

**FPN checking process – Leave of Absence applications**

Criteria: 5 consecutive days of unauthorised absence due to LOA during term time.

* On-line application form (instruction to issue) web address
* FULL NAMES AND ADDRESSES of parent/s to be issued an FPN**.**
* **It is a school based decision as to whom should be issued with a FPN (consideration of family circumstances around the LOA should be taken into account by the school).**
* Parent Leave of Absence Application Form (if requested in advance)
* School letter informing parent that LOA has been declined and making it clearthat a Penalty Notice will be requested for unauthorised absence to the LA.
* **Exceptional circumstance is recognised in law**, and as such, each application **must** be considered based on the circumstances outlined in the LOA request. Emergency LOA cannot be given consideration at this point.
* **Reference to Exceptional Circumstances as opposed to holiday, must be stated in the letter.**
* If parents live at separate addresses, a letter needs to be sent to each parent at their home address.
* **Please be diligent in the spelling and quoting of first names and surnames. Instances where the FPN has had to be withdrawn because of material errors (mis-spelling of first names, mis-quoting of first names and/or surnames). These have come to light when a Local Authority Attendance Officer has prepared a court file which is a mis-use of valuable time.**
* School letters should state Attendance and Children Missing Education Team as the LA department – no longer Targeted and Specialist Service or Education Entitlement Team.
* Registration Certificate (on child returning to school) displaying the G code (unauthorised absence).

If criteria not met, **the LA will not issue the FPN**. Due to the high demands/workload of the administrators, further contact with the school will not be made for missing information. Enquiries regarding FPN’s to be made through [Attendance@coventry.gov.uk](mailto:Attendance@coventry.gov.uk).

**Telephone calls and emails received from parents after a FPN has been issued**

Once a FPN has been issued, parents are contacting us in high volumes, indicating that the school has informed them to contact the Local Authority about the issuing of the FPN.

It is quoted often by parents to us, that they have been advised to contact the LA indicating that the LA can make the decision to withdrawal the FPN.

This is not the case. Once a FPN has met the criteria, it is issued on behalf of the school. Therefore, I would like to take this opportunity to re-establish the LA position and to re-enforce some key messages:-

* Many parents have stated that the “Receptionist or learning mentor or class teacher or head of year has **said “**it would be alright and don’t worry about an FPN” when either:-

a) the parent has handed the leave of absence form back to school or

b) when school have made contact regarding the absence (where leave has been taken and not requested for a family emergency).

Therefore, could you please ensure that:-

* **All school staff** are clear with parents that it is the **decision** of the headteacher whether the absence is unauthorised and if a FPN is to be requested.
* A Zero tolerance approach to LOA in term time, is **not** recognised in law.
* It is the decision of the headteacher and/or the Governing Body, as to what constitutes “exceptional circumstances”.
* School staff to be clear that the LA are acting on the schools’ behalf and not involved in the decision making process i.e whether the leave met exceptional circumstances or not.
* There is **no appeals process option** for parents unless Code of Conduct has been breached (outlined on the back of the FPN). Once the criteria is met, the LA will not withdraw the FPN unless the headteacher instructs them to do so.
* Payment plans and/or part payments are not an option that the LA can offer.

**COURT CASES WHERE A NOT GUILTY PLEA IS ENTERED**

Last academic year, there were a high volume of Not Guilty Pleas entered for both Leave of Absence and Irregular Attendance cases, where FPN’s were not paid within the set timescales. These pleas are entered by the Defendant/s by post, using the Single Justice Procedure (SJP) paperwork sent to defendants.

**LISTED FOR CASE MANAGEMENT**

Once a Not Guilty Plea is entered, these cases are then listed for case management which involve the Local Authority Senior Officer and the Solicitor attending court, to meet with the Defendant/s.

At this point, the Solicitor (legal team for LA) will begin to ask Senior Officer questions regarding the Defendant/s Not Guilty Plea. The Senior Officer will then contact the school and also revisit the FPN application.

The Defendant/s will cite their reasons for this Not Guilty plea and some examples of this are:-

* Circumstances of the leave of absence - Emergency leave due to death of family member/illness of family member/no network to enable children to stay in the country or
* Mental health/anxiety/depression/self-harm which has prevented the child from attending school on a regular basis which defendant/s claims that school “are fully aware of”.

If the case is then listed for trial, this will involve the Headteacher being requested by the Senior Officer, to make themselves available to give evidence in the Magistrates Court.

Ahead of the trial, the Headteacher will be requested to:-

* Provide a Witness Statement (S9 Statement).
* Provide a Witness Availability for a 6 month period.
* S9 Witness Statement will set out the circumstances behind the issuing of the FPN and responds to the points raised by the Defendant/s in the Not Guilty Plea (as set out above).

**TRIAL DATE**

* Headteacher to attend Court to give evidence in accordance with their Witness Statement
* Solicitor and Senior Officer will support on the day of the trial
* Magistrates to hear the case and conclude their verdict

**WITHDRAWAL OF CASE AHEAD OF TRIAL**

Having met with the legal team recently, due to the high volume of cases being withdrawn last academic year, there will now be a **potential cost implication to the school for withdrawn cases.**

Withdrawing a case once issued, is a waste of time and resources for the local authority.  In addition, the legal team are concerned that this implies to the Court that this process is being used as a “threat” rather than a genuine intention to prosecute by the Headteacher, which impacts on the Local Authority’s reputation in the court arena.

Making an application to re-open and withdraw a case after prosecution is not a simple process and can only take place if the parent was prosecuted in error. This process should only be used to rectify legal or factual mistakes. It is not a process that can be used when the school has changed their mind as to whether the parent should have been prosecuted. The legal team are required to provide a reason (rationale) to the court around this decision to satisfy the Court that it is in the interests of justice for them to be able to re-open and withdraw the case.

Some recent examples of the reasons behind schools request for withdrawal are:-

* Further reflection by Headteacher reviewing the case and an unwillingness to appear in Court.
* Decision not to proceed taken, due to mental health/well-being of the child (either by proof of medical evidence and/or further communication from parent/carer), of the circumstances at the time of requesting the FPN. Any such issues should have been fully explored at the time the FPN was issued.
* Separated families i.e. step parent/partner (where contact was not fully explored at the time the FPN was issued) and school may have used “emergency contact” details on the school system.
* Fractured/break down in communication and relationships with school staff, which may have impeded initial judgement to instruct the LA to issue an FPN in the first instance.
* Sustained improved school attendance (for irregular FPN’s and 1A Aggravated Offence).

In conclusion, the use of the FPN and the subsequent prosecution (should the FPN be unpaid) should be used as a last resort and not as a threat to ensure parents send their children to school. In respect of a conviction for the aggravated offence of “knowingly” not sending a child to school, this will appear on a criminal record for the parent/s.

**Headteachers should ensure that all relevant information was considered before a FPN request is made to the Local Authority and be prepared to see the process through to its conclusion.**

The legal team are keeping the situation under review for the next 3 months, but if withdrawals continue to happen at the same rate they will be re-charging the school for the cost of the prosecution work. **A withdrawal following the issuing of a case will result in a £75.00 charge to the school. An application to re-open and withdraw a case following conviction will result in a charge of £200.00 to the school. These charges may be reviewed if withdrawals/applications continue.**

Senior Local Authority Officer

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