

Can I dispute the Fixed Penalty Notice (FPN)?

The Pupil Entitlement Service issue FPNs after considering the information presented to them by the School the child attends. If we have reason to believe that an offence has been committed contrary to s444 Education Act 1996 then an FPN can be issued or you may just be prosecuted. FPNs are issued to any adult considered to be a parent as defined by the Education Act 1996.

It is the school who decide how to record your child's absence and it is the school who decide whether to refer your absence to WSCC for consideration of the issuing of a FPN. If you think there are circumstances that justify the absence being authorised then you should discuss this immediately with your Head Teacher. If the school maintain the absence was unauthorised then the FPN will stand. There is no statutory right of appeal. Should you choose not to pay the FPN then this will likely lead to the underlying non-attendance offence being referred to the Magistrates Court. At court you will be given an opportunity to outline the reasons why you dispute the matter. The defences to the charge are limited and you may wish to consider taking legal advice before choosing not to pay the FPN. Please note that should the court find you guilty of the non-school attendance offence they can impose a higher punishment than the level of the FPN. The court may also order you to pay WSCC's legal costs incurred.

Why do some schools authorise absence and another doesn't?

The only individual who can authorise absence from school is the Head Teacher. They have the final decision on how attendance is recorded. The law states that a Head Teacher may only authorise absences if they consider the circumstances of those absences to be "exceptional". There is no legal guidance on what constitutes "exceptional" and so it is the discretion of the Head Teacher as to whether they consider your circumstances exceptional. That means that different Head Teachers within the same geographical area may respond to absences differently. If you have concerns about the approach taken then you should make representations to your Head Teacher.

I don't dispute the Fixed Penalty Notice, but I want to argue mitigation. How do I proceed?

The scheme does not allow for mitigation to be presented. A FPN is actually a "conditional offer" for the offence of non-school attendance. In all cases the proposal is a £120 fine (£60 if paid within 21 days) and there is no flexibility and this means mitigation is not relevant. You either take the proposal or if you wish to argue about the level of fine, you reject the offer and demand your day in Court which will result in a Summons being issued for the unauthorised absence from school of your child under S.444 of the Education Act 1996. To take the matter further can often result in higher punishment and substantially more expense, particularly if the Court imposes its right to means test you before deciding on a fine.

If I write and tell Pupil Entitlement: Investigation that I am very sorry, this is the first offence and offer a good reason for the absence will they withdraw the FPN?

We are willing to consider representations from parents. However there is no statutory right of appeal to a FPN. We cannot amend how the school have recorded the absences. If you consider your circumstances to be exceptional you should discuss with your Head Teacher.

I have never caused my child to have unauthorised absence previously why should I have the same penalty as somebody who has done this more than once?

The offer is as it says, a "fixed penalty" and the punishment is fixed for the offence, not for the parent and therefore does not reflect on parenting ability. If you believe that the punishment is too severe, you have the option to argue your case at Court but you are unlikely to obtain any benefit by way of a reduced penalty.

I cannot afford to pay the fine, can I ask for extra time or can I pay by instalments?

The issue of the FPN is based on the non-authorisation of absence from school of your child and there are 28 days to make the payment of £120 and the sum is reduced to £60 if payment is offered within 21 days. The time frame of the payment and the amount payable are stated in law and cannot be amended on a case by case basis. This means instalment plans are not possible. If you cannot afford the payment or can only afford to pay by instalments the only place where a payment plan can be agreed is at Court. The Court can and do take into account individual financial circumstances.

Should you remain dissatisfied with the handling of the FPNs process you may follow the County Council's complaints procedure which can be found on the Internet at:

http://www.westsussex.gov.uk/your_council/get_in_touch/comments_compliments_and/make_a_comment_compliment/comment_compliment_or_complai.aspx