

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Deisebau

National Assembly for Wales
Petitions Committee

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

27 January 2016

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 your letter of 15 December (your ref HL/02362/15) about the above petitions with which you enclosed your letter of 11 December to Directors of Education and Regional Education Consortia. The Petitions Committee considered your response at our meeting on 19 January. The Committee also had available to it your more recent letter to all head teachers in Wales on this issue.

The Committee has asked me to thank you for your positive and constructive engagement with it on this issue. Members felt that your actions have gone a considerable way toward clarifying and resolving this issue.

At the meeting, we also considered further comments from the petitioners concerned, which I enclose for your information. I would be grateful if you could let me know if there are any matters in their comments that would continue to give you cause for concern or that your actions so far may not address. The Committee agreed to ask that it is kept up to date on any responses you receive to your letters from local authorities and regional consortia.



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

I would be grateful for an early response.

Yours sincerely

William

William Powell AM/AC
Chair/ Cadeirydd



William Powell AM
Chair- Petitions Committee
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

12th January 2016

Your ref: P-04-576 and P-04-606

Dear William,

Thank you for forwarding the letter dated 15th December from Huw Lewis. We are reassured to hear that Mr Lewis has taken action to write to the Regional Consortia and Local Councils. However, we are concerned that those Consortia and Councils are still be clever with wording.

I received the attached correspondence from ERW concerning the situation in Carmarthenshire. This states that head teachers have the discretion, but generally will not be allowing any time out for family holidays or routine appointments. The part we don't have visibility on is the correspondence to head teachers applying pressure to ensure they are not allowing any absence, regardless of circumstances.

I would also be extremely keen to see the responses received by the Minister from the Regional Consortia and Local Councils. Also, the Minister mentioned he will be writing to the Head Teachers across Wales and I would be keen to know when this will happen and what the content of that letter will be.

Kind Regards,

Bethany Walpole-Wroe and Helen Weedon
Let Children in Wales Have a Family Holiday During Term Time



Gareth Morgans, B.Ed., M.Sc.

**Prif Swyddog Addysg,
Adran Addysg a Phlant,**

Adeilad 2, Parc Dewi Sant,
Heol Ffynnon Job, Caerfyrddin,
Sir Gaerfyrddin, SA31 3HB

**Chief Education Officer
Department for Education & Children,**

Building 2, St David's Park,
Jobs Well Road, Carmarthen,
Carmarthenshire SA31 3HB

Gofynner am / Please ask for:

Gareth Morgans

Llinell Uniongyrchol / Direct Line:

01267 246450

E-bost Uniongyrchol / Direct E-mail:

EDGMorgans@sirgar.gov.uk

Dyddiad / Date:

4-11-15

Dear Parent/Carer,

SCHOOL ATTENDANCE

I write to thank you for supporting our efforts to improve school attendance in Carmarthenshire and to ask for your cooperation in continuing to improve attendance in the interest of our children and young people.

School attendance is a priority for us in Carmarthenshire and the ERW region¹ and a common approach to improve school attendance is being used. However, you can be assured that any changes and decisions made are in the best interests of the child.

Having looked at school attendance in Carmarthenshire for 2014/15 we have seen significant improvement.

	2013/2014 Attendance	2014/2015 Attendance
Primary Schools	95%	95.2%
Secondary Schools	93.9%	94.2%

All of us continue to work hard to improve standards and outcomes for our children and young people and I know you're aware that there is a clear and direct relationship between regular school attendance and pupil achievement. We have seen improvements in standards across the region this year, from the Foundation Phase to Key Stage 4, and I know that some of this is due to improved school attendance.

Although there has been substantial progress this year we need to continue to address this issue in the interests of our children and young people. To ensure further improvement I would like to remind you of the following.

- *The Welsh Government and ERW expect all pupils to attend school at least 95% of the time.*
- *Missing school jeopardises the learner's chances of fulfilling his/her potential as regular attendance improves the chances of being successful at school.*

¹ ERW is the regional education consortium comprising Carmarthenshire, Ceredigion, Neath Port Talbot, Pembrokeshire, Powys and Swansea.

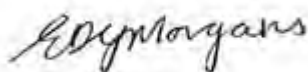
- *It should be noted that, although headteachers have the discretion to grant leave of absence during term time, schools **will not normally authorise family holidays or routine appointments**² taken during term time.*
- ***If your child has unauthorised absence or your child is consistently late, your school may request that the local authority issues you with a penalty notice.***

Again I would like to thank you for your continued support to ensure that your child's attendance is the best it can be.

You can do this by making sure your child is in school on time and by not arranging family holidays or routine appointments during term times. However, if you are having difficulties with your child's attendance, please talk to your school who can arrange support for you.

I am confident that we can work together to further improve school attendance and ensure that Carmarthenshire pupils reach their full potential.

Yours sincerely,



Gareth Morgans, Chief Education Officer

² By routine appointments we refer to periodic assessments such as dental check-ups, occasional optical examinations, non-urgent doctor consultations, etc, where parents/ guardians are able to influence the timing of appointments.

Dear Helen Weedon,

I write to respond to your e-mail sent to ERW Admin on the 17th December, 2015.

Improving school attendance has been a priority in Carmarthenshire since our 2012 Inspection by ESTYN which cited it as a recommendation- ***R2 improve attendance in primary and secondary schools.***

Since 2012 we have worked with parents and schools to ensure that we reduce absences and increase attendance levels to enable our learners to have the best chance to succeed. This has included-

- Remodelling and extending our Education Welfare Service
- Introducing a Team Around the Family approach to support parents with improving school attendance
- Setting Local Authority and school level targets and requesting Action Plans from all schools.
- Issuing guidance in respect to improving attendance and authorising absences
- Working as a region on this agenda.

The improvements, through collaboration between schools, parents and Local Authority, have been significant-

Sector	Absence level 2011/12	Absence level 2014/15
PRIMARY	6.3%	4.8%
SECONDARY	8.9%	5.9%

Earlier this year I asked schools to circulate a letter to thank parents for their continued support with this key agenda and to reiterate the importance of good school attendance- I attach a copy.

There is clarity in respect to where the responsibility for agreeing to absences lie i.e. the school's Headteacher. The guidance issued by each LA/ERW did challenge schools on its processes and procedures in authorising absences and we have seen improved and more rigorous systems being developed when considering requests for absence. This is evidenced by the data included above.

All schools are engaged with improvement attendance as during ESTYN inspections school attendance is a key indicator which affects the school's performance. We have recently seen such comments as those noted below which have affected a school's overall performance-

- *Attendance levels over the last four years have been lower than the average for the family of schools. This has placed the school in the lower 50% of similar schools during this period and in the bottom 25% in three of the last four years.*
- *Pupils' attendance levels are lower than those at other schools. This has placed the*

...pupils' attendance levels are lower than those at other schools. This has placed the school among the bottom 25% of similar schools over the last three years.

- However, pupils' attendance rate has been consistently lower than the median over the last three years in comparison with levels in similar schools.*

All schools therefore are considering school attendance and working towards further improvements and this will include sharing effective practice, celebrating improved attendance and challenging absences.

If you require any further information please contact Mrs Bethan T James, Service Manager (copied into this e-mail).

Yours sincerely,

Gareth Morgans, B.Ed., M.Sc.



**Prif Swyddog Addysg,
Adran Addysg a Phlant,**
Adeilad 2, Parc Dewi Sant, Heol Ffynnon Job, Caerfyrddin, Sir Gaerfyrddin, SA31 3HB

**Chief Education Officer
Department for Education & Children,**
Building 2, St David's Park, Jobs Well Road, Carmarthen, Carmarthenshire SA31 3HB



Hi Gareth,

Diolch am yr ateb. My children attend school in Carmarthenshire.

Kind Regards,

Helen

On 5 Jan 2016, at 12:09, Gareth Morgans
<EDGMorgans@carmarthenshire.gov.uk> wrote:

Dear Helen Weedon,

Your e-mail below addressed to ERW has been forwarded for my attention as Chair of the Support for Learning Board which oversees the work of ERW's

Attendance Group.

I believe that the respective Local authority should reply to your e-mail- can you please advise me of the Local Authority where your child/children attend school?

Diolch,

Gareth Morgans, B.Ed., M.Sc.

Prif Swyddog Addysg,
Adran Addysg a Phlant,
Adeilad 2, Parc Dewi Sant, Heol Ffynnon Job, Caerfyrddin, Sir Gaerfyrddin, SA31
3HB

Chief Education Officer
Department for Education & Children,
Building 2, St David's Park, Jobs Well Road, Carmarthen, Carmarthenshire SA31
3HB

From: webmaster@carmarthenshire.gov.uk [<mailto:webmaster@carmarthenshire.gov.uk>]

Sent: 17 December 2015 13:37

To: ERW Admin

Subject: ERW website - contact form

Name: Helen Weedon

Email: [REDACTED]

Message:

Hi, Recently at an evidence session at the Welsh Assembly, the Minister for Education and Skills, Huw Lewis said that only the head teachers have the discretion to allow or deny a request for absence from school. He also stated: "Local authorities that give the impression they can override that are wrong or that they can provide some sort of barrier between a head teacher who is reluctant to make a decision and the parent, in other words, take the buck, are also wrong." However, ERW has advised all councils within its jurisdiction not to allow any absence at all that clearly goes against the Minister's intentions. Please could you tell me whether this will be rectified and whether head teachers will indeed be allowed to authorise absence during term time if they deem it to be appropriate.

Many thanks, Helen Weedon

[REDACTED]

Mae'r e-bost hwn ac unrhyw atodiadau yn gyfrinachol ac wedi'u bwriadu at ddefnydd yr unigolyn y'u cyfeiriwyd ato/ati yn unig. Os derbyniwch y neges hon trwy gamgymeriad, rhowch wybod i'r sawl a'i hanfonodd ar unwaith, dilwch y neges o'ch cyfrifiadur a dinistriwch unrhyw gopïau papur ohoni. Ni ddylech ddangos yr e-bost i neb arall, na gweithredu ar sail y cynnwys. Eiddo'r awdur yw unrhyw farn neu safbwyntiau a fynegir, ac nid ydynt o reidrwydd yn cynrychioli safbwynt y Cyngor. Dylech wirio am firysau eich hunan cyn agor unrhyw atodiad. Nid ydym yn derbyn unrhyw atebolrwydd am golled neu niwed a all fod wedi'i achosi gan firysau meddalwedd neu drwy ryng-gipio'r neges hon neu ymyrryd hi.

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P-04-606 Ensure Schools Exercise Their Statutory Powers Under Regulation 7 of The Education (Pupil Registration) (Wales) Regulations 2010 Without Interference or Bias. Correspondence: Petitioner to the Committee 11.01.16

Dear Petitions Committee,

Many thanks for your correspondence of 23rd December and the copies of letters from the Minister for Education and Skills relating to these petitions. As requested, please find attached our response to this correspondence.

Warm regards,
Jane Douglas
Pembrokeshire Parents Want A say

PEMBROKESHIRE PARENTS WANT A SAY
pembspwas@gmail.com

William Powell AM
Chair - Petitions Committee
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

11th January 2016

Dear William,

Many thanks to you, and to the Petitions Committee, for raising the concerns of our petitioners with the Minister for Education and Skills.

We welcome the Minister's letter of 11th December 2015 to Directors of Education and Educational Consortia which confirms the position in Wales regarding family holidays in term time. However, this letter and his

subsequent letter to you on 15th December have not fully addressed the concerns of our petitioners.

1) THE IMPLEMENTATION OF RESTRICTIONS ON TERM TIME HOLIDAYS BY LEAS

The Education Regulations concerning holidays in term time¹ and the Regulations concerning fixed penalty notices for regular non-attendance at school² are two separate pieces of legislation dealing with two separate issues.

There is NO reference to family holidays in the Penalty Notice Regulations yet from 2013–2016 Educational Consortia across Wales used the implementation of Penalty Notice Regulations as an opportunity to advise schools against authorising absences for family holidays. These attempts to limit the statutory powers of head teachers and the Penalty Notices issued to many families in Wales as a result are potentially unlawful.

2) TERMINOLOGY “REGULAR NON-ATTENDANCE AT SCHOOL”

The Minister confirms that fines issued under the Penalty Notice Regulations “are intended ...to tackle regular non-attendance”, however the lack of a common definition of “regular non-attendance” has led to inequities across Wales.

The DfE defined the threshold for “persistent absence” as absence of 20% or above until July 2011 when it reduced this threshold to 15% and then reduced it again in September 2015 to 10%. In Wales, Penalty Notice Legislation refers to “regular non-attendance” but fails to define this clearly. This results in a situation where local authorities decide the threshold for themselves with one local authority now proposing to issue penalty notices for absences of only 3% in a year (6 days of absence in one 12 week period)³. This is clearly beyond any recognised definition of “persistent absence” or “regular non-attendance”, it is inconsistent with the spirit of the Penalty Notice Regulations but yet it is occurring.

¹ The Education (Pupil Registration) (Wales) Regulations 2010.

² Education (Penalty Notices) (Wales) Regulations 2013

³

http://www.pembrokeshire.gov.uk/content.asp?nav=101,988&parent_directory_id=646&id=32083&Language=

ACTION 1: In the interest of equity could the Minister please ensure that LEAs in Wales have a clear and common definition for “regular non-attendance” for the purposes of issuing FPNs and that for this purpose, attendance percentages are calculated over a rolling 12 month period.

3) TERMINOLOGY “SPECIAL CIRCUMSTANCES”

We welcome the Minister’s clarification that “exceptional circumstances” only apply to absences for family holidays of 10 days or more. However some local authorities have also been using the terminology “special circumstances” with regard to authorising family holidays of fewer than 10 days (City and County of Swansea Council, Pembrokeshire County Council). This terminology has no basis in the relevant Regulations but has arisen due to a reference on p.22 of the Guidance on School Attendance Codes June 2010⁴ which states “Schools can only agree to absence for a family holiday if they believe there are **special circumstances** which warrant it.” (**my emphasis**).

ACTION 2: Could the Minister please confirm that there is no requirement that “special circumstances” must apply to authorisation of family holiday absences.

ACTION 3: Could the Minister please ensure that the Guidance on School Attendance Codes is amended to reflect the Regulations regarding family holidays.

4) SUPPORTING SCHOOLS

The Minister has asked LEAs to “provide clear information for parents and schools which is compliant with the law”, however local guidance and policies also may need changing.

ACTION 4: Could the Minister require all Head Teachers to ensure that their Attendance Policies are fully compliant with the Regulations and Guidance and do not include wording which implies any restriction or recommendation against the exercise of the statutory powers set out in the Education Regulations. It might be helpful if examples were provided to Head Teachers

⁴ <http://dera.ioe.ac.uk/565/1/100628attendancecodes4ien.pdf>

to help make application of their discretion more clear. We attach some potential examples.

5) ACCOUNTABILITY OF LEAS AND EDUCATIONAL CONSORTIA

With regard to the families who may have been fined due to misapplication of the Regulations, the Minister states in his letter to you that “it is for the judicial system to decide whether parents have been dealt with fairly and lawfully”. However, the Minister fails to acknowledge that the costly nature of legal proceedings will exclude the vast majority of Welsh families from seeking redress through our judicial system.

The evidence of widespread misapplication of the Regulations in Wales by LEAs and Educational Consortia over the past two years also suggests that their systems for ensuring that they are compliant with the law and accountable to those who are affected by their policies are not robust.

ACTION 5: We ask the Minister to commission an independent review to examine how Educational Regulations have been so widely misapplied across Wales and to identify and address the flaws in systems which have allowed this to happen unchecked over the years 2013–2016.

ACTION 6: We ask the Minister to provide a route for families to be reimbursed for fines issued due to misapplication of the Regulations which does not require the families to incur legal costs. We would consider the reimbursement of all fines, in areas where recommendations against the authorisation of absence for family holidays were in place, to be an appropriate and prudent action.

Yours sincerely,

Jane Douglas
Pembrokeshire Parents Want A Say

HEADTEACHERS DISCRETIONARY POWERS TO AUTHORISE ABSENCE FOR FAMILY HOLIDAYS – SOME EXAMPLES

Linda Screen

Pembrokeshire Parents Want A Say

January 2016

EXAMPLE 1:

Rhiannon is 9. Her parents have requested 6 days authorised absence from school at the end of term time for a family holiday. She has a regular attendance record at other times apart from 5 days of sickness absence when she had chicken pox after which she made-up the work missed helped by her parents. The HT decides to authorise the absence and ensures that school provides information on the topics that will be missed.

No of Days requested = 6

Absence is authorised as this lies wholly within HT discretionary powers.

EXAMPLE 2:

Seren is 15. Her attendance is below 90% after 5 days authorised absence for a holiday in January, a period of sickness, and a few late mornings. Seren's parents have requested a further 10 days leave for a family holiday in June. The HT speaks with class teachers about Seren's attendance and with this in mind and the unexceptional nature of the request the absence is refused.

No of Days requested = 15

HT has discretionary powers ONLY if there are exceptional circumstances. In this instance the HT did not find exceptional circumstances so did not authorise.

EXAMPLE 3:

Tomos is 12. His younger brother has an ongoing health problem and has been offered a new treatment abroad. Tomos' parents have requested leave of 3 weeks so the family can travel with both of their children to access the treatment and whilst overseas also take time for a family holiday. There are

no other family members staying at home to care for Tomos during the absence and his brother's illness has prevented them from holidaying together previously. The HT decides that this is exceptional circumstances and authorises an absence of 15 days but asks that Tomos take school work with him and make up the work he will miss.

No of Days requested = 15

HT has discretionary powers ONLY if there are exceptional circumstances. In this instance the HT finds that there are exceptional circumstances and authorises.