

Fixed Penalty Notice – Frequently Asked Questions

Can I dispute the Fixed Penalty Notice (FPN)?

The Education Welfare Service (EWS) issue FPNs after considering the information presented to them by the School your child attends. The school have advised your child's absence from school was taken without authority - it is only a Head Teacher who can authorise absences from school. If there are other exceptional and compelling circumstances of which the school were not aware you can make a representation to the Head Teacher. If the school maintain the absence was unauthorised the FPN will stand and the only other way you can dispute it is for you to choose not to pay the FPN and this will lead to the matter being referred to the Court. At Court you will be given an opportunity to outline your reasons as to why you dispute the matter. Please note should the Court find you guilty of the offence of non-school attendance they can impose a higher punishment upon conviction. The Court may also charge you with Court costs.

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

The only individual who can authorise absence from school is the Head Teacher. The Head Teacher has the final decision on whether any absence for whatever reason is authorised. It is recognised as a decision remains with the Head Teacher, different Head Teachers within the same geographical area may respond differently to absence. However, the Government has directed Head Teachers to only authorise absence from school in exceptional circumstances.

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 the Education Welfare Service that I am very sorry, this is the first offence and offer a good reason for the absence will they withdraw the FPN?

Although everybody knows someone who says that they have got out of a FPN by asking for sympathy, the EWS does not have any discretion or power to waive a Notice on these grounds. If you believe you have a defence, or "special reasons" as to why you should not receive a fine then you should ask for a Court hearing. The EWS will not review or consider the merits of cases; it is simply a process facility for despatching Notices and collecting fines. It should be stressed that remorse, previous good record and a promise not re-offend are not "special reasons."

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