Welfare Staffs will be able to provide advice, verification and endorsement as required. If Head Teachers are unsure how to make contact with the relevant Armed Forces unit they should contact the MOD’s Directorate Children and Young People at DCYP-DCYP-Mailbox@mod.uk.

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