

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**  
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**CHILDREN AND YOUNG PEOPLE  
SCRUTINY COMMITTEE**

**21<sup>ST</sup> NOVEMBER 2018**

**REPORT OF:  
DIRECTOR OF EDUCATION AND  
INCLUSION SERVICES**

<b>Agenda Item No. 4</b>
<b>REVIEW OF FIXED PENALTY NOTICES FOR REGULAR NON-SCHOOL ATTENDANCE</b>

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**REVIEW OF FIXED PENALTY NOTICES FOR  
REGULAR NON-SCHOOL ATTENDANCE**

**1. PURPOSE OF THE REPORT**

The purpose of this report is to provide Members with an overview of the fixed penalty notices (FPNs) for regular non-school attendance scheme to date. This includes national and local context, local usage trends over the three academic years the scheme has been in existence and analysis of the short term impact on individuals and whole school attendance rates. The report should provide a platform for Members to scrutinise the data and offer suggestions for future Code of Conducts to manage the scheme.

**2. RECOMMENDATIONS**

It is recommended that Members:

- 2.1 Scrutinise and comment on the information contained within this report.
- 2.2 Consider whether they wish to scrutinise in greater depth any matters contained in the report, either by means of a secondary report or via a working party.
- 2.3 Consider the recommendations made in section 11 and approve if appropriate.

**3. NATIONAL CONTEXT AND BACKGROUND**

- 3.1 Improving the attendance of pupils in schools in Wales has been, and continues to be a key priority of the Welsh Government. Regularly attending school is critical to ensuring pupils achieve to the best of their ability and get the best possible start in life.
- 3.2 In 2013, the Welsh Government enacted the Education (Penalty Notice) (Wales) Regulations. These Regulations allow FPNs to be issued to parents for regular unauthorised absence by their children. The Regulations required local authorities (LAs) to develop a code of conduct for the issuing of FPNs across their area. LAs adopted

local FPN codes in 2014 and 2015 and started issuing FPNs either in the middle of the 2014/15 academic year or at the start of the 2015/16 academic year.

- 3.3 In September 2014, Rhondda Cynon Taf's Code of Conduct for Fixed Penalty Notices (FPNs) for Non-Attendance at School became operational. However, the LA did not start operating the scheme until January 2015, to allow a publicity period where schools and the LA informed families and communities of the changes (i.e. the introduction of FPNs) that would be enforced as of 1<sup>st</sup> January 2015.
- 3.2 In order to support a consistent approach to the implementation of FPNs across Rhondda Cynon Taf, Cabinet Members also agreed to adopt a 'zero tolerance' approach to holidays in term time. It should be noted that this was a distinctly separate matter to FPNs; however, as 'unauthorised holidays in term time' was a criterion within the Code of Conduct for which a penalty notice could be issued for, both were discussed in parallel and introduced at the same point.
- 3.3 This decision aligned the LA with others across Wales, including those within Central South Consortium, who had also adopted a zero tolerance approach to holidays in term time at that time. Whilst legislation still afforded head teachers the discretion to grant a '*leave of absence from the school to enable the pupil to go away on holiday*' (The Education (Pupil Registration) (Wales) Regulations, 2010) for up to 10 days, the LA's stance was that this discretion should only be used to authorise a holiday absence in the most exceptional of circumstances. At that time, such exceptional circumstances included:
- Families of serving armed forces personnel;
  - Parent or child experiencing a life limiting illness;
  - Families that have suffered an acute trauma.
- 3.4 There has since been a change in the landscape in terms of the stance on term time holidays, with the publication of Assembly Petitions Committee Report and Chair's letter to Minister for Education and Skills, leading to Minister's letter to all head teachers in Wales in January 2016 stating that all holiday requests must be considered on individual merits. Media coverage surrounding this topic has been significant and public perception is that holidays should always be authorised by a head teacher up to ten school days, which is not accurate. As such, this has had a significant impact on Rhondda Cynon Taf schools where families are now booking holidays under this mis-assumption.

#### **4. LOCAL CONTEXT**

- 4.1 In September 2014, a Director's Report was sent to each school and Governing Body informing them of the introduction of the FPN scheme. They were required to consider the information and include reference to it in the annual revision of their individual School Attendance Policy. Whilst it was not mandatory for schools to use FPNs, it was necessary for all schools to include a statement (template provided by the LA) in their policy that stated should they operate the FPN scheme, they would do so in accordance with the LA's Code of Conduct.
- 4.2 The number of schools requesting FPNs over the past 5 academic years has fluctuated. Anecdotally, it would appear that much of this is due to the change in the Welsh Government's communication of managing holidays in term time in January 2016, which

resulted in head teachers not wishing to appear to be penalising families for taking this type of leave of absence and damaging relationships between themselves and parents.

4.3 The original Code of Conduct, based on the template provided by Welsh Government in 2014 and produced for academic year 2014/15, stated that the Code should be reviewed annually to ensure it remained fit for purpose. As such, the Code was reviewed during 2015/16 and amendments were made based on the feedback received from schools and parents. Changes were made to the narrative of the Code, removing unnecessary jargon and information that was not pertinent to the process, such as the Attendance and Wellbeing Service's remit outside of the FPN process. There were no changes made to the way in which the scheme was administered, nor the criteria for issuing the notices. The revised Code was agreed with Legal Services and it was adopted in 2017.

4.4 The process for issuing a penalty notice includes input from numerous individuals/teams. The head teacher of a school, or a nominated deputy, must firstly request an FPN be issued based on the pupil's record meeting at least one of the five criteria:

- Where there is a minimum of 10 unauthorised sessions (5 school days) in the current term (these do not need to be consecutive);
- Pupils are persistently arriving after the close of the registration period i.e. more than 10 sessions in the current term (recommended that registers be kept open for thirty minutes);
- Where parent/carers have failed to engage with the school and/or the AWS in attempts to improve attendance but where court sanctions have not been instigated;
- A period of absence from school due to a holiday that was not authorised by school;
- A pupil has regularly come to the attention of the police during school hours and is absent from school without an acceptable reason.

The request is received by the Attendance and Wellbeing Service (AWS), on behalf of the LA, where it is checked to ensure it meets the criteria and that the supporting evidence is adequate to proceed. If all information is in order, the AWS will commence the internal process of issuing a warning letter with a monitoring period for all cases except the unauthorised holiday absences. Parents will be given 15 school days (dates specific on the letter) to ensure their child attends each day. If the pupil does not accrue any unauthorised absences during this time, the case will close and the parent will receive a positive, encouraging letter to maintain the improvement. However, if an unauthorised absence is accrued during the monitoring period, an FPN will be generated offering the parent to discharge their liability for not securing regular school attendance by means of payment (£60 during the first 28 days of the notice, rising to £120 for day 29 to 42 of the notice). Should the parent wish not to discharge their liability by paying the fee, the case will be referred for consideration for Court proceedings; prosecution for not securing regular school attendance as opposed to non-payment of the FPN.

4.5 At this point, Legal Services will become involved in the case, approving Recommendation for prosecution. The AWS will produce the evidence packs and issue the summons, but Legal Services will present the cases to the Magistrate's Court.

- 4.6 If there are any circumstances held on file within the service or that come to the service's attention during the process that conflict with the issuing of a monitoring letter and/or FPN, the AWS will notify the school of the information and ask if they still wish to pursue the matter. If the school wishes to, the service will proceed and issue the FPN in line with the Code. If not, the matter will be closed as not in the public interest.
- 4.7 The process is managed by the Team Leader for Prosecution within the AWS, with administrative staff to operate the daily actions of the scheme.

## **5. USAGE OF THE SCHEME**

### **5.1 Total School Usage**

- 5.1.1 Since the implementation of FPNs in January 2015, requests to issue FPNs have been received from 84 primaries (79%), 17 secondaries (100%), 2 special (50%) schools and 2 PRUs (100%), although not all have been accepted. This evidences the spread of 'buy-in' across the county.
- 5.1.2 The number of schools considering an FPN has increased during 2017/18, although the total numbers of individual requests and issued FPNs have declined overall.
- 5.1.3 To date (1<sup>st</sup> January 2015 – 26<sup>th</sup> October 2018), 4,682 fixed penalty notices have been processed within Rhondda Cynon Taf. Of that, 2,001 (43%) were requested for primary pupils, 2,656 (57%) were requested for secondary pupils and 25 were requested for special school and pupil referral unit pupils.

### **5.2 Criteria for Requesting an FPN**

- 5.2.1 The greatest number of FPNs were requested for unauthorised holidays in term time, 2,713 in total across all phases. These were mainly requested by primary schools (1581), with secondary schools requesting 1,123 in total.
- 5.2.2 Secondary schools are using FPNs to tackle general unauthorised absences more than primary schools, with 1,464 being requested since the commencement of the scheme, in comparison to only 409 at primary level.
- 5.2.3 Only 2 FPNs has been issued for parents failing to engage with a school regarding their child's attendance; this is believed to be because those families who are in this situation are more likely to be open cases to the Attendance and Wellbeing Service as they are in need of more intense support than simply a penalty notice.
- 5.2.4 There is a stark reduction in the number of fixed penalty notices requested for unauthorised holidays in term time from January 2016 onwards. The number of absences attributed to holidays, whether authorised or unauthorised, has increased again from this date, but the number of requests for FPNs has not increased in line with this. This may be due to schools being cautious following the Minister for Education and Skills' letter sent to all head teachers at that time.

### **5.3 Warning Letters Issued**

- 5.3.1 Warning letters can only be issued for requests that meet the four criteria: ten or more 'O' codes, ten or more 'U' codes, parental non-engagement and truancy. Requests received from schools for unauthorised holidays in term time will immediately be issued with an FPN.
- 5.3.2 1,969 warning letters have been issued over the 5 academic years. Of these only 735 progressed to an FPN. This equates to a success rate of 63% of all FPNs; 63% of all warning letters result in an improvement of the pupil's attendance during the monitoring period.
- 5.3.3 Primary school pupils saw the greatest success, with 70% of all warning letters issued resulting in improved attendance during the monitoring period. The warning letters had less impact with secondary, special/PRU pupils, with 60% and 57% success rates respectively.
- 5.3.4 These statistics highlight the effectiveness of the intervention in line with RCT Council's Code of Conduct which states that penalty notices are *'not intended to be used as a response to entrenched non attendance....FPNs are intended more as a means of swift intervention'*.

### **5.4 FPNs Issued**

- 5.4.1 All accepted requests for unauthorised holidays in term time and those pupils without a successful monitoring period following the warning letter, would have been issued with an FPN. The only exception would have been those whose FPN was withdrawn due to an error in the processing of the notice or new evidence being presented resulting in the penalty notice not being appropriate.
- 5.4.2 3,345 FPNs have been issued since the start of the scheme in January 2015. Of these, 1,623 were issued to parents of primary school pupils, 1,710 to parents of secondary school pupils and 12 to parents of special school and PRU parents.
- 5.4.3 707 (21%) of all FPNs issued were for ten or more unauthorised absences ('O' codes): 118 for primary pupils, 583 for secondary pupils, 6 for special/PRU pupils.
- 5.4.4 36 (1%) of all FPNs were issued for ten or more unauthorised late attendance instances: 3 for primary pupils and 33 for secondary pupils.
- 5.4.5 2,601 (78%) of all FPNs were issued for unauthorised holidays in term time: 1,489 for primary pupils, 1106 for secondary pupils and 6 for special/PRU pupils.
- 5.4.6 Only 1 FPN was issued for a primary pupil whose parents failed to engage with the school to improve their child's attendance.

### **5.5 FPNs Paid**

- 5.5.1 2,389 (71%) of all issued FPNs were paid and subsequently closed.

- 5.5.2 Parents of primary school pupils paid 1,222 FPNs, whilst those of secondary school pupils paid 1,162. Special school and PRU pupils' parents paid 5 FPNs.
- 5.5.3 Of all FPNs issued and paid, 2,103 were for unauthorised holidays in term time, 267 were for unauthorised absence ('O' codes), and 19 were for unauthorised persistently late absences.

## **5.6 Court Proceedings Initiated**

- 5.6.1 299 cases where the parent had chosen not to discharge their liability for their child's irregular school attendance by paying the penalty notice progressed to court proceedings. Of these, 298 were successful with only 1 unsuccessful cases heard by Magistrates.
- 5.6.2 Of the 298 successful prosecutions, 122 were of parents of primary pupils, 173 were parents of secondary pupils and 3 were parents of special/PRU pupils.
- 5.6.3 145 successful prosecutions stemmed from unauthorised absences ('O' codes) and 151 were a result of unauthorised holidays in term time. Only one successful prosecution was as a result of parental non-engagement, whilst another one was as a result of persistent late arrival at school ('U' codes).

## **5.7 Withdrawals**

- 5.7.1 416 issued FPNs were withdrawn prior to them being paid. Reasons for withdrawal include medical evidence being provided and information received from a partner agency stating the impact of the FPN would have a significant detrimental effect.
- 5.7.2 161 withdrawals were made for FPNs issued to primary pupils' parents, 251 to secondary pupils' parents and 4 to parents of special school and PRU pupils.

## **6. REVENUE GENERATED FROM THE SCHEME**

- 6.1 The issuing of FPNs for irregular school attendance is not an income-raising scheme. The aim is to discourage absence from school and change the culture of casual parentally-condoned absences to one that strives to maximise a child's time in education.
- 6.2 However, the scheme does generate revenue as a result of the notices being paid and court-imposed fines which is used to fund the costs of operating the process.
- 6.3 At the outset, the operational tasks of managing the scheme were absorbed into existing administrative hours. However, with the volume of requests received from schools, it became clear that dedicated time needed to be set aside for this process alone. Therefore, in 2016, a new role, Fixed Penalty Notice Officer was created. Since then, an additional support role, Fixed Penalty Notice Administrator, has been created to support the operational tasks. The Team Leader for Prosecution has significant involvement in the scheme but has additional responsibilities outside of this remit.
- 6.4 Since the introduction of FPNs, the following amount of income has been generated with the resulting expenditure to manage the scheme:

	2014/15	2015/16	2016/17	2017/18
FPN Income	£8,280.00	£92,700.00	£32,655.00	£48,280.00

Table 1: Revenue generated as a result of the issuing of fixed penalty notices (FPNs), split by academic year.

- 6.5 All income received from the FPNs is used to operate the scheme. The overall costs outweigh the income due to the high administrative burden of the scheme.

## 7. **IMPACT OF THE SCHEME**

### 7.1 **Overall School Attendance**

7.1.1 Attendance rates have declined in the past two years (-0.4% in primary and -1.0% in secondary), but prior to this, attendance across both phases were improving. This period of improvement overlapped with the implementation of FPNs. Whilst no intervention alone can solely be responsible for an improvement in school attendance levels, any scheme operating during the period of the improvement must be assumed to have contributed. Therefore, it must be considered that FPNs contributed to this original improvement.

### 7.2 **Holiday Absence**

7.2.1 The impact of FPNs on reducing holiday absence was initially positive, especially during the period of 'zero tolerance' across RCT and CSC. In 2012/13 and 2013/14 in the primary phase, total holiday absence accounted for 1.3% and 1.1% respectively, with only 0.1% of all holidays being unauthorised in both academic years. Following the introduction of FPNs, the total holiday absence figure reduced to 0.9% for both 2014/15 and 2015/16, with unauthorised holidays accounting for 0.6%, an absence that could be challenged, potentially leading to the start of a culture change.

7.2.2 However, since the publication of Assembly Petitions Committee Report and Chair's letter to Minister for Education and Skills, leading to Minister's letter to all head teachers in Wales in January 2016 stating that all holiday requests must be considered on individual merits, these primary phase holiday absence levels have risen again to 1.1% and 1.2% in 2016/17 and 2017/18. The subsequent media reports have interpreted the statement to infer that a parent is entitled to remove their child for up to ten schools days in an academic year for the purpose of a family holiday. As such, this has had a significant impact on Rhondda Cynon Taf schools where families are now booking holidays under this mis-assumption.

7.2.3 Schools are using their discretion, as directed by the Minister, to assess the situation before making a decision whether to authorise the holiday. This is reflected in the level of unauthorised absence across both primary and secondary schools; an average of 0.6% for primary schools and 0.3% for secondary schools during 2017/18, which is significantly higher than the level of unauthorised absence before FPNs.

7.2.4 Disappointingly, in instances where a head teacher deems the holiday to be having a negative impact on the pupil's educational outcomes and therefore

unauthorised a holiday absence, many have been faced with complaints from parents. The LA remains fully supportive of head teachers where they feel the holiday absence is not in the child interest and unauthorise the holiday absence.

- 7.2.5 Anecdotally, schools have indicated that they believe holiday absences are now being reported by parents as sickness absence to prevent a potentially unauthorised holiday absence and being issued with an FPN. In Table 2 below, sickness absence levels have been included to show the trend of the absence code both prior to and following the introduction of FPNs. Based on this information, it appears primary school sickness levels rose as the holiday absence levels declined immediately following the introduction of FPNs. As holiday absence has risen in the last two years (from 2016/17 onwards), the sickness levels have now declined. At secondary level, sickness rates have continued to be lower than prior to the introductions of FPNs, but have risen in 2017/18 in addition to an increase in holiday absences, all contributing to the decline in attendance figures that year.

### **7.3 General Unauthorised Absence**

- 7.3.1 As can be seen in Table 2, total unauthorised absence has risen over the past four academic years, higher than the level of unauthorised absence prior to the introduction of FPNs. However, it should be noted that schools are required to challenge absence and should the reason given by a parent not be substantiated or appropriate, the school can unauthorise the absence in order for further action to be taken. Therefore, this is a key decision for schools to be able to tackle absenteeism. Should only the unauthorised absence be increasing with overall absence decreasing, this would be a proactive situation. However, as both authorised and unauthorised absence levels are increasing, more work needs to be done to reduce total absence across the LA.
- 7.3.2 For generic unauthorised absence ('O' code) and unauthorised lates ('U' code), FPN can be requested by the school once a pupil has accrued ten sessions. In these instances, where the warning letter has been issued to a parent giving them 15 school days to ensure their child's regular school attendance, there has been a 63% success rate, i.e. pupils are improving their attendance during the monitoring period. This success is being promoted to schools to encourage them to consider the FPN process as part of their graduated response to tackling less entrenched cases.

School Phase including special school pupils	Attendance/Absence	2012/13	2013/14	Introduction of Fixed Penalty Notices	2014/15	2015/16	2016/17	2017/18
<b>Primary</b>	Overall Attendance	93.4%	94.5%		94.7%	94.6%	94.6%	94.2%
	Total Unauthorised Absence	0.9%	0.9%		1.2%	1.4%	1.5%	1.7%
	Authorised Holiday Absence	1.2%	1.0%		0.3%	0.3%	0.5%	0.6%
	Unauthorised Holiday Absence	0.1%	0.1%		0.6%	0.6%	0.6%	0.6%
	Sickness Absence	3.8%	3.0%		3.2%	3.2%	2.9%	3.0%
<b>Secondary</b>	Overall Attendance	91.9%	93.1%		93.6%	93.9%	93.5%	92.9%
	Total Unauthorised Absence	2.0%	1.7%		1.7%	1.8%	2.0%	2.3%
	Authorised Holiday Absence	0.5%	0.4%		0.1%	0.1%	0.1%	0.1%
	Unauthorised Holiday Absence	0.0%	0.1%	0.2%	0.2%	0.3%	0.3%	
	Sickness Absence	4.3%	3.6%	3.5%	3.3%	3.4%	3.6%	

Table 2: Summary of attendance figures by academic year from September 2012 to July 2018 to show trends across comparative periods. In addition, figures of authorised and unauthorised holiday absence and sickness absence figures have been included for analysis across both school phases.

## **8. CONSULTATION WITH STAKEHOLDERS**

### **8.1 Public Perception:**

8.1.1 A public consultation was held in 2016 where parents agreed to complete the questionnaire. Of this sample, 90% were parents of primary aged pupils and 10% were parents of secondary aged pupils. 78% of the pupils of the parents responding attended English medium school, 7% attended welsh medium primary schools, 5% attended faith primary schools and 10% attended English medium secondary schools.

8.1.2 32% of the respondents stated that they became aware of fixed penalty notices for non-school attendance via school correspondence, 23% through word-of-mouth, 11% from the FPN booklet, 6% from the RCT letter and 4% from the Council's website. 11% stated they had not heard of fixed penalty notices.

8.1.3 4% of the total number of respondents had been issued with a fixed penalty notice. The parents felt that it was not fair as they believed that their children had good levels of attendance preceding the issuing of the penalty notice and due to the time of year they were taking the holiday, were not missing any teaching or learning.

8.1.4 20% of parents stated that they felt their relationship with the school would be affected by receiving a fixed penalty notice; responses showed that parents believed that they should be able to make their own decisions to take their children on holiday.

8.1.5 Parents were asked if they were supportive of the five categories for issuing a fixed penalty notice:

- 10+ unauthorised absences: 70% Yes
- 10+ unauthorised lates: 57% Yes
- Parental non-engagement: 80% Yes
- Regular truanting: 67% Yes
- Unauthorised holidays in term time: 25% Yes

Reasons for not supporting the reasons above included the costs of holidays during the holiday periods; parents should not be told when they can take their children on holiday; holidays can be educational; each instance should be judged individually; parents work and cannot always take holidays outside of term time.

8.1.6 As this public consultation was conducted prior to the Minister's letter to schools, parents were asked if they supported the three exceptions to the 'zero tolerance' stance on holidays in term time. The responses were as follows:

- Serving forces personnel: 73% Yes
- Life limiting illness: 91% Yes
- Acute trauma: 91% Yes

8.1.7 When asked if there were additional exceptional circumstances that could be considered, the following were suggested:

- Family bereavement;
- Weddings;
- Work commitments;
- Pupils with high attendance;
- Single parents and those with financial difficulties.

8.1.8 Respondents were asked if the possibility of receiving a fixed penalty notice would deter them from taking a term time holiday; 20% replied Yes. 52% stated that they felt penalty notices were having a positive impact on school attendance.

8.1.9 49% of parents said that had seen/read stories on the news or social media about fixed penalty notices, of which 17% said they were now more in favour of them, 30% were less in favour and 53% remained impartial. When asked to explain their reasons, the response was that it would depend on the individual situation.

8.1.10 In conclusion, 58% of respondents felt that people's attitudes had changed towards school attendance since the introduction of fixed penalty notices.

## **8.2 School Perception:**

8.2.1 Consultation has also been conducted with a range of head teachers. It highlighted that whilst all schools shared a common aim of raising school attendance, each had adopted a varying approach based on the specific requirements of their school and needs of their local community.

8.2.2 Of the head teachers interviewed at the time of consultation, the following responses were received regarding their approaches towards holidays in term time and the issuing of fixed penalty notices:

- 37% had adopted the zero tolerance approach to holidays in term time and were issuing fixed penalty notices for unauthorised absences in line with Rhondda Cynon Taf's Code of Conduct in all instances save the exceptions;
- 37% had adopted a varying firm approach to holidays in term time that communicated a strong message to parents but was not zero tolerance; these schools were also issuing fixed penalty notices where they were unauthorising holiday requests;
- 11% had adopted a zero tolerance stance towards holidays in term time but were not issuing fixed penalty notices;
- 15% had chosen to remain with their current approach toward holiday in term time and were not issuing fixed penalty notices for a variety of reasons (i.e. waiting to see the outcome of other schools, and, misunderstanding that if they adopted zero tolerance they also had to issue a fixed penalty notice for every unauthorised holiday).

8.2.3 Of the 37% that stated they had adopted a varying firm approach to holidays in term time and the issuing of fixed penalty notices, the types of alternative models included:

Variation	No. of Schools
1 FPN per family	3
95% attendance threshold	1
90% attendance threshold	1
95% attendance threshold Holiday not taken in September or during testing period No exclusions Holiday does not exceed more than 10 days taken	1
Holiday does not exceed more than 5 days	1

Table 3: School Variation to Holidays in Term Time and Issuing of Fixed Penalty Notices

- 8.2.4 Many head teachers seemed to have approached FPNs with caution, exercising their head teacher discretion outlined in The Education (Pupil Registration) (Wales) Regulations 2010 to supersede the zero tolerance recommended by the LA when they feel it appropriate.
- 8.2.5 Schools were asked if they supported the three possible exceptions to the zero tolerance to holidays in term time having now implemented the policy since January 2015. 100% agreed with each of the following exceptions:
- Families of serving armed forces personnel;
  - Parent or child experiencing a life limiting illness;
  - Families that had suffered an acute trauma.
- 8.2.6 32% of schools stated the exceptions were too vague and open to interpretation. However, definitions cannot be provided as this would be too restrictive and was deliberately left open to head teachers' discretion. **This has since been superseded by the Minister's statement as these considerations have now been consumed into the wider considerations a head teacher has to make when processing a request for a leave of absence.**
- 8.2.7 Schools were also asked if there were any other exceptions that should be considered. The most popular responses are stated below:
- 42% believed family weddings abroad should be considered an exception;
  - 26% felt that parents whose work commitments prevent them from taking holidays in school holidays i.e. public services should be considered an exception (evidence would need to be provided to school).
- Other suggestions included:
- Families in receipt of free school meals (2 schools);
  - One off sporting events (2 schools);
  - Religious events abroad for EAL pupils (2 schools);
  - Pupils on child protection register (1 school).
- 8.2.8 68% of schools expressed concern over the number of parents they believe are not forthcoming about their child's absence to avoid receiving an FPN. They have identified that many parents are telephoning in at beginning of day stating their child is too ill to attend school, whilst schools are aware of information contradicting this. However, unless schools receive confirmation from a parent

that a holiday will take place, an FPN for an unauthorised holiday in term time cannot be issued.

8.2.9 Since seeking head teacher feedback on the FPN scheme, the Minister for Education wrote to all head teachers in January 2016 with proposed guidance for managing leave of absence requests for holidays in term time. This guidance requested that all references to a 'zero tolerance' approach be removed from documentation, as well as the term 'exceptional circumstances' due to the phrase being used in another section of the legislation, where it refers to an alternative matter. Lastly, the then Minister suggested that head teachers use their full discretion when considering holiday requests, stating that factors such as "time of year of the proposed trip, length and purpose of the holiday, impact on continuity of learning, circumstances of the family and the wishes of parents as well as the overall attendance pattern of the child" should be included in the process.

8.2.10 This statement from Welsh Government so long after the introduction of firm stance of holidays in term time and fixed penalty notices alike and adverse media reporting has impacted on schools' willingness to request FPNs.

8.2.11 Schools are starting to report parents stating that they are removing their children from education on specific dates for the purpose of a holiday because they believe the national policy is now that they do not have to request the leave of absence.

8.2.12 Head teachers are reportedly facing a high volume of direct and indirect (e.g. social media) negative feedback from parents where a holiday request is still being refused, their child's absence unauthorised and a fixed penalty notice requested (in line with the Minister's guidance for consideration), as the parents believed that they would no longer be fined following the media reporting in January 2016.

8.2.13 This situation has encouraged greater cluster working between schools to deal with the repercussions; a positive outcome from a negative situation. This greater cluster consistency should make for stronger working relationships and fewer issues within sibling groups. However, it has also given rise to greater inconsistency between clusters, as the approaches differ across RCT and the surrounding boroughs.

## **9. NATIONAL EVALUATION OF FIXED PENALTY NOTICES FOR REGULAR NON-ATTENDANCE AT SCHOOL**

9.1 ICF Consulting and Arad Research were commissioned by the Welsh Government to undertake an evaluation of the use of Fixed Penalty Notices (FPNs) as a result of regular non-attendance of pupils at school. The conclusions of the report issued in May 2018 are as follows:

9.1.1 FPNs were gradually introduced by most LAs in the 2014/15 academic year; some LAs provided guidance and training and publicised the new regulation.

9.1.2 Interviewees indicate that requests for FPNs to be issued are made by school heads to the LA and that head teachers use their discretion in reaching this

decision by taking account of other factors when pupils reach thresholds and trigger points specified in the LA codes.

- 9.1.3 LA officers make the decision and consider the evidence against the local code, some are turned down. Survey respondents and interviewees believe that the codes are used to make decisions and provide discretion in reaching that decision.
- 9.1.4 All but three LAs have issued FPNs; in 2015/16 the numbers varied considerably with two LAs issuing over one thousand and two others over 250, whereas nine issued under 50. In LAs where reasons for FPNs are recorded, most FPNs are issued for general unauthorised absences as defined in LA codes (including truancy) with fewer FPNs issued for unauthorised absences due to holidays or lateness.”
- 9.1.5 The number of FPNs issued is expected to fall in 2016/17 compared to 2015/16 possibly because of more caution and initial effectiveness in reducing unauthorised absence.
- 9.1.6 Survey respondents’ knowledge and understanding of what the LA code specifies to trigger a FPN and who decides is variable. This may indicate that the codes are not clear or well understood.
- 9.1.7 Survey respondents’ and interviewees indicate that practice in schools is variable in terms of whether FPNs are considered and which unauthorised absences trigger consideration. This may explain the extent of no use and different levels of use among schools.
- 9.1.8 Factors influencing the use of FPNs by schools include the school’s practices on relations with parents, the perceived administrative burden for the resources they have available, the overall level of absence and peer pressure by other schools.
- 9.1.9 Factors influencing how proactive LAs are in challenging schools to use the measure to improve attendance and reduce unauthorised absence include officers’ perception of the effectiveness of the measure, the administrative burden with the resources they have available, and their legal team’s views on the quality of evidence required.
- 9.1.10 There is no discernible relationship between FPNs issued and the level of unauthorised absence at LA level which might have been expected as it is a measure to reduce this although a few LAs use does reflect their levels of unauthorised absence.
- 9.1.11 There is no evidence of a relationship between changing levels of authorised, unauthorised and overall absence and FPNs but the relative levels of each suggest that different interpretations are being made despite similar LA codes.
- 9.1.12 Most FPNs (71%) are paid within 42 days.

- 9.2 Based on the above national consultation findings, coupled with the local outcomes, a number of recommendations have been made in point 11.

## 10. CONCLUSION

- 10.1 Cabinet and the Education Scrutiny Committee have made improving school attendance a priority for the Council and its schools. This was evident in the previous decision to support a firm stance on holidays in term time at the time of introducing the Fixed Penalty Notice scheme for tackling non-school attendance.
- 10.2 Working with the schools, parents and the wider community, attitudes to school attendance in RCT had changed through increased awareness of the impact absenteeism has on the educational outcomes and social and emotional wellbeing of pupils. Whilst in the last two years this may have waned following the statement about holidays in term time, it was evident at the time that many parents were aware of the impact of school absence on their child's education, and as a result were actively removing their child from school for fewer or no days each year for the purpose of a family holiday.
- 10.3 The new School Attendance Strategy aims to reinvigorate these attitudes and re-iterate the message that a pupil's chance of succeeding is increased with greater participation in quality education.
- 10.4 As school attendance rates have decreased in comparison to previous years, it is important that the Council, Governing Bodies and other public agencies continue to support the head teachers in striving to achieve improvements in attendance rates year on year in order to secure the best outcomes for pupils. This can be achieved by supporting the following next steps that are crucial to maintaining the improvements the head teachers and LA services have struggled to accomplish to date.

## 11. NEXT STEPS

- 11.1 Following this report to Scrutiny Committee Members, it is asked that based upon the findings of this review it is agreed for the following recommendations be made to Cabinet Members:

**11.1.1 Members are encouraged to agree to the LA continuing its fixed penalty notice scheme in light of the school attendance improvements it has helped to achieve, whilst maintaining a firm stance to holidays in term time.** Whilst the 'zero tolerance' and 'exceptional circumstance' phraseology has been withdrawn, it is recommended that fixed penalty notices and the firm stance on holidays on term time remain throughout Rhondda Cynon Taf. Fixed penalty notices have proven to raise attendance levels in several categories which they can be used for, and now the LA should encourage schools for a wider 'take up' in the general unauthorised absence areas. Additionally, the LA should support schools to find strong methods of operating fair and consistent means of considering each application received for holiday in term time, whilst continuing to promote to the community that school absence is proven to have a negative impact on child's education and this includes time out of school for family holidays. LA services will continue to support schools by offering the service of processing fixed penalty notices to tackle absenteeism where it is less entrenched, as an additional tool to the more complex interventions currently available.

- 11.1.2 Members may consider amending the Code of Conduct to allow a school to request more than one fixed penalty notice per child per academic year.** This has been a consideration raised by some schools and the Welsh Government. The Welsh Government queried why the LA had opted to limit itself to only issuing a maximum of one per pupil per academic year, when the opportunity to have further issued to a parent may be more of a deterrent to future unauthorised absences. Some schools queried the same approach, stating that with the 'unauthorised holidays in term time' criteria, some families may choose to remove their children for a holiday in the autumn term, for example, and based upon the circumstances, attract a fixed penalty notice, but then continue to take further family holidays during the school terms in the spring and summer months. If the number of fixed penalty notices available were higher, this could possibly deter additional family holidays at later points in the academic year which would be compounding the child's attendance levels once considered in conjunction with previously holiday absences in the same year.
- 11.1.3 Members may consider implementing the scheme on a twelve month rolling basis as opposed to an academic year.** This is a method used in other LAs across Wales. Whilst a parent could not receive more than the Code-stated number of FPNs in a twelve month period, it would mitigate against a parent having FPNs issued to them in close succession.
- 11.1.4 Members may consider if it would be appropriate and beneficial to tackling absence if the criteria for issuing an FPN were amalgamated, i.e. ten or more unauthorised absences in a term.** At present, there are five criteria for issuing an FPN, however, all are for unauthorised absence. The types of unauthorised absence include unauthorised holidays in term time ('G' code), general unauthorised absence ('O' code) and unauthorised absence due to late arrival ('U' code). Should the criteria change to state that an FPN could be issued for ten or more unauthorised sessions in a term, which could be a amalgamation of 'G', 'O' and 'U' codes, a school could act upon the unacceptable level of casually condoned absence more swiftly and progress the matter with more timely escalation. Short term holidays (less than 5 days) would not be penalised unless the pupil had also incurred other unauthorised absences during the same term.