

PEMBROKESHIRE PARENTS WANT A SAY

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Kayleigh Driscoll
Petitions Committee Deputy Clerk
Chamber and Committee Service
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

3rd December 2014

RE: P-04-606 Ensure schools exercise their statutory powers under regulation 7 of The Education (Pupil Registration) (Wales) Regulations 2010 without interference or bias.

Dear Kayleigh,

We thank the Minister for Education and Skills for his letter dated November 4th 2014.

However, we note that the Minister has not outlined any actions being taken to address the concerns raised in our petition that Welsh schools are struggling to exercise their statutory powers under regulation 7 of The Education (Pupil Registration) (Wales) Regulations 2010 without interference or bias.

Please may we refer you back to the text of our petition with the additional points below.

1) INTERFERENCE AND BIAS

The Minister states that “*head teachers are best placed to make the decision*” on authorisation of absence for family holidays but, as we have highlighted, head teachers in Wales are being advised against authorisation of absence for family holidays by their local authorities and regional educational consortia. For example

the most recent advice to head teachers from the ERW consortium via Pembrokeshire County Council on 12th September 2014 was;

“...advice from the Local Authority and from ERW is to continue to advise schools not to authorise absences during term time due to holidays, but that each application will be judged on an individual basis.”

Effectively this local authority is advising schools against exercising their statutory powers and while their recommendation pays lip service to Welsh Government guidance regarding individual assessment of circumstances¹ it is a paradoxical statement heavily biased against the authorisation of absence.

Estyn, the education and training inspectorate for Wales, considers attendance data when judging school performance during inspections and when “banding” secondary schools. As the Minister states in his letter, attendance will now also be considered under the new School Categorisation system for primary schools. Schools in Wales can currently be penalised through Estyn rankings for authorised absences, even when these absences are authorised for reasons which support child well-being such as absence due to illness or to participate in family life as permitted under The Education (Pupil Registration) (Wales) Regulations 2010. While Estyn is an independent body, its inspection processes regarding attendance influence head teachers against exercising their statutory powers under Welsh law. They create a conflict between a school’s desire to be seen to achieve performance targets and its duty to support the needs of the individual child.

Recommendations against authorisation of absence for family holidays and any link between levels of authorised absence and Estyn ratings make it harder for schools to consider requests for authorised absence in an unbiased manner under the relevant legislation and within the terms of the All Wales Attendance Framework 2011.

2) IMPACT OF FAMILY HOLIDAYS ON ATTENDANCE

Attempts to drive up attendance figures by discouraging the authorisation of absence for family holidays can only have a limited effect. Absence for term time holidays accounted for 0.5% school sessions missed in Welsh secondary schools in 2011/2012 and 0.4% sessions missed in 2012/2013. Only 6.8% of total absences

¹ All Wales Attendance Framework, WAG, 2011

from Welsh secondary schools are due to term time holidays. 93.2% of school absence is for reasons other than a family holiday.²

3) IMPACT OF FAMILY HOLIDAYS ON EDUCATIONAL ATTAINMENT

Evidence suggests that attempts to improve attainment by discouraging the authorisation of absence for family holidays (as permitted under Welsh law) are misguided. Educational consortia and local authorities are justifying their recommendations against authorisation of absence for family holidays on the basis that it will improve attainment. There is no strong evidence base to support this assertion.

In 2011 the UK Department for Education commissioned a piece of research "A Profile of Pupil Absence" which, while stating that there "is a clear link between absence and attainment" (p55), notes that the absence it refers to is "persistent non-attendance" which it defines as missing at least 46 sessions a year. This research notes a correlation between attendance and attainment but does not assert causation. The research paper went on to explain;

"The likelihood of pupils achieving the expected KS2 level, not only differ greatly by the amount of absences accrued, but also by the different reasons behind these absences. The proportions of pupils achieving the expected level stay relatively similar for increasing levels of absence due to authorised family holidays, religious observance and study leave. However, long term absences due to exclusions or illnesses tend to be associated with significantly lower proportions of pupils achieving the expected level"(p58).
(my emphasis).

The Minister notes a negative correlation between attainment and absence for family holidays at KS4. Looking at the chart on page 63 it can be seen that there is no evidence of a correlation with lower attainment levels for children with up to 4% absence for family holidays at KS4. This is equivalent to 7.8 days absence.

But most importantly, the researchers "*cannot isolate whether the absence from school is the cause of the poorer attainment, or whether both persistent absenteeism and poor attainment are caused by other factors – for example, since persistent absentees are more likely to report being bullied or have negative*

² Attendance in Secondary Schools, ESTYN, September 2014
<http://www.estyn.gov.uk/english/docViewer/329401.8/attendance-in-secondary-schools-september-2014/?navmap=30,163>

aspirations and perceptions of school, improving attendance rates might not improve attainment to this extent.”(p67). (my emphasis).

This evidence suggests that interventions to improve educational attainment should not be targeted at primary school pupils who are absent for up to 10 days per year for events such as family holidays and possibly not secondary school pupils who are absent for up to 8 days for similar reasons. It would be more appropriate to direct limited resources towards addressing proven causes of poor attainment.

4) PROSECUTION OF PARENTS

As the Minister states in his letter, where a school declines to exercise their discretionary power under regulation 7 of The Education (Pupil Registration) (Wales) Regulations 2010, what could legitimately be an authorised absence will be categorised as unauthorised and could result in the issuing of a Fixed Penalty Notice under The Education (Penalty Notices) (Wales) Regulations 2013. Any influence or bias against the authorisation of absence will leave more families exposed to the threat of penalty notices than would have been otherwise. A refusal to pay a Fixed Penalty Notice on the grounds that the absence was in the child’s best interests and legitimate in the eyes of the family can result in prosecution under section 444 of the Education Act 1996 for the offence of failing to secure the child’s regular attendance at school. There is no statutory right of appeal against the issuing of a penalty notice. Schools will be required to inform the local authority regarding individual pupil’s attendance levels and so instigate the process leading to the issuing of a Penalty Notice – this is likely to damage the home–school relationship. Fixed Penalty Notices are likely to have the greatest impact on lower income families and promote inequality. There is strong evidence to suggest that children living in poverty are already at a higher risk of poorer educational attainment.

In summary, there is currently considerable pressure on head teachers not to exercise their statutory powers under regulation 7 of The Education (Pupil Registration) (Wales) Regulations 2010. A large part of this pressure is coming from local authorities, regional educational consortia and Estyn. Most recent figures suggest that that a refusal to authorise absence for family holidays could only improve school attendance by a maximum of 0.4%. There is no evidence to suggest that refusal to authorise absence for family holidays, at the level permitted under Welsh law, will improve educational attainment. However, recommendations against authorisation of absence for family holidays are likely to leave more families exposed to the threat of penalty notices and prosecution than would have been otherwise. This is unlikely to be in our children’s best interests, particularly those children whose families are already living in poverty.

We kindly request that the Petitions Committee seek further opinion from Estyn, the Regional Educational Consortia, the WLGA and other expert opinion as appropriate.

Yours sincerely,

Jane Douglas
for Pembrokeshire Parents Want A Say