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Evaluation of Fixed Penalty Notices issued for regular non-attendance at school

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Evaluation of Fixed Penalty Notices issued for regular non-attendance at school

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Views expressed in this report are those of the researcher and not necessarily those of the Welsh Government

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Glossary

Acronym	Definition
CSCJES	Central South Consortium Joint Education Service (Regional Education Consortium comprising of Bridgend County Borough Council, Cardiff Council, Merthyr Tydfil County Borough Council, Rhondda Cynon Taf County Borough Council and Vale of Glamorgan County Borough Council)
EAS	Education Achievement Service for South East Wales (Regional Education Consortium comprising of Blaenau Gwent County Borough Council, Caerphilly County Borough Council, Monmouthshire County Borough Council, Newport City Council, Torfaen County Borough Council)
ERW	Ein Rhanbarth ar Waith/ Education through Regional Working (Regional Education Consortium comprising of Carmarthenshire County Council, Ceredigion County Council, Neath and Port Talbot County Borough Council, Pembrokeshire County Council, Powys County Council, City and County of Swansea)
EWO	Education Welfare Officer (member of the Education Welfare Service)
EWS	Education Welfare Service (service provided in each Local Authority)
FPN	Fixed Penalty Notices for regular non-attendance at school
GwE	School Effectiveness and Improvement Service for North Wales (Regional Education Consortium comprising of Conwy County Borough Council, Denbighshire County Council, Flintshire County Council, Gwynedd Council, Isle of Anglesey County Council, Wrexham County Borough Council)
LA	Local Authority
REC	Regional Education Consortium
SEN	Special Educational Needs

Executive Summary

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.
2. Improving the attendance of pupils in schools in Wales is 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. 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.
4. This study was tasked with conducting an assessment of how the FPN Regulations and FPN policy guidance has been implemented across Wales, how the codes of conduct were decided and how decisions are reached in practice on issuing FPNs applying the codes of conduct developed by LAs. The findings are used to assess how the guidance produced for FPNs has been used and interpreted, how the policy is operating and to determine whether any changes to the guidance or further guidance is needed. The findings will also be used to enable the Welsh Government to consider whether a more consistent approach to the issue of the FPN is required, this includes considering whether a national code of conduct would be beneficial.

Study aims

5. The aims of the study were to:
 - Evaluate different approaches by LAs across Wales when determining their FPN codes
 - Investigate the reasons why and circumstances in which FPNs are issued
 - Investigate how head teachers interpret and use LA codes when considering FPNs
 - Consider Regional Education Consortia (RECs) role in FPNs including drafting codes and providing standard guidance to schools
 - Consider if a national code of conduct is required and what stakeholders feel would be appropriate.

Study methodology

6. To meet the study aims, a range of qualitative and quantitative approaches were undertaken. The following research activities were completed:
 - Semi structured telephone interviews with LA officers responsible for implementing the FPN code in all in all of the 22 LAs in Wales
 - Semi structured telephone interviews with one REC and one stakeholder (Governors Wales)
 - An e-survey of teachers, LA and REC staff achieving 255 responses
 - Discussions with head teachers and Education Welfare Service (EWS) staff in six LAs engaging a total of 70 teachers and EWS staff either as a discussion group or through a number of telephone interviews
 - Analysis of Statistics Wales data on school absenteeism, Welsh Government data on FPNs and FPN data provided directly from LA officers
 - Analysis of all 22 LA FPN codes and other documents on FPNs produced by LAs
 - A review of academic and grey literature on the introduction of sanctions and their effect on school attendance and best practice in improving attendance and/or reducing unauthorised absence
 - Analysis and appraisal of possible options for future policy following HM Treasury guidance on multi-criteria analysis

Findings

7. The key findings of the research are as follows:

Approaches to developing LA Codes

8. LAs initially worked together in regional groups to develop their codes. Some neighbouring LAs worked together to develop identical codes. There is considerable consistency in wording and clauses included within final LA codes among LAs in the same region.
9. LAs consulted locally before finalising FPN codes. Some LAs undertook very limited consultation internally while others engaged with head teachers and others in the school community including teachers, parents and students.

10. Analysis of LA codes show the following requirements:
 - at least 10 sessions to be lost due to unauthorised absences before an FPN can be triggered (except one LA that requires 20).
 - Codes in 18 LAs include triggers on unauthorised absences due to holidays. Fifteen codes include triggers on truancy.
 - All codes include triggers for at least 10 sessions of persistent late arrival after the register has closed.
 - All LA codes in the South West and Mid Wales (ERW) consortium also require that overall attendance is below 90 per cent for an FPN to be issued.
11. RECs played a limited role in the development and implementation of FPN codes. All supported the initial coordination work. There is little evidence that RECs provided extensive training or guidance to schools on the implementation of their codes.

Implementation of the FPN Regulations in practice

12. FPNs were gradually introduced by most LAs in the 2014/15 academic year.
13. In practice, all requests for FPNs to be issued are made by school heads or their designated deputies to the LA. Head teachers, as expected, 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. LA officers make the decision and consider the evidence against the local code, some requests are turned down. Discretion in issuing an FPN is used by both head teachers and LA officers.
14. All but three LAs have issued FPNs; in 2015/16 the numbers varied considerably with two LAs issuing over 1,000 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
15. The number of FPNs issued is expected to fall in 2016/17 compared to 2015/16 possibly because of more caution and the initial effectiveness of FPNs in reducing unauthorised absence.
16. Survey respondents and interviewees indicate that practice in schools is variable in terms of whether FPNs are considered when thresholds are reached and which types of unauthorised absences trigger consideration. This may explain the extent of no use and different levels of use among schools.

17. Factors other than the LA code influencing the use of FPNs by schools include the individual circumstances of the child/parents which they are expected to take into account, the school's approach to maintaining relations with parents, the perceived administrative burden for the resources they have available, the overall level of absence, and the practice of other schools.
18. 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.
19. There is no discernible relationship between FPNs issued and the level of unauthorised absence at LA level. This might have been expected as it is a measure to reduce this, although a few LAs' use does reflect their level of unauthorised absence.
20. 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.

Alignment of the code with other policies and practices and its effectiveness

21. All LAs collect the FPN data required by the Welsh Government and do no other systematic analysis of their detailed data or of the links between school attendance data and FPNs. A few LAs have tracked or are currently tracking attendance of a small number of pupils to examine the effect of FPNs on individual pupils.
22. LA codes generally align with school policies on attendance. Schools generally have considered the use of FPNs and recognise it as one of various measures that can be used to encourage good attendance. But interviewees indicate that this did not mean that FPNs are routinely considered when pupils' attendance levels reach triggers and thresholds. In some schools there is a tacit understanding that FPNs will not be used or considered as an option. It is also recognised that for some families and individual pupils FPNs are not appropriate.
23. There are mixed views among survey respondents on the efficacy of FPNs with 56 per cent believing they are effective but 37 per cent believing they are not. Some interviewees explained that they were initially sceptical about the efficacy of FPNs but have since observed positive changes in attendance and have therefore become convinced that they can be effective for some pupils and parents. Many believe the warning letter to be an effective deterrent.

24. Some unintended consequences have been reported by interviewees as parents become knowledgeable about the attendance triggers and thresholds in LA codes and the fines when paid on time are considerably less than the savings on term time holidays.

Future Policy Options

25. Survey respondents and interviewees believe there is a need for better guidance and training from LAs and the Welsh Government in particular to increase consistency in the implementation of the FPN policy and therefore fairness.
26. There is little appetite among survey respondents for maintaining the status quo or abolishing FPNs.
27. The majority of survey respondents (88 per cent) agree that there should be a single national code. But many interviewees recognise that while this ought to improve consistency it depends on how far schools believe FPNs are an effective measure.
28. The research literature does not provide strong evidence that financial sanctions by themselves always have a positive effect on the behaviour of adults in social policies. At a small scale some studies have found overall positive effects from financial sanctions. These are believed to be greater where those affected have a good knowledge and understanding of why the sanction has been used and how it is determined.
29. The Welsh Government's All Wales Attendance Framework largely reflects published good practice, particularly the focus on prevention and early intervention. It could be improved by making suggestions on: good practice in addressing attendance in early years' settings to set good behaviours, engaging parents, analysing monitoring data at LA level and emphasising the relationships between attendance and falling behind and bullying.
30. Drawing on the findings of this study, the current guidance on FPNs could be strengthened to address some of the problems arising from the LA codes. Areas for improvement include:
- Reiterating that head teachers have discretionary power to authorise leave where parents seek permission;
 - Simplifying guidance on when it would be appropriate to issue a penalty notice;
 - Updating guidance on roles and responsibilities for issuing penalty notices and the role of the RECs to reflect current working practices;

- Encouraging LAs to publish statements on revenue collection information to dispel perceptions that FPNs are used as a revenue-boosting measure.

31. From an assessment of the policy options it is clear that either a single national code or stronger national guidance to inform local codes would be more beneficial than no change or abolishing FPNs in Wales. A single national code with strengthened guidance to LAs and schools on applying the code would be expected to have a greater effect on administrative consistency and the level of unauthorised absence than strengthened guidance to LAs and schools on LA codes and their implementation.

1. Introduction and Background

1.1 ICF Consulting and Arad Research were commissioned by the Welsh Government to undertake an evaluation of the use of FPNs issued for regular non-attendance of pupils at school.

1.2 This report provides information on the different approaches followed by local authorities (LAs) across Wales in setting and implementing their policies on issuing FPNs. It then presents an assessment of future policy options to be considered by the Welsh Government. It draws on information collected through qualitative interviews with LA staff, discussion groups with head teachers and others involved in the process, an online survey of school and LA staff, and analysis of data and documents on non-attendance and the use of FPNs. The research was conducted between March and July 2017.

Background and context

Effect of absence on pupil attainment

1.3 Improving the attendance of pupils in schools in Wales is 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.

1.4 A study of attainment in English schools for the Department for Education (DfE) (2016), found that for pupils with the same prior attainment and characteristics, for each school session (half a day) increase in overall absence across Key Stage 2 there is:

- A reduction of around 0.2 per cent in the likelihood of pupils' achieving level 4 or above in reading and mathematics; and
- A reduction of around 0.4 per cent in the likelihood of achieving a level 5 or above in the same subjects.¹

1.5 For Key Stage 4, the study found that for each school session missed there was:

- A reduction of around 1.8 per cent in the likelihood of achieving 5 A*-C grades at GCSE or equivalent, including English and mathematics; and
- A reduction of around 2.1 per cent in the likelihood of achieving the English Baccalaureate.²

¹ <http://dera.ioe.ac.uk/25828/1/The-link-between-absence-and-attainment-at-KS2-and-KS4-2013-to-2014-academic-year.pdf>

1.6 Across Wales, 5 per cent of all (primary and secondary) school half day sessions were missed due to absence in 2015/16³. There has been a noticeable reduction in absence over recent years, with 7.8 per cent of school half day sessions missed in 2011/12. This fall is mainly accounted for by the reduction in authorised absences, which fell from 6.5 per cent of school half day sessions in 2011/12 to 4.6 per cent in 2015/16. The proportion of sessions lost fell in all LAs over this period. Unauthorised absences have remained broadly at the same levels; 1.4 per cent in 2011/12 and 1.3 per cent in 2015/16. There are considerable differences in the level of unauthorised absences between LAs. This ranges from 0.3% of school half day sessions in Gwynedd to 2.0% in Newport. Further detail is presented in Section 4, paragraphs 4.14 to 4.23.

Regulatory background to FPNs for regular unauthorised non-attendance at school

1.7 The following duties are laid out in legislation:

- **Parents** are responsible for ensuring that their child attends school regularly or receives a suitable education in another setting;
- **Schools** have a duty to monitor pupil attendance at school. Schools are required to inform LAs if a pupil fails to attend the school regularly; or has been absent from the school on unauthorised absence for a continuous period of not less than ten school days;
- **LAs** have a duty to take action to ensure that a child living in the authority's area is receiving a suitable education either by regular attendance at school or otherwise.

1.8 In 2013, the Welsh Government enacted the Education (Penalty Notice) (Wales) Regulations. The '2013 Regulations' allow FPNs to be issued to parents for regular unauthorised absence.

1.9 The Regulations required LAs to develop a code of conduct for the issuing of FPNs across their area. Further details on these Regulations are presented in Section 2, paragraphs 2.5 to 2.16. LAs adopted local FPN codes in 2014 and, depending on the date of adoption, started issuing FPNs either in the middle of the 2014/15 academic year or at the start of the 2015/16 academic year.

² Ibid.

³ Statistics Wales, Education and skills, Absenteeism, <https://statswales.gov.wales/Catalogue/Education-and-Skills/Schools-and-Teachers/Absenteeism>

Study aims and research questions

- 1.10 This study was tasked with conducting an assessment of how the FPN policy has been implemented across Wales, how the codes of conduct were decided and how decisions are reached in practice on issuing FPNs applying the codes of conduct developed by LAs. The findings are used to assess how the guidance produced for FPNs has been used and interpreted, how the policy is operating and to determine whether any changes to the guidance or further guidance is needed. The findings will also be used to enable the Welsh Government to consider whether a more consistent approach to the issue of the FPN is required. This includes considering whether a national code of conduct would be beneficial.
- 1.11 The study has five key research objectives and related research questions. These are to:
- Evaluate different approaches by **LAs across Wales** when determining their FPN codes
 - What was the initial rationale behind FPN codes?
 - How did LAs approach development of their code?
 - What was the Regional Education Consortium’s (REC) role in the development of the code?
 - How were decisions made about each element of the code?
 - Investigate the reasons **why and circumstances in which FPNs are issued**
 - With the code in place, how are FPNs issued in practice?
 - Who is involved when an FPN is issued?
 - What kind of communication is there between LAs/REC and schools?
 - What are the typical reasons why an FPN is issued?
 - How are FPNs used in comparison to other options to improve attendance?
 - What factors influence whether FPNs are paid promptly?
 - To what extent do the number and nature of the FPNs issued match the LA code? How widely is it used by stakeholders as a reference document?
 - Investigate **how head teachers interpret and use LA codes** when considering FPNs
 - What kind of monitoring arrangements are there to track FPNs? Are these fit for purpose?
 - Does the LA code align with school policy? Do schools consider parental requests for absence on a case by case basis?
 - Do stakeholders think FPNs contribute to improved attendance? If so, why? If not, why not?
 - What elements of the code enable/hinder this?

- Consider **RECs role in FPNs** including drafting codes and providing standard guidance to schools
 - What was the REC’s role in the development of the code?
 - How was REC training received?
 - What guidance did REC’s give and what might be useful in the future?

- Consider **if a national code of conduct is required** and what stakeholders feel would be appropriate
 - Is it appropriate to keep LA codes?
 - Would it be useful to have additional guidance from RECs?
 - Would it be useful to have additional guidance from the Welsh Government?
 - What are the advantages/disadvantages of having an all Wales code?

Study methodology

1.12 To meet the above research aims and objectives, the study included the following tasks:

- **Telephone interviews with all LAs (22):** we completed semi-structured interviews with LA officers responsible for implementing the FPN code in all LAs in Wales. The interviews examined the LA’s approach to establishing the code, its rationale for key features, who is involved in decision making, reasons for the current levels of FPNs, perceptions of effectiveness, problems and issues with the process and views on future options and areas for improvement.

- **Telephone interviews with RECs and stakeholders (2):** we completed interviews with one REC and one stakeholder organisation (Governors Wales) with an interest in school attendance policy. We made contact with the three other RECs and five stakeholder organisations but these declined to participate or did not respond to requests. The reasons offered by the RECs were that they did not believe they had a primary role in FPN implementation and could not offer any views on the matter. The interviews examined support offered by RECs to LAs in the run-up to adopting a code, any involvement since that stage and perceptions of effectiveness, problems and issues with the process, and views on future options and areas for improvement.

- **Distribution of an e-survey achieving 255 responses:** an online survey was launched on 24 May 2017 and was closed on 30 June 2017. The link to the survey was disseminated through direct emails to school attendance contacts (where these were provided by the LA), to general school email addresses and

indirectly via LA contacts (where they were willing to do so) and a notification in the Welsh Government's Dysg newsletter⁴. The survey received 207 full responses and 168 partial responses. Following a review of partial responses, 48 responses were included in the analysis where all relevant introductory questions⁵ and at least one substantive question out of a minimum of 24 questions and a maximum of 48 questions were answered. It should be noted that the survey employed convenience sampling rather than systematic or stratified sampling. Furthermore, the process of convenience sampling may have led to overrepresentation of responses from LA areas where LA contacts were particularly active in encouraging responses. No weighting has been applied to the results. As such, survey results do not provide a statistically representative representation of views of those responsible for attendance in schools in Wales.

- **Discussion groups with head teachers and Education Welfare Service (EWS) staff in six LAs:** we organised discussion groups with head teachers, deputy head teachers and EWS staff in five case study LAs and undertook a series of semi-structured interviews with head teachers in one case study LA where it was not possible to arrange a single face-to-face meeting. The case study areas (Carmarthenshire, Cardiff, Ceredigion, Merthyr Tydfil, Newport, and Gwynedd, which also included schools from Isle of Anglesey) were selected to include LAs with high, medium and low levels of unauthorised absences and high, medium and low levels of FPNs issued as well as to account for different contexts⁶. These discussions were designed to provide insights into the challenges with both relatively high and low rates of unauthorised absence and how the range of approaches used is implemented in practice. A total of 70 teachers and EWS staff were engaged through these discussion groups.
- **Data analysis:** we undertook analysis of Statistics Wales data on school absenteeism by pupils of compulsory school age (age 5 – 15)⁷. In particular, we examined trends in authorised and unauthorised absences in primary and secondary schools between 2011/12 and 2015/16. We also examined data on FPNs issued by LAs in 2014/15 and 2015/16 held by Welsh Government (compiled from returns provided annually to Welsh Government by LAs). We used

⁴ The notification was published in both 'pre-11' and 'post-11' newsletters.

⁵ Introductory questions asked respondents for information on their organisation type and job role. Depending on the type of organisation, respondents were asked between 3 and 6 introductory questions.

⁶ LAs selected from urbanity / rurality, geographical locations within Wales, tourist locations (coastal/rural) and sizes of student population.

⁷ <https://statswales.gov.wales/Catalogue/Education-and-Skills/Schools-and-Teachers/Absenteeism>

this data to identify patterns and trends and matched these with Statistics Wales data on absenteeism to identify any statistical relationship between different levels of FPNs and types of absenteeism. We also collected data on FPNs issued for the first two academic terms of 2016/17 as part of engagement with LA Officers and examined FPN trends for the first three years of operation. We also completed analysis of reasons why FPNs were issued in 2014/15 and 2015/16 for LAs which collect this and were able to provide us with the data.

- **Document review:** we obtained all 22 LA FPN codes from the web or through LA Officers⁸ (FPN codes for five LAs were not available on their websites on various dates during May 2017 when the review was being carried out despite this being a requirement as per WG guidance for LAs) and reviewed these to identify commonalities and differences in wording. We also collected and reviewed additional guidance documents and training materials produced by LAs.
- **Literature review:** we completed a review of academic and grey literature to identify empirical evidence of any relationship between the introduction of sanctions and improved attendance and to summarise the latest evidence on best practice for policies aimed at improving attendance and/or reducing unauthorised absence.
- **Analysis and option appraisal:** we used information gathered in all the tasks to inform a qualitative assessment of the possible options for future policy. The assessment followed HM Treasury guidance on multi-criteria analysis⁹.

1.13 Research tools guiding the above tasks (interview topic guides, survey questionnaire and literature review protocol) are included as Annex 2.

Report structure

1.14 The remainder of this report is structured as follows:

- Section 2 – Policy background and context;
- Section 3 – Approaches to developing LA codes;
- Section 4 – Implementation of FPN process in practice;
- Section 5 – Alignment with other policies and effectiveness;
- Section 6 – Policy options and assessment

⁸ FPN Codes for five LAs were not available on their websites on various dates during May 2017.

⁹ HM Treasury Green Book: supplementary guidance, Multi-criteria analysis: a manual, January 2009, <https://www.gov.uk/government/publications/green-book-supplementary-guidance-multi-criteria-decision-analysis>

1.15 It also includes the following annexes:

- Annex A – References
- Annex B – Research Tools

2. Policy background

2.1 In this section we briefly set out the policy context in which FPNs were developed.

Improving attendance

2.2 Improving school attendance has for some time been (and continues to be) a key area for the Welsh Government. In 2009, the Welsh Government published ['Behaving and Attending: Action Plan Responding to the National Behaviour and Attendance Review'](#). This action plan emphasised the importance of schools identifying behavioural and attendance issues and putting early intervention strategies in place before a pupil starts to establish a pattern of non-attendance. It also emphasised the importance of involving parents early in any intervention, stating; 'Parents and carers, pupils and teachers all need to work in an environment of mutual respect where all have a clear understanding of both their own rights and the rights of others'.

2.3 The key commitments given were that:

- The Welsh Government would revise attendance codes to ensure greater consistency of practice and would develop an All-Wales Attendance Framework in collaboration with LAs and the EWS; and
- Schools would work with their school councils and pupils to consider ways to improve attendance, work with the EWS to ensure more consistent referrals and be rigorous in collecting attendance data.

2.4 Following the action plan the Welsh Government issued regulations and guidance setting out expectations and the roles to be carried out by LAs and schools to improve pupil attendance as discussed below.

Regulations

2.5 By law, a parent/carer is responsible for making sure that their child of compulsory school age (broadly this means children aged 5–16 years old) receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any Special Educational Needs (SEN) the child may have according to section 7 of the Education Act 1996 ('1996 Education Act')¹⁰. This is by regular attendance at school or otherwise (the parent/carer can choose to educate their child at home).

¹⁰ <http://www.legislation.gov.uk/ukpga/1996/56/section/7>

- 2.6 If it appears to the LA that a child is not receiving suitable education, then it must begin procedures for issuing a school attendance order under section 437 of the Education Act 1996.
- 2.7 Under Section 444(1A) of the Education Act 1996 it is an aggravated offence where a parent, knowing that their child is failing to attend regularly at school, fails without reasonable justification to cause their child to attend. Parents can be prosecuted for this offence which can attract a fine of up to £2,500 a parent for each absent child, or imprisonment up to a maximum of 3 months, or both.
- 2.8 Monitoring pupil attendance is a duty of schools. The Education (Pupil Registration) (Wales) Regulations 2010 (the ‘2010 Regulations’)¹¹ require that a school keeps a register of pupils’ attendance, recording attendance for each pupil at two points during each day; at the start of the morning session and at one point during the afternoon session. If a pupil is absent, this should record whether the absence is authorised or unauthorised.
- 2.9 There are a variety of reasons why a school may authorise parental requests for a child’s absence from school. These include sickness or the need to set aside time for religious observance. The ‘2010 Regulations’ allow discretionary powers for a school to grant authorised absence from school to enable a pupil to go away on holiday and set a maximum limit (ten days a year) above which leave of absence would not be granted (other than in exceptional circumstances)¹². In effect, this means that authorisation for a two-week absence for a family holiday could be granted by the head teacher.
- 2.10 Unauthorised absences include absence without any reason, late arrival at school after the register has closed (“U” code recorded in school attendance data), and pupils on holidays which have not been authorised by the school (either because they were turned down, no request was made, or where a family holiday exceeded the number of days authorised by the school).
- 2.11 Under the ‘2010 Regulations’, schools are required to provide data returns to LAs at regular (though unspecified) intervals.

¹¹ <http://www.legislation.gov.uk/wsi/2010/1954/contents/made>

¹² The All Wales Attendance Framework makes reference to extended overseas trips for pupils from minority ethnic families. In particular, it states that “schools should ensure that full account has been taken, not only of the Regulations and Welsh Assembly Government guidance, but also of the situation of the minority ethnic family in general and the particular circumstances relating to each individual case”. The Framework does also suggest that schools should explain to parents that “if holidays must be taken during term time, absence should not exceed more than ten school days”.
<http://gov.wales/docs/dcells/publications/121121frameworken.pdf>

- 2.12 To provide an additional way for LAs to tackle regular unauthorised absence, the Welsh Government enacted the Education (Penalty Notice) (Wales) Regulations 2013 ('2013 Regulations')¹³. At their introduction, the then Minister for Education and Skills Huw Lewis AM made clear that FPNs "should be viewed as an additional option to current intervention measures already available to schools and local authorities"¹⁴.
- 2.13 The '2013 Regulations' require LAs to develop and consult on a code of conduct which sets out measures to ensure consistency and transparency in the issuing of FPNs across their area. They should include information on the:
- Means of avoiding the issue of duplicate penalty notices;
 - Measures to ensure that a penalty notice is not issued in respect of an offence when proceedings for that offence are contemplated or have been commenced by the LA;
 - Occasions when it will be appropriate to issue a penalty notice for an offence;
 - Maximum number of penalty notices that may be issued to one parent in any twelve-month period; and
 - Arrangements for co-ordination between the LA, neighbouring local authorities where appropriate, the police and authorised officers¹⁵.
- 2.14 The Regulations set financial penalties at:
- £60, where the amount is paid within 28 days of receipt of the penalty notice; or
 - £120, where payment is within 28 and 42 days.
- 2.15 The LA can instigate legal proceedings for non-payment after the 42 day period. LAs are required to keep records of FPNs, such as when each was issued, when payments were made, if and why a notice was withdrawn and whether the recipient was prosecuted.
- 2.16 The '2013 Regulations' also stipulate that proceeds from FPN fines paid are kept by the LA to cover costs associated with issuing and enforcing penalty notices and

¹³ <https://www.legislation.gov.uk/wsi/2013/1983/contents/made>

¹⁴ Welsh Assembly The Record of Proceedings, 02/07/2013, Statement: Introduction of the Education (Wales) Bill by Huw Lewis AM, <http://www.assembly.wales/en/bus-home/pages/rop.aspx?meetingid=64&assembly=4&c=Record%20of%20Proceedings&startDt=01/07/2013&endDt=01/09/2013&keyword=fixed%20penalty%20notice>

¹⁵ Authorised officer" is defined in section 444B(4) of the [Education Act 1996 \(c.56\)](#) in relation to penalty notices under section 444A of that Act. <https://www.legislation.gov.uk/ukpga/1996/56/section/444>

prosecuting non-payment. Any proceeds not used for this purpose will be returned to the Welsh Ministers.

Guidance on specific measures to improve attendance

- 2.17 To support schools and LAs to optimise attendance and to encourage more consistency of practice, the Welsh Government published an '*All Wales Attendance Framework, An operating toolkit for the Education Welfare Service*'¹⁶ in 2011. This included strategies for schools to improve attendance and manage lateness.
- 2.18 Schools are encouraged to have in place a range of initiatives to support attendance such as having a comprehensive attendance policy, promoting the benefits of regular attendance to parents (improved learning, less chance of falling behind, social benefits of making friends, less risk of criminal or antisocial behaviour, etc.), contacting parents if children miss school without explanation, ensuring classroom staff understand attendance codes and regularly reviewing attendance data so that school leadership teams understand trends in their school, which pupils are not attending regularly and which intervention strategies have been used. The Framework stresses that 'It is essential when school staff feel that a pattern of non-attendance is emerging, they work closely with education, social and health support services to ensure the most appropriate and effective intervention is available to the pupil and parents'. Schools are also encouraged to have a clearly understood and consistently administered policy detailing the circumstances in which they will not authorise absence.
- 2.19 In 2013 the Welsh Government published guidance on issuing FPNs for regular unauthorised non-attendance at school. The guidance is clear that FPNs are one of a range of actions available to schools to improve attendance. It suggests that FPNs may be most effective for cases of non-entrenched absence at particular times in the school year or by particular groups of students, such as for absence in the run up to exams. FPNs can also be used to tackle truancy in circumstances where the parent/carer is judged capable of securing their child's regular attendance or whereabouts but is not willing to take responsibility for doing so, for example where the parent/carer has failed to engage with any voluntary or supportive measures previously proposed.

¹⁶ <http://gov.wales/topics/educationandskills/schoolshome/pupilsupport/framework/?lang=en>

- 2.20 The guidance is clear that schools and LAs should work with parents/carers and pupils to encourage attendance and provide any necessary additional support, before taking forward any prosecution. It states that it is good practice but not a legal requirement for parents to be given a written notice warning them of the likelihood of a FPN being issued and allowed 15 school days to improve attendance. Schools should also consider if non-attendance is linked to a pupil's additional learning needs (ALN) and should not issue FPNs as an alternative to working with parents to address these.
- 2.21 In January 2016, Huw Lewis AM, the then Minister for Education and Skills, wrote to all head teachers providing further guidance on authorising holidays in term time¹⁷. This followed a letter to Directors of Education on the same issue in December 2015.
- 2.22 The letter to head teachers stresses that the Pupil Registration (Wales) Regulations 2010 provide head teachers with discretionary power to authorise a family holiday of up to 10 days in term time where parents seek permission. It also stresses that requests for holiday absences of more than 10 days can be considered where there are 'exceptional circumstances'. The letter also states the Minister's concern with blanket policies on refusing requests for such absences and reminds head teachers to consider each request fairly and on its merits.
- 2.23 A frequently asked questions document on holidays in term time in Wales was originally published by the Welsh Government in Spring 2016 and updated in May 2017¹⁸. The updated document provides information about the case taken by the Isle of Wight Council to the Supreme Court (the "Isle of Wight case") on fines for unauthorised absence. The case sought clarification on what constitutes regular attendance at school. The Supreme Court ruled that *regular attendance* means attendance in accordance with the rules prescribed by the school. The document explains that in practice this means that the governing body, rather than a child's parents, must decide what constitutes regular attendance and that parents must seek permission of the head teacher to remove a child from school for a family holiday. If a head teacher refuses a request and the parent takes the child on holiday anyway, then it would be marked as an unauthorised absence and could potentially lead to a penalty notice being issued to the parent.

¹⁷ <http://gov.wales/docs/dcells/publications/160111-holidays-in-term-time-letter-en.pdf>

¹⁸ <http://gov.wales/docs/dcells/publications/170516-holidays-in-term-time-faq-v2-en.pdf>

3. Approaches to developing an LA Code

This chapter provides evidence for considering the following research questions:

- Evaluate different approaches by Wales's LAs when determining their FPN codes
 - What was the initial rationale behind FPN codes?
 - How did LAs approach development of their code?
 - What was the REC's role in the development of the code?
 - How were decisions made about each element of the code?
- Consider RECs role in FPNs including drafting codes and providing standardised guidance to schools
 - What was the REC's role in the development of the code?
 - How was REC training received?
 - What guidance did RECs give and what might be useful in the future?

Development of the LA Code

Initial development work in regional consortia

- 3.1 Following the publication of the Welsh Government's guidance, all LAs initially worked in four regional groups (along REC groupings) to develop FPNs codes. These were either existing regional groups within RECs which had an interest in attendance policy or new groups convened and hosted by REC staff. REC staff input in these groups appears to be variable with at least one REC providing staff time to help the group members interpret guidance and help with drafting. Many LA interviewees stated that when they started the process they expected to adopt regionally identical codes. A few also stated that they initially expected to adopt a national Welsh code, indicating a misunderstanding of the Welsh Government guidance, before realising that a local code was needed.
- 3.2 In developing a code, LAs were informed by analysis of unauthorised absence data and the Welsh Government guidance. Some LAs also considered views of teachers and EWS practitioners.
- 3.3 The groups reached consensus on key aspects of the code and regional draft code documents were created. These drafts were then taken back by LAs to discuss further with internal and external stakeholders.
- 'The wording, and the focus of the code of conduct ended up differently... the consortium gave the initial lead, but it was left to the local authority'. LA Officer

- 3.4 Some neighbouring LAs continued to work together on their codes after the regional work had ended and tried to ensure that their codes were similar or identical. These LAs felt that having identical codes would help give a consistent message to parents whose children may attend schools in different LAs and help with prosecutions where LAs share a magistrates' court.
- 3.5 It is clear that these initial discussions and further coordination work strongly influenced the finally adopted codes. Table 3.1 shows that there is considerable consistency in wording included in final LA codes between LAs in the same region.

Table 3.1: Reasons for issuing FPNs in LA Codes

LOCAL AUTHORITY		UNAUTHORISED ABSENCE				HOLIDAYS				PERSISTENT LATENESS			OTHER
		Number of sessions lost due to unauthorised absence				Number of sessions lost due to holidays in term time or delayed return from extended holidays:				Pupil arrives after the close of registration for more than the following number of sessions:			Failure of parents or carers to engage with the school and/or the EWS
		10 during the current term	20 during the current term	10 during the current term bringing overall attendance below 90% in the school year	10 lost during the current academic year					10	20	10 bringing the overall pupil attendance below 90% in the school year	
North Wales (GwE)	Conwy	✓				✓ ²⁰	✓				✓		✓
	Denbighshire		✓			✓		✓			✓		
	Flintshire		✓			✓					✓		
	Gwynedd	✓				✓	✓				✓		
	Isle of Anglesey	✓				✓	✓				✓		
	Wrexham	✓				✓					✓		
South West & Mid Wales (ERW)	Carmarthenshire			✓				✓				✓	
	Ceredigion			✓								✓	
	Neath Port Talbot			✓				✓				✓	
	Pembrokeshire			✓				✓				✓	
	Powys			✓				✓				✓	
	Swansea			✓				✓				✓	

¹⁹ This includes when a pupil regularly comes to attention of the police during school hours without an acceptable reason

²⁰ This covers pupils located on truancy sweep initiatives (this will only be possible where the facts are already known, e.g. where a child has a history of persistent absence) unless there is a justifiable reason for the absence from school

LOCAL AUTHORITY		UNAUTHORISED ABSENCE				HOLIDAYS				PERSISTENT LATENESS			OTHER	
		Number of sessions lost due to unauthorised absence				Number of sessions lost due to holidays in term time or delayed return from extended holidays:				Pupil arrives after the close of registration for more than the following number of sessions:			Failure of parents or carers to engage with the school and/or the EWS	
		10 during the current term	20 during the current term	10 during the current term bringing overall attendance below 90% in the school year	10 lost during the current academic year	Truancy ²¹				10	20	10 bringing the overall pupil attendance below 90% in the school year		Number of sessions not specified
Central South Wales (CSCJES)	Bridgend	✓				✓	✓				✓			✓
	Cardiff	✓				✓				✓	✓			✓
	Merthyr Tydfil	✓					✓				✓			
	Rhondda Cynon Taf	✓				✓				✓	✓			✓
	Vale of Glamorgan	✓				✓				✓ ²²	✓			✓
South East Wales (EAS)	Blaenau Gwent	✓				✓					✓			
	Caerphilly	✓ ²³				✓	✓				✓			✓
	Monmouthshire	✓				✓	✓				✓			
	Newport	✓				✓	✓				✓			

²¹ This includes when a pupil regularly comes to attention of the police during school hours without an acceptable reason

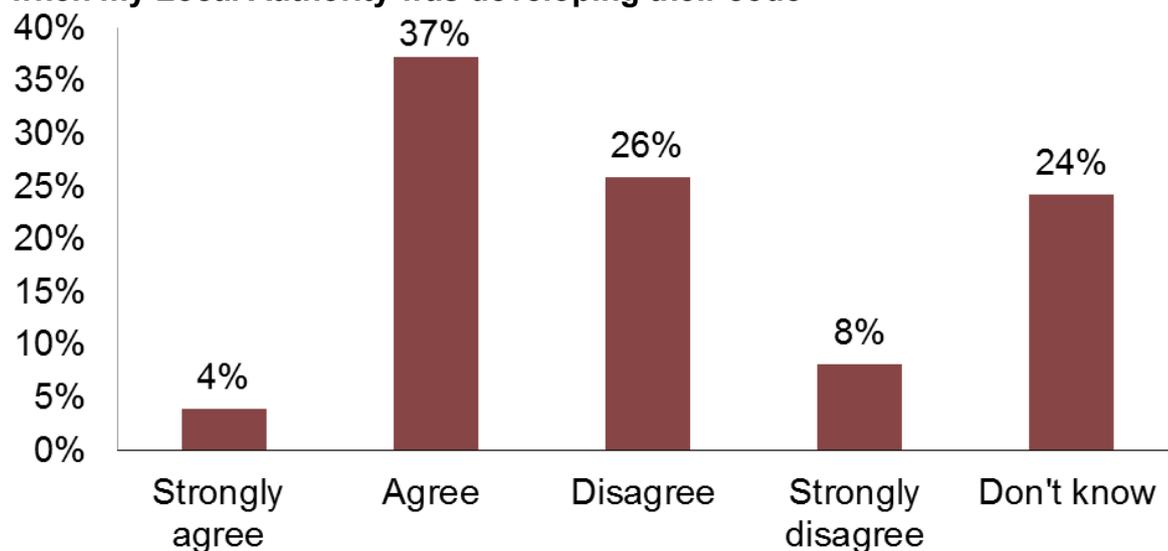
²² Unauthorised absence from school due to a term time holiday AND where there is a history of poor attendance

²³ Over a rolling 12-week period rather than over a current term

Local consultations and finalisation

- 3.6 All LAs undertook consultation on draft codes prior to finalisation; though the extent and type of consultation varied considerably. A few LAs sought comments from a small group of internal stakeholders, usually the Director for Education and other senior managers in the education and social services departments, and staff responsible for the payment, management of fines and prosecutions.
- 3.7 Most LAs extended the consultation beyond internal stakeholders, to head teachers and other teaching staff. EWS staff often led discussions of drafts in existing groups with an interest in attendance policies (such as Attendance Forums). A few also sought comments from members of the public through online consultations and from elected councillors in scrutiny committee meetings. A few LAs ran more detailed consultation exercises, engaging with governors, school staff more widely, parents and (in one LA) with groups of young people.
- ‘Getting approval from councillors was a challenge. Many councillors didn’t want to approve a code that could potentially punish parents. They were concerned about parents working in the tourism sector who can’t take holidays outside term. And about issuing penalties on parents who already face financial hardship’ LA Officer
- 3.8 Survey responses confirm the variable extent of consultation with only 19 per cent of school respondents stating that they were consulted by their LA as part of the development of the code. Relatively similar proportions of respondents agreed and disagreed about the suitability of consultation, as shown in Figure 3.1.

Figure 3.1: There was suitable consultation with stakeholders, including school staff, when my Local Authority was developing their code



255 responses, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

3.9 Representatives of the Police were “informed” about the FPN code developments and in some LAs were “invited to comment”. However, we have found no instances where the Police commented on the development on a local FPN code²⁴.

3.10 Final wording of FPN codes was determined by LA legal teams in many local authorities. Several LA interviewees explained that the final text was strongly influenced by legal officers’ interpretation of Welsh Government guidance.

Issues considered in determining (and amending) codes

3.11 Discussions around determining LA codes and any subsequent revision and amendments (where these have occurred) have principally focused on the following issues:

- **Including a specific trigger because of term-time holidays:** Most LAs have included specific clauses for holidays without permission and set triggers for unauthorised holiday absences giving rise to an FPN being considered. Triggers differ by LA Code as shown in Table 3.1. Where there are no such clauses, interviewees have said that this is already covered by the general trigger for unauthorised absence (which includes holidays, lateness and truancy) or the LA does not wish to prosecute or issue FPNs for unauthorised absence relating to holidays so as not to penalise parents who choose to take children out of school for a holiday in term time.

²⁴ In one LA the Police Force wrote to the Council after implementation to ask that FPNs are not issued to parents who are members of the Police Force because they have no flexibility over their holiday dates.

- **Determining number of missed sessions:** most LAs specify that FPNs can be issued if a pupil has missed 10 sessions (5 school days) with unauthorised absence. One LA requires 20 school sessions to be missed; this was seen to be more appropriate than a lower trigger in local circumstances to tackle regular unauthorised absence.
- **Threshold on overall attendance:** Codes for LAs in South West and Mid Wales require FPNs only to be issued when the sessions missed '*bring the pupils overall attendance to below 90 per cent*'. This was seen to be needed to ensure that FPNs were used to tackle regular unauthorised absence and not just to punish parents for taking their children out of school for short term time holidays. Effectively it does not allow for FPNs to be issued where the unauthorised absence is a two-week holiday (20 sessions) as this alone would not bring a pupil's attendance to below 90 per cent in a term.
- **Consecutive absences:** Codes generally specify that absences do not have to be consecutive. LA interviewees generally explained that this was specifically included to give a clear message that FPNs are there to tackle regular non-attendance rather than from holidays alone. Some explained further that children consistently missed school sessions around weekends and school holidays (for example a child missing every Friday afternoon session to go away for the weekend in the final term of school) which is considered equally detrimental as missing two weeks of school for a holiday abroad.
- **Time period:** Codes specify that missed sessions or attendance thresholds apply either to the current term or current academic year. In most LAs, the school term is used for the relevant time period for "numbers of sessions" and the academic year is used for considering "overall absence". Several LA interviewees said that they have since amended their codes or intend to amend them so that the relevant time period is a "*rolling 12-month period across academic years*". This gives the same weighting to unauthorised absences regardless of when they are taken in the academic year. For example, those absent at the beginning of term are not unfairly disadvantaged.

3.12 Additionally, FPN Codes also include the following elements, which typically were not subjects of extensive discussion and disagreement:

- **Triggers for truancy:** Fifteen LAs include provisions for issuing FPNs for truancy. LAs which do not include truancy in their codes explained that, in effect,

truancy does not differ from other reasons for missing a session without permission and therefore the clause is considered redundant.

- **Definitions of truancy:** Where it is included, the definition of truancy varies by region²⁵. For example, LAs in the North Wales (GwE) REC define truancy as *'the action of staying away from school without good reason (Oxford dictionary)'* while those in the South East Wales (EAS) REC define it as *'where the child has come to the attention of the Police or public during school hours for being absent from school, without an acceptable reason'*.
- **Triggers for lateness:** all codes include provisions for issuing FPNs for *'persistent late arrival, i.e. after the register has closed'*. They then proceed to define 'persistent' as 'at least 10 sessions of late arrival'. Some codes provide further clarification about what is meant by late arrival, for example 'arrival after 9:30am' which is presumably later than when the register has been taken and closed.
- **Warning letters:** all codes include provisions for issuing a warning letter to the parent notifying them that they may receive a FPN if their child's attendance does not improve within 15 days. Interviewees stated that the inclusion of warning letters for FPNs was generally welcomed by consultees. In one LA, however, head teachers expressed concerns during the period of consultation over the development of the FPN code that even warning letters would be too confrontational and risked jeopardising relationships between school and parents (head teachers in this LA were not in favour of introducing FPNs at all).
- **Dealing with shared parental responsibilities / issuing more than one FPN to a parent:** some codes state specifically that FPNs can be issued to more than one parent if parental responsibility is shared. Some codes state that parents may be issued with more than one FPN if there is more than one poorly-attending child in the family. Some codes state a maximum number of FPNs that can be issued to a parent of a pupil in the same academic year. Final wording on these issues appears to have been determined locally.
- **Exemptions and considerations:** some codes explicitly mention that FPNs cannot be issued to specific groups of pupils (looked-after children, those excluded from school). Other codes list a number of considerations that should be taken into account in determining whether to issue an FPN (such as additional

²⁵ The Welsh Government does not have a standard definition of truancy.

learning needs, family history of substance abuse or mental health, substantial adverse effect of a fine on the welfare of the family). Some LAs explained that the effect of a fine on families with low incomes was a concern raised often by elected councillors in scrutiny committee meetings.

Role of the Regional Education Consortia (REC)

- 3.13 In all regions, RECs' staff supported the initial development of codes by organising specific meetings for FPN code development or provided support to existing regional groups which discussed attendance. At least one REC provided staff time to help regional groups to interpret Welsh Government guidance and to help with drafting.
- 3.14 We found little evidence that RECs provided extensive training or any standard guidance to schools. Only 15 per cent of survey respondents indicated that they attended training delivered by RECs. Teachers consulted in discussion groups could not recall attending training or receiving guidance from the REC.
- 3.15 Of those survey respondents who attended REC training, opinions on the quality of training were mixed. Around half (53 per cent) disagreed or strongly disagreed that RECs provided high quality training on how to issue FPNs while 47 per cent agreed. One respondent explained that the training itself was of high quality but as detail of how the FPN procedure works in practice is determined at a local level, it was not very relevant. A few respondents noted that there was disagreement and confusion among trainers/presenters at the training because of differences between LA codes and differences in interpretation of the same code by different people in the same LA. Several respondents stated that consistent, clear guidance for schools was needed.
- 3.16 RECs appear to have had a very limited role in the final development of the codes and their roll-out and implementation. At least one REC provided training on FPNs to Challenge Advisors who help challenging schools to improve. REC representatives who were invited to participate in this research explained that they do not consider the FPN policy to be within their remit. Nearly three quarters of survey respondents (73 per cent) agreed or strongly agreed that there needs to be better regional guidance or training from RECs about when to issue FPNs.

Conclusions

- LAs initially worked together in regional groups to develop their codes. Some neighbouring LAs worked together to develop identical codes.

- There is considerable consistency in clauses included in final LA codes between LAs in the same region suggesting that initial regional work and further coordination had a strong influence on the shape of the key features of the LA codes.
- LAs consulted locally before finalising FPN codes. Some LAs undertook very limited consultation internally while others engaged with head teachers and others in the school community. This may explain why many survey respondents were not engaged in the development of local codes.
- Clauses on holidays, determining the number of missing sessions, including a threshold on overall absences, consecutive absences and time periods for missing sessions are the elements which generated most discussion during the determination of codes. Some LAs purposefully selected wording to ensure that FPN codes did not appear to punish parents for absences due to short holidays alone.
- All LA codes (except one that requires 20) require at least 10 sessions to be lost due to unauthorised absences. Codes in 18 LAs include triggers on holidays. Fifteen codes include triggers on truancy. All codes include triggers for at least 10 sessions of persistent late arrival after the register has closed. In the Mid and West Wales (ERW) REC, all LA codes also require that overall attendance is below 90 per cent for an FPN to be issued.
- Some codes have triggers relating to sessions missed in academic terms and to overall attendance over a school year. The different time periods used for different triggers and thresholds for different forms of unauthorised absence may be confusing to parents.
- RECs played a limited role in the development and implementation of FPN codes. All supported the initial coordination work.
- There is little evidence that RECs provided extensive training or guidance to schools. Those who attended this training had mixed views on its quality.
- REC representatives who were invited to participate in this research explained that they do not consider the FPN policy to be within the remit of their work; though a majority of survey respondents agreed that there needs to be better regional guidance or training from RECs about when to issue FPNs.

4. Implementation of the process in practice

4.1 This chapter provides evidence for considering the following research questions:

- Investigate the reasons why and circumstances in which FPNs are issued
 - With the code in place, how are FPNs issued in practice?
 - Who is involved when an FPN is issued?
 - What kind of communication is there between LAs/RECs and schools?
 - What are the typical reasons FPNs are issued?
 - What factors influence whether FPNs are paid promptly?
 - To what extent do the number and nature of the FPNs issued match the LA code? How widely is it used by stakeholders as a reference document?

How are FPNs issued in practice?

Initial launch

4.2 LAs finalised and published their FPN Codes within the 2014/15 academic year. A few LAs' procedures for issuing FPNs were not fully in place until late in the 2014/15 academic year or after the start of the 2015/16 academic year. This was explained by:

- Some LAs requiring all schools to adopt the FPN code as part of their school policy which required all school governing bodies to agree to do so – a process which was not always straightforward;
- A few LAs having delays in setting up systems to issue letters and collect fines;
- One LA having to invest in a new software system to do this because their existing systems could not handle the issue of FPNs.

4.3 LAs used a range of approaches to inform schools and parents about FPNs. All communicated information and guidance to head teachers / attendance leads through their regular communication channels (emails, meetings, newsletters). Many LAs provided training sessions for head teachers, teachers and EWS staff. Some ran publicity campaigns aimed at parents and teachers, including newsletters to parents and articles in the local press, while in others informing parents was left to each school. The volume of activity does not appear to reflect the number of FPNs issued in each LA. For example, one LA delivered several training sessions for teachers but has since issued no FPNs.

Process in practice

4.4 In all LAs, schools make the initial request to the EWS team within the LA for an FPN (and initial warning letter) to be issued. It is therefore up to the school to decide whether using FPNs to encourage attendance is appropriate for their school community. We have found no examples of EWS staff or the police leading the request for an FPN. We have also found no evidence of FPNs being issued automatically when a pupil's unauthorised absences (and overall attendance rates if applicable) hit the FPN triggers on a school's absence management information system. It is clear that a decision to request an FPN is made by individual schools and is made on a case by case basis.

'There is no compulsion for them [schools] to issue one, they just need to come to me with enough evidence for me to make a decision about the application.'
Local Authority Officer.

4.5 To request an FPN, the school must provide several items of information. Many LA codes include a checklist of information required. Several codes include the information pro-forma in an Annex. Typically, this includes information about absences and overall attendance, any information about attempts made by the school and EWS to work with parents to reduce unauthorised absences, history of attendance issues and actions, and any relevant equality or SEN considerations.

4.6 In most LAs, the request is then processed by the lead LA officer. LA lead officers are members of the EWS and therefore perceive their role as an extension to the work done by EWS staff in schools.

4.7 In practice, this means that an individual officer considers applications carefully, checking that an FPN is appropriate in the circumstances and that the criteria stipulated in the local code are met. For example, LA interviewees stated that they have refused requests for an FPN where schools cannot provide sufficient evidence of their efforts to engage parents, or where they felt that family circumstances would mean that an FPN would adversely affect parents (and their children).

'Some kids on the case load have been eligible for the FPN, but we need to do it on a case by case basis, all on discretion even when we're using the code of conduct.' Local Authority Officer

'Sometimes where there are lots of children or social services involvement, the school will ring us to discuss the withdrawal of an FPN because they didn't know what was going on with the family.' Local Authority Officer

- 4.8 In some LAs there is strong guidance from legal departments not to issue unless it would lead to successful prosecution. This sometimes means that lead officers have to consider the quality of evidence provided by the school and refuse the request for an FPN because they believe (in their opinion) the magistrate would disagree with the head teacher's original decision not to authorise a request for a holiday absence.
- 4.9 In a few LAs, requests for FPNs are reviewed by a panel (attendance panel or welfare panel) which includes the LA lead officer and representatives of EWS and legal services and in some cases school teachers. The panel considers the request and makes a decision whether to issue an FPN. LAs who have adopted this approach have not issued large volumes of FPNs suggesting that this may not be a feasible approach for LAs receiving high number of requests for FPNs by schools.
- 4.10 In a few LAs, processing of requests is done by administrative staff in a more mechanised process because of the higher volume. This tends to be the case in LAs where the lead officer would not be able to personally examine every request for FPNs. This may mean that more FPN requests are granted with other circumstances not examined to the same degree as in other LAs.
- 4.11 When asked about who they believe takes the final decision about whether an FPN is issued, slightly more survey respondents believed that this was taken by LA staff (55 per cent) compared to school staff (45 per cent).
- 4.12 Our review of the evidence suggests that schools make the initial decision on a case by case basis to request that an FPN is issued. In the majority of LAs, an EWS considers the request on a case by case basis and makes a judgement on whether to proceed with a warning letter / FPN or to refuse the request. In a few LAs the decision to proceed or refuse is taken by a panel which again considers each case individually; while in a few other LAs the process consists mainly of checking that all required information has been submitted with requests not scrutinised to the same level of detail.

Numbers issued

- 4.13 Across Wales, 2,178 FPNs were issued in 2014/15 and 4,224 FPNs in 2015/16. As noted in 4.2, FPNs were not available for a full academic year during their first year of implementation. Around 2,300 FPNs are expected to be issued in 2016/17 (Table 4.2).

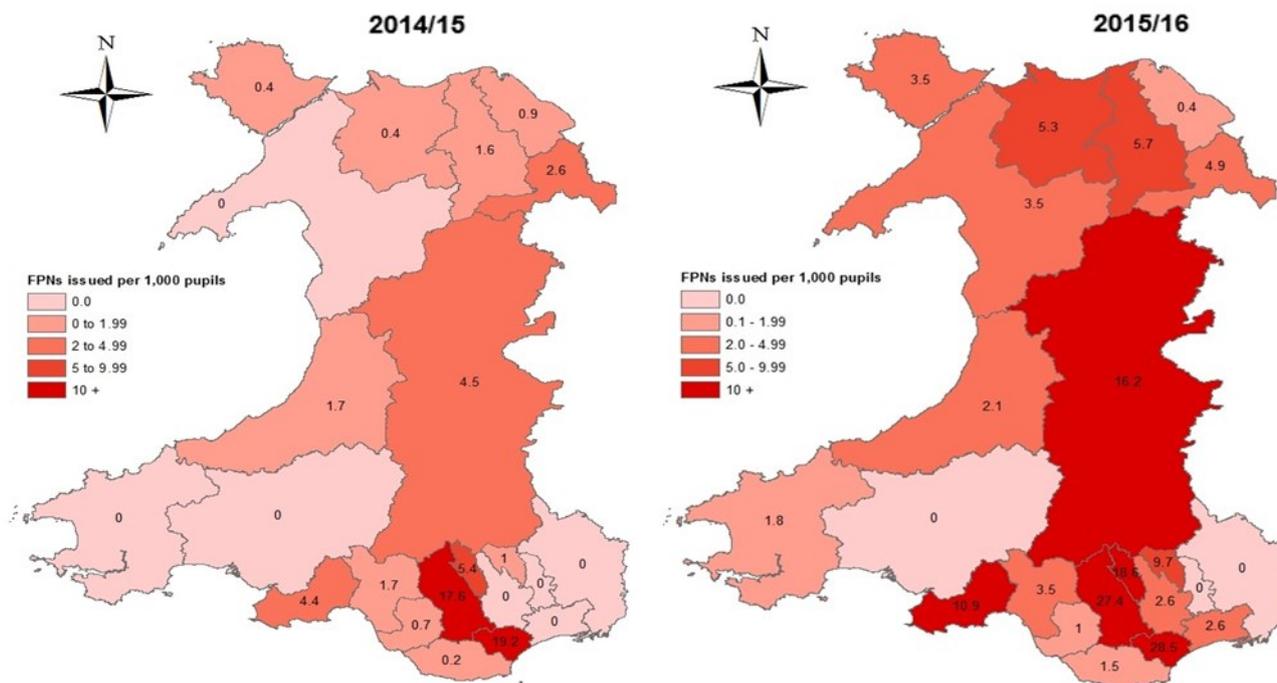
4.14 There is considerable difference in the number of FPNs issued across LAs. Table 4.1 shows the number of FPNs for each LA in regional groups and Figure 4.1 shows FPNs issued per 1000 pupils in each LA. Seven LAs issued no FPNs and 10 LAs issued under 50 FPNs in 2014/15. This had fallen to three and six LAs respectively in 2015/16. LAs in the Central South region issue most FPNs in both absolute and relative numbers while those in the South East region issue the least.

Table 4.1 Total FPNs issued by year by LA

Local Authority		2014/15	2015/16
Central South Wales (CSCJES)	Cardiff	1,020	1,531
	Rhondda Cynon Taf	682	1,063
	Merthyr Tydfil	47	163
	Bridgend	17	23
	Vale of Glamorgan	4	33
South West & Mid Wales (ERW)	Swansea	157	391
	Powys	83	292
	Neath Port Talbot	35	73
	Ceredigion	16	20
	Carmarthenshire	0	0
	Pembrokeshire	0	32
North Wales (GwE)	Wrexham	51	96
	Denbighshire	25	89
	Flintshire	21	10
	Conwy	7	84
	Isle of Anglesey	4	34
	Gwynedd	0	60
South East Wales (EAS)	Blaenau Gwent	9	90
	Caerphilly	0	75
	Monmouthshire	0	0
	Newport City Council	0	65
	Torfaen	0	0

Source: FPN data held by Welsh Government

Figure 4.1 FPNs per 1,000 pupils aged 5 – 15 by local authority area, 2014/15 and 2015/16



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4.15 Final data on FPNs issued in 2016/17 year are not available at the time of this study. Data on the number of FPNs issued at the time of qualitative interviews²⁶ (this effectively covered FPNs issued over the first two academic terms of 2016/17) was collected in 18 local authorities²⁷. We have assumed that a similar number of FPNs will have been issued during the final term and therefore extrapolated the total of expected FPNs for 2016/17 as shown in Table 4.2. The number of FPNs is expected to decrease in nine LAs and to increase in six LAs. FPNs in LAs with high numbers of FPNs (Cardiff, Powys and Rhondda Cynon Taf [RCT]) are expected to decrease considerably. Thus the overall number of FPNs issued in Wales is expected to decrease by 40 per cent compared to the previous academic year.

²⁶ Wrexham provided provisional data at the end of the academic year.

²⁷ The 18 local authorities accounted for 97 per cent of all FPNs in 2014/15 and 95 per cent in 2015/16.

Table 4.2 Number of FPNs expected to be issued in 2016/17, 18 Local Authorities

Local Authority	2014/15	2015/16	2016/17 (partial)	Expected 2016/17	Expected change
Blaenau Gwent	9	90	27	40.5	-49.5
Bridgend	17	23	2	3	-20
Caerphilly	0	75	78	117	42
Cardiff	1,020	1,531	504	756	-775
Carmarthenshire	0	0	0	0	0
Ceredigion	16	20	29	43.5	23.5
Gwynedd Council	0	60	0	0	-60
Isle of Anglesey	4	34	16	24	-10
Merthyr Tydfil	47	163	136	204	41
Monmouthshire	0	0	0	0	0
Neath Port Talbot	35	73	74	111	38
Newport City Council	0	65	25	37.5	-27.5
Pembrokeshire	0	32	25	37.5	5.5
Powys	83	292	55	82.5	-209.5
Rhondda Cynon Taf	682	1,063	325	487.5	-575.5
Swansea	157	391	206	309	-82
Torfaen	0	0	0	0	0
Wrexham	51	96	*	110	14
18 Local Authorities	2,121	4,008	1,502	2,363	-1,645

Source: Welsh Government data on FPNs, information collected by ICF/Arad from LA Officers (Data from the 18 LAs which submitted a projection to this research study)

4.16 Several LA interviewees and head teachers indicated that they expected to issue fewer FPNs in 2016/17 than in 2015/16 for the following reasons:

- Some schools were “enthusiastic” about using FPNs in the first and second year as a way of sending a strong message to the wider school community on unauthorised absences. This enthusiasm waned in 2016/17, or has become unnecessary because unauthorised absences have decreased;
- Some parents had “got the message” that they will be fined and prosecuted after the first full year of implementation. They are ensuring attendance or are more careful about requesting permission to take a child out of school in advance;
- Warning letters are more effective than in the first year of implementation because parents know that LAs will proceed to issuing the FPN and a prosecution;
- Parents are more aware of the FPN trigger points and limit the number of sessions missed by their children in the relevant time period. For example, head

teachers of schools in LAs where the local FPN code includes a trigger related to the child's overall attendance rate in an academic year explained that some parents regularly phone to enquire about their child's attendance rate to ensure that they will not risk being issued with an FPN if they take a child on unauthorised absence (such as taking a Friday off for a long weekend);

- The Ministerial letter to head teachers may have stopped a few schools from blanket bans on authorising holidays in term time and discouraged schools to request LAs to issue FPNs related principally to unauthorised holidays;
- The *Isle of Wight Council v Platt* case may have discouraged some schools and LAs from issuing FPNs until a judgement was made by the Supreme Court.

Reasons given for issuing an FPN

4.17 Nine LAs provided data on the reasons FPNs were issued. Table 4.3 shows the majority were issued for unauthorised absences (including truancy) in 2015/16. Several LAs do not distinguish between the reasons in the way they process data on FPNs and collect information on absences (lateness, truancy and holidays all count as unauthorised absences) and therefore could not provide data for analysis.

Table 4.3 Reasons why FPNs are issued, % of 2015/16 FPNs

Local Authority	No of FPNs	Unauthorised Absence	Lateness	Holidays
Blaenau Gwent	90	82%	0%	18%
Bridgend	23	17%	0%	83%
Caerphilly	75	100%	0%	0%
Ceredigion	20	100%	0%	0%
Merthyr Tydfil	161	52%	24%	24%
Powys	272	44%	0%	56%
Rhondda Cynon Taf	1,063	9%	1%	90%
Swansea	391	92%	1%	8%
Vale of Glamorgan	33	97%	3%	0%

Source: Data provided by LAs to ICF/Arad

4.18 In 2015/16 some LAs issued FPNs overwhelmingly for unauthorised holidays in term time. This includes 90 per cent of FPNs issued in Rhondda Cynon Taf which issued nearly a quarter of all FPNs in Wales.

'[In our LA] head teachers continue to think that FPNs are there to issue to parents who take their children out of school to go on family holidays. I sent reminders to the heads that we can issue FPNs for unauthorised absenteeism in

general... But the message is slow to get through so the requests we get from schools are for holidays.’ Local Authority Officer

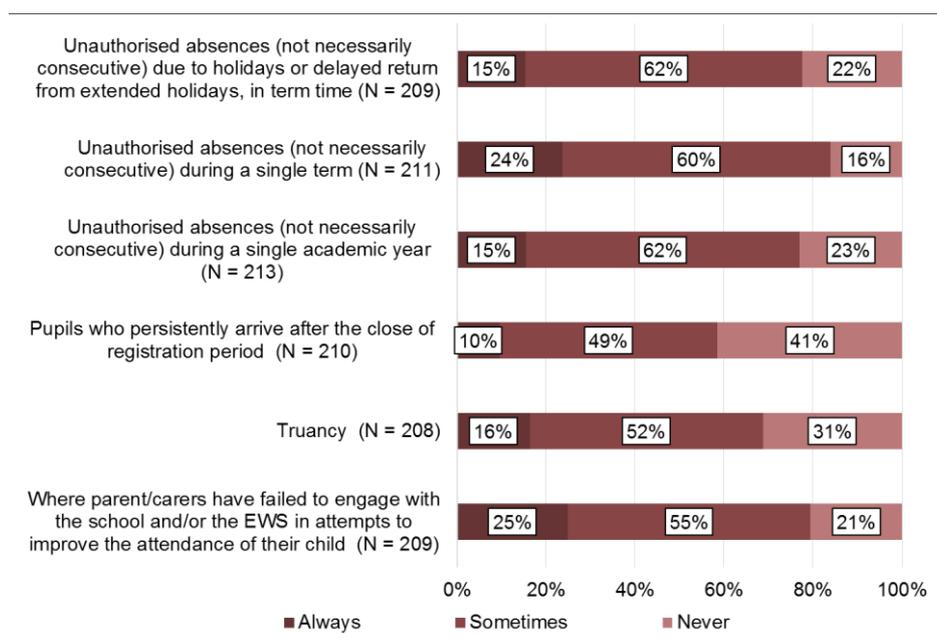
‘We had issued a few [FPNs] for unauthorised holidays when we started [in September 2015] but since the Welsh Minister’s January 2016 statement few were being issued for this reason. It made Legal and magistrates nervous. We had one school requesting a FPN for a pupil who had three weeks unauthorised holidays but the LA legal team would not agree it.’ Local Authority Officer

- 4.19 In South West and Mid Wales LAs, FPNs are issued only when unauthorised absences mean that total attendance drops to below 90 per cent. In practice, this means that FPNs are never issued for unauthorised absences due to a two-week holiday alone. A pupil must also have been absent from school for other reasons (authorised or unauthorised) to meet their code requirements of their attendance dropping below 90 per cent.²⁸
- 4.20 A few FPNs were issued on persistent lateness alone (as defined in the codes), although nearly a quarter of FPNs issued in Merthyr Tydfil in 2015/16 were for lateness.
- 4.21 Many survey respondents believe that FPNs are never issued for some types of unauthorised absence (ranging from 22 per cent for term time holidays to 41 per cent for persistent lateness), as shown in Figure 4.2. Some head teachers explained that they do not excessively emphasise and therefore penalise lateness because they would prefer that a child arrived at school for half of the session rather than miss all of it.

‘No, we don’t request FPNs for lateness. We want pupils turn up to school even if they’re late... We found that parents and pupils would be tempted to take the whole day off school if they were regularly late, if taking a day off won’t cross the ten unauthorised absence’ threshold.’ Head teacher, Secondary School

²⁸ As an example, the Code of Conduct for Neath Port Talbot states that for circumstances for issuing a penalty notice could include “*unauthorised absences of at least 10 sessions (5 school days) due to holidays in term-time if the absences take the overall pupil attendance to below 90% in the school year to date (these absences do not have to be consecutive)*” (page 6). https://www.npt.gov.uk/media/5194/codeofconductfor_penaltynotices_nov_2014.pdf

Figure 4.2 Based on your understanding, typically in which of the following circumstances are FPNs issued



Source: Number of responses (N) shown next to each option, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

4.22 FPNs are also not issued by the police or as a result of truancy sweeps. In most LAs, interviewees explained that the police no longer have the resources to undertake truancy sweeps and there is less need to do this as young people do not tend to congregate in public places causing nuisance. However, in the few instances when truancy sweeps are used, these are coordinated with social services and EWS and mostly focus on family homes. FPNs are not considered to be the appropriate tool to be used in such situations – though they may be issued to a parent whose children are involved in truancy sweeps at different times because of regular unauthorised absences.

Explanations for the level of FPNs issued

Factors influencing schools' and LAs' decisions

4.23 LA staff interviews and discussions with head teachers suggest that decisions about embracing FPNs as an attendance policy measure are often taken at organisational level.

4.24 For schools, the factors influencing their take up of the measure include:

- **Relationships with parents.** Many schools perceive FPNs to be likely to antagonise parents. They are concerned that relationships between parents and school will be jeopardised if FPNs are issued. This factor is particularly important to many primary schools.

‘We always look for strengths within families...rather than taking a punitive approach.’ Head teacher, Primary School which has not requested FPNs to be issued

‘It takes years of progressive and intensive support...this is better than a reactive, punitive action.’ Head teacher, Special School which has not requested FPNs to be issued

- **Overall school attendance levels.** Head teachers explained that if a school is meeting its attendance target (agreed at the beginning of the school year with the LA) or if attendance has not been highlighted as an area of concern in Estyn reports then it has less incentive to act on unauthorised absences and issue FPNs (particularly given the potential effect on relationships with parents and the administrative burden).

‘Attendance is a big issue for us. Because of our intake and our location we have lower attendance than some other schools... So I would say we have a stricter policy than most primary schools in our area. Last year we sent 400 informal advice letters to parents when attendance was at dangerously low levels.’ Head teacher, Primary school

- **Administrative burden.** A few head teachers mentioned the time required to collect evidence for FPN requests as a considerable burden on their administrators and in some cases on the teachers. Some spoke of recent reductions in administrator and EWS resources available to their schools. This has meant that providing evidence that the school has made sufficient attempts to engage with parents on attendance issues, such as, showing that they have attempted to contact parents by letter, telephone or in person is now more difficult. This has discouraged some schools proceeding with FPN requests even when there might be a case for doing so.

‘We now have an administrator who is full-time on attendance issues [in general, not just FPNs]. We are not a big school; it’s a considerable part of our budget... [For FPNs] there is so much paperwork to collect, make sure every letter and meeting with parents is recorded...There are knock-on effects on my time and on my deputies and class teachers. At the end of the day, we are meant to be into the business of teaching kids who do come to school and we spend so much time chasing kids who don’t. It’s frustrating’. Head teacher, Primary School

- **Conformity with peers.** Schools appear to be influenced by the actions of other schools in their LA or local cluster. For example, in one discussion group several participants expressed disagreement with the FPN policy and questioned its effectiveness but stated that they all request FPNs at their school because other schools in their area do so.

‘I don’t agree with FPNs and fining parents myself but we all agreed [as a group of head teachers] that this is our policy. That when a pupil has so many unauthorised absences we start the procedure for FPNs [...] I think it’s important that we all stick to the same procedure otherwise you get parents saying oh such-and-such school don’t do it and it’s unfair...’ Head teacher, Primary School

4.25 For most schools, it is a combination of these factors and their perception of the effectiveness of the measure to make a difference to parents’ behaviour and the attendance of pupils.

4.26 For LAs, the following factors appear to influence how proactively the lead officers and other managers encourage schools to use FPNs:

- **View from legal teams.** Legal teams appear to have given a strong steer as to whether requests for FPNs should be granted in some LAs. Most LAs will not issue an FPN unless they believe the evidence would lead to a successful prosecution, though this is not always the case. A few LAs appear to be willing to issue a warning letter or FPN and only involve the legal team if the FPN is unpaid (the FPN is then withdrawn if the legal team decides that it is not likely to lead to a successful prosecution). This can require second-guessing the interpretation of guidance and evidence by individual magistrates. A few LAs are less rigorous about the initial evidence checking which means that they issue more warning letters and FPNs but also withdraw a considerable number or do not proceed with prosecutions.
- **Administrative burden.** The burden of collecting and keeping evidence to justify an FPN is a concern in several LAs. One large LA employs five administrative assistants to manage the volume of FPNs. Another explained that they do not actively encourage schools to use FPNs because they would not be able to cope administratively with more requests. One LA undertook a value-for-money assessment and decided to stop issuing FPNs because they are too costly to administer.

‘It is a huge burden, because whilst I have got someone doing the administration for me, it is only part of what she does... and when I do the prosecutions, it took me two days to prepare the paperwork for the last prosecution... and I have eight or nine to do this week... it is a lot of work, and a lot of time.’ Local Authority Officer

- **Perceptions of effectiveness and fairness.** A few LA leads clearly have strong views in favour or against FPNs as a measure. For example, one interviewee expressed strong disappointment about the Minister’s January 2016 letter to schools which highlighted that head teachers can authorise holidays of up to 10 days while another stated that the LA is sensitive to problems faced by low income families and do not want to add financial burdens through a financial penalty. Another interviewee felt very strongly that fining parents was contrary to the ethos of the education community and that there were no circumstances where a fine could be justified, preferring to use other methods of tackling absence instead. Some interviewees stated that there is a perception among some members of the community that FPNs are issued to raise income for the LA, rather than being a genuine tool for improving attendance.

‘Care had to be taken to make sure we weren’t being too punitive... and we were hoping schools would use a different kind of intervention such as maybe home school attendance contracts, and do that work with the parents rather than fines really. Because the level of debt within the borough is high, unemployment is high, and all it would do is add to the burden to families... and this is reflective of what head teachers would say to me when we would discuss the reasons why attendance wasn’t increasing.’ Local Authority Officer

Relationship with unauthorised absences

- 4.27 While some respondents have said there is some link between schools’ attendance rates and FPN take up, there is no discernible relationship between the numbers of FPNs issued and levels of unauthorised absence at LA level. However, there were only two years of absence data available for consideration during this research which does not allow for identification of any trends.
- 4.28 Table 4.4 and Figure 4.3 summarise the extent of unauthorised absence and FPNs in 2014/15 and 2015/16 in each LA. They show that there are some LAs with relatively high levels of unauthorised absences and high levels of FPNs issued (Cardiff, Rhondda Cynon Taf), medium levels (Swansea, Ceredigion) and low

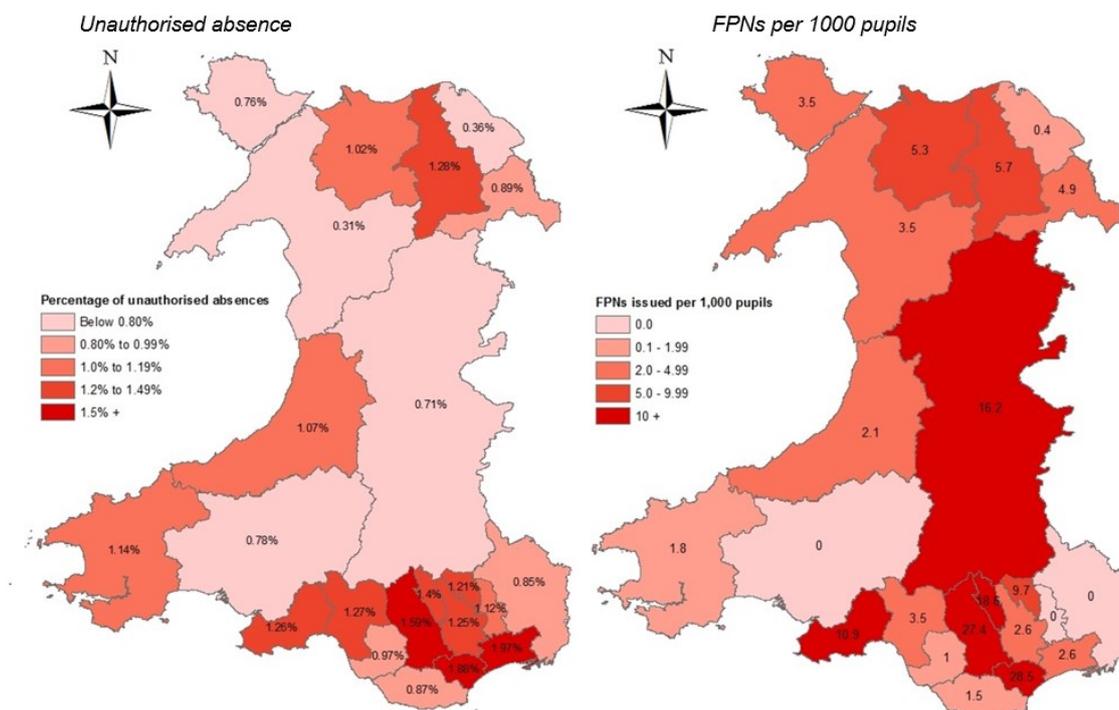
levels/none (Gwynedd, Monmouthshire) but many where there is no relationship such as Newport, Pembrokeshire, Powys, Caerphilly and Torfaen.

Table 4.4 Unauthorised absences and FPNs issued per 1000 pupils

Local Authority	2014/15		2015/16	
	Percentage of unauthorised absences	FPNs issued per 1000 pupils aged 5-15	Percentage of unauthorised absences	FPNs issued per 1000 pupils aged 5-15
Blaenau Gwent	1.3%	1.0	1.2%	9.7
Bridgend	0.9%	0.7	1.0%	1.0
Caerphilly	1.2%	0.0	1.2%	2.6
Cardiff	2.1%	19.2	1.9%	28.5
Carmarthenshire	0.8%	0.0	0.8%	0.0
Ceredigion	1.0%	1.7	1.1%	2.1
Conwy	1.0%	0.4	1.0%	5.3
Denbighshire	1.0%	1.6	1.3%	5.7
Flintshire	0.3%	0.9	0.4%	0.4
Gwynedd	0.4%	0.0	0.3%	3.5
Isle of Anglesey	0.8%	0.4	0.8%	3.5
Merthyr Tydfil	1.1%	5.4	1.4%	18.6
Monmouthshire	0.7%	0.0	0.8%	0.0
Neath Port Talbot	1.1%	1.7	1.3%	3.5
Pembrokeshire	1.1%	0.0	1.1%	1.8
Powys	0.7%	4.5	0.7%	16.2
Rhondda Cynon Taf	1.5%	17.6	1.6%	27.4
Swansea	1.2%	4.4	1.3%	10.9
Torfaen	1.0%	0.0	1.1%	0.0
Vale of Glamorgan	0.9%	0.2	0.9%	1.5
Wrexham	0.8%	2.6	0.9%	4.9

Source: Statistics Wales School Attendance data, FPN data held by Welsh Government, ICF analysis

Figure 4.3 Unauthorised absence by LA area, 2015/16



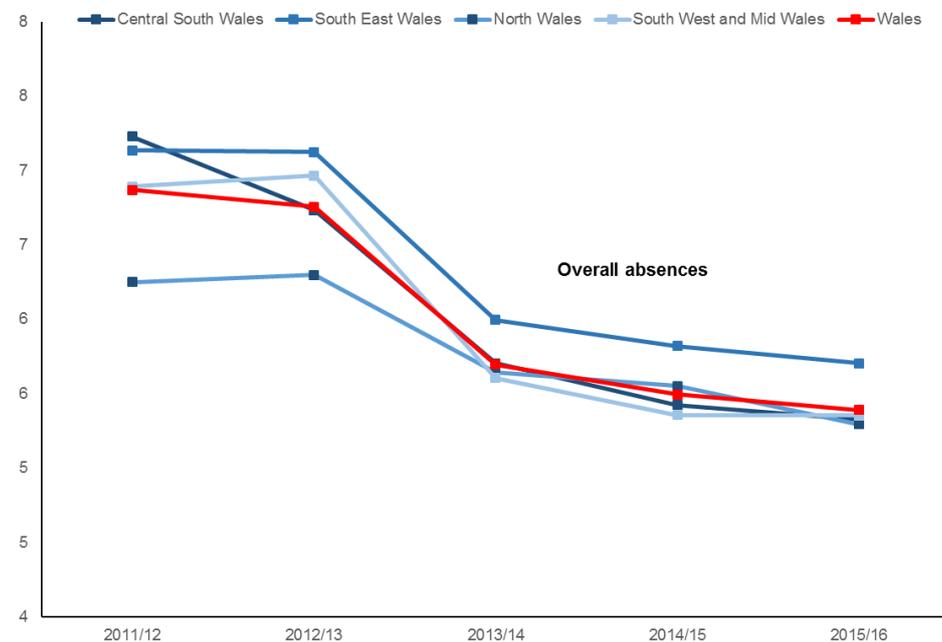
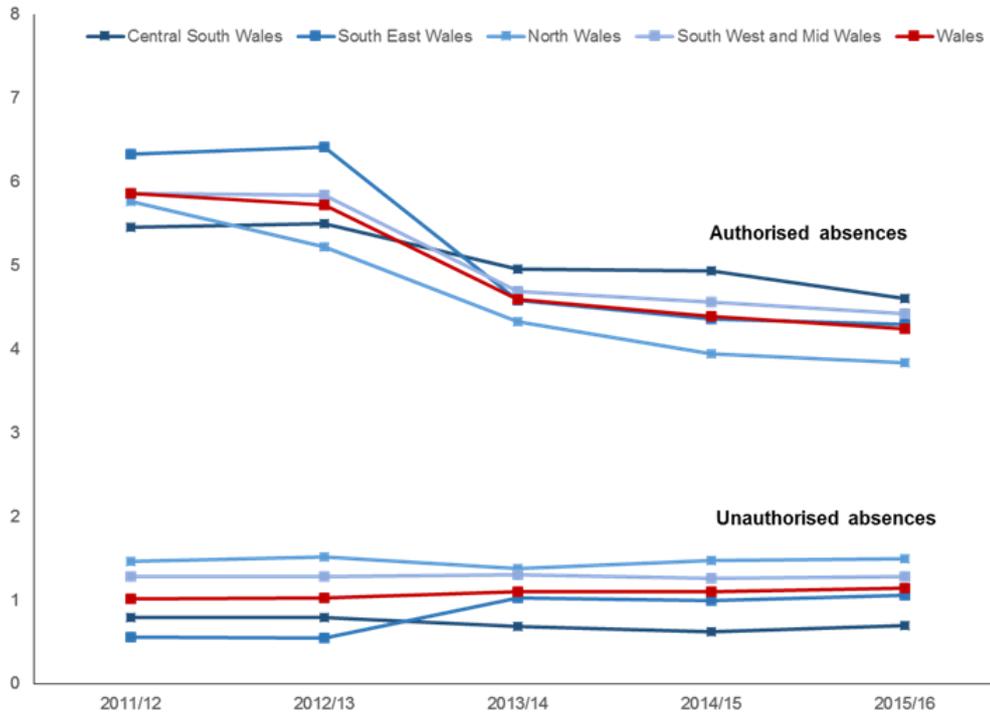
Sources: Contains Welsh Government data on unauthorised absences and FPNs. Map contains National Statistics data © Crown copyright and database right 2014; Contains Ordnance Survey data © Crown copyright and database right 2014. Map created using ArcGIS® software by Esri. ArcGIS® and ArcMap™ are the intellectual property of Esri and are used herein under licence. Copyright © Esri. All rights reserved. Contains Welsh Government data

Relationship with authorised and overall absences

- 4.29 A few stakeholders stated that the introduction of FPNs along with a greater focus on reducing unauthorised absences may be resulting in unintended consequences by encouraging schools to authorise absences so that they would be less pressured (by LAs or indirectly in an Estyn inspection report for example) to request FPNs. A few stakeholders also stated that greater emphasis on reducing overall absences could have encouraged schools to refuse to authorise requests for absences (for example, for family holidays where they feel that families will comply with the refusal and not take the child out of school without authorisation) so as to keep overall absence rates low.
- 4.30 Nonetheless, the data suggests that, at LA and regional-level, FPNs have not had any effect on the level of authorised absence and overall absence. Figure 4.4 shows these for all four regions and Wales as a whole (percentages of half-day sessions missed) between 2011/12 and 2015/16. Overall absences and authorised absences have consistently declined over the period with the greatest decrease seen between 2012/13 and 2013/14. Unauthorised absences have decreased slightly in three regions (and across Wales) while they increased slightly in the

South East Wales region. Within LAs, authorised absences have decreased in all LAs between 2011/12 and 2015/16. Unauthorised absences have increased only slightly in four LAs (Anglesey, Pembrokeshire, Carmarthenshire, Merthyr Tydfil).

Figure 4.4 Authorised and Unauthorised Absences (percentage of half-day school sessions missed) by region and Wales, 2011/12 to 2015/16



Source: Statistics Wales School Attendance data, ICF analysis

4.31 Tables 4.5 and 4.6 which distinguish the reasons for absence show that the proportion of days missed due to authorised family holidays has decreased over five years in both primary and secondary schools. Sessions lost due to illness or medical appointments (authorised) have also decreased in secondary schools. However, days lost due to unauthorised family holidays have increased over the five year period in both primary and secondary schools. Considering overall absences, as shown above, the greatest decline can be seen between 2012/13 and 2013/14, i.e. prior to the introduction of the 2013 FPN Regulations. Thus these trends do not suggest that there is a clear relationship between overall and authorised absences and the introduction of the FPN Regulation.

Table 4.5 Percentage of sessions missed by pupils of compulsory school age in primary and secondary schools, by reason for absence

Type of absence	Code	Reason for absence	2012/13	2013/14	2014/15	2015/16	2016/17
Authorised	I	Illness	4.3	3.8	3.8	3.5	3.4
	M	Medical or dental appointments	0.6	0.5	0.5	0.4	0.4
	R	Religious absence	-	-	-	-	-
	S	Study leave	0.1	-	-	-	-
	T	Traveller absence	-	-	-	-	-
	H	Agreed family holiday	0.4	0.2	.01	0.1	0.1
	F	Agreed extended family holiday	-	-	-	-	-
	E	Excluded, but no alternative provision made	0.1	0.1	0.1	0.1	0.1
	C	Other unauthorised (not covered by other codes or descriptions)	0.5	0.4	0.4	0.4	0.4
		Total authorised absence	6.1	5.1	4.9	4.5	4.5
Unauthorised	G	Family holiday (not agreed or sessions in excess of agreement)	0.1	0.2	0.2	0.2	0.2
	U	Late (arrived after the register closed)	-	-	-	-	-
	O	Other unauthorised (not covered by codes or descriptions)	0.9	1.0	1.0	1.0	1.1
	N	No reason for the absence provided yet	0.2	0.1	-	-	-
			Total unauthorised absence	1.3	1.3	1.3	1.3
Overall		Total overall absence	7.4	6.4	6.1	5.8	5.9

Source: Pupils' Attendance Record, Welsh Government, Absenteeism from Secondary Schools, 2016/17: <http://gov.wales/docs/statistics/2017/170831-absenteeism-secondary-schools-2016-17-en.pdf> [Release date: 31 August 2017]

Table 4.6 Percentage of sessions missed by pupils of compulsory school age in primary and middle schools, by reason for absence

Type of absence	Code	Reason for absence	2011/12	2012/13	2013/14	2014/15	2015/16
Authorised	I	Illness	3.2	3.6	3.0	3.1	3.0
	M	Medical or dental appointments	0.6	0.4	0.3	0.3	0.3
	R	Religious absence	-	-	-	-	-
	S	Study leave	-	-	-	-	-
	T	Traveller absence	-	-	-	-	-
	H	Agreed family holiday	1.2	1.1	0.6	0.4	0.5
	F	Agreed extended family holiday	-	-	-	-	-
	E	Excluded, but no alternative provision made	-	-	-	-	-
	C	Other unauthorised (not covered by other codes or descriptions)	0.3	0.3	0.2	0.2	0.2
			Total authorised absence	5.4	5.5	4.2	4.0
Unauthorised	G	Family holiday (not agreed or sessions in excess of agreement)	0.1	0.2	0.4	0.5	0.5
	U	Late (arrived after the register closed)	0.1	0.1	0.1	0.1	0.1
	O	Other unauthorised (not covered by codes or descriptions)	0.5	0.5	0.5	0.4	0.5
	N	No reason for the absence provided yet	0.1	0.1	-	-	-
			Total unauthorised absence	0.8	0.9	1.0	1.0
Overall		Total overall absence	6.1	6.3	5.2	5.0	5.1

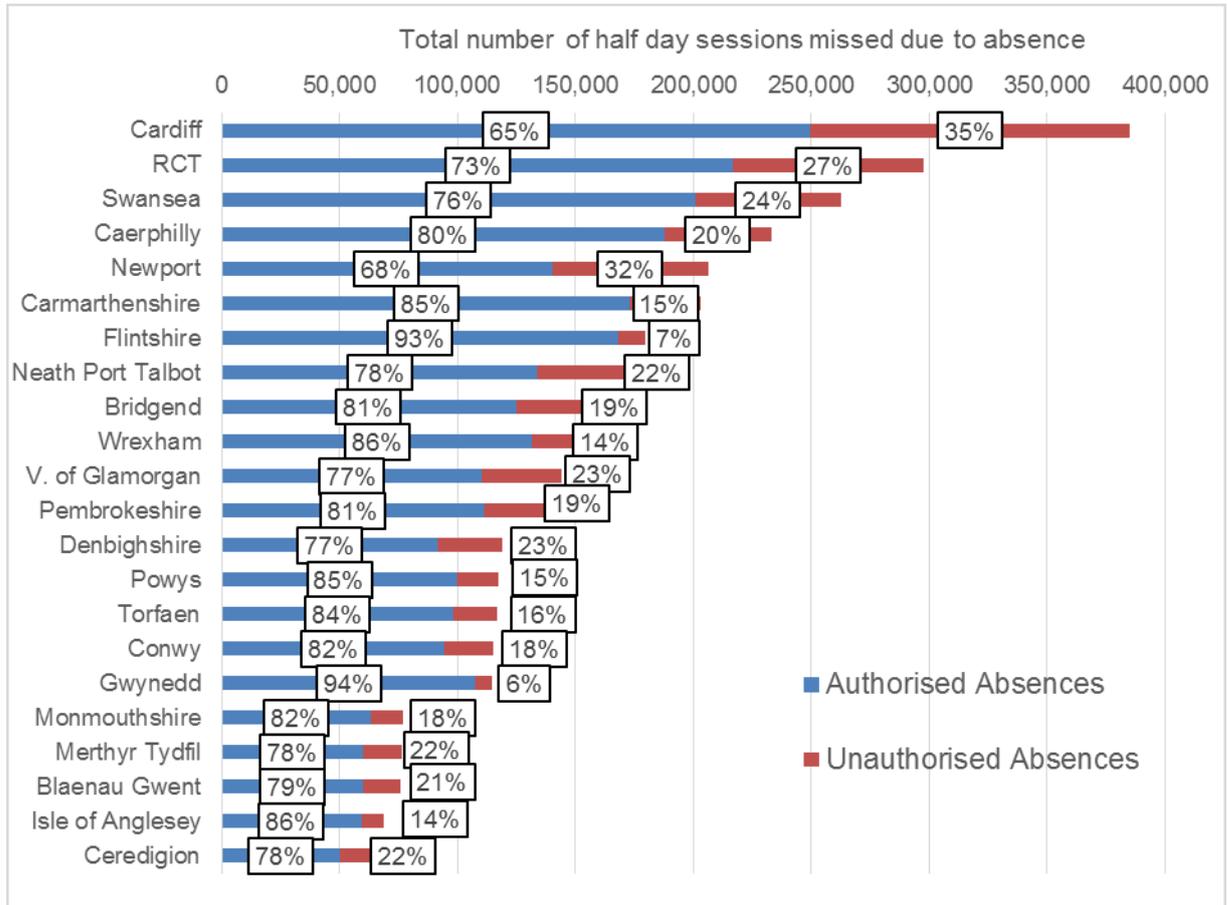
Source: Absenteeism from primary schools, 2015/16: <http://gov.wales/docs/statistics/2016/161215-absenteeism-primary-schools-2015-16-en.pdf> [Release date: 15 December 2016]

4.32 Inspection of data at LA level (not shown) does not suggest that the decline in overall absences over the last five years has been a result of a purposeful shift to authorise absences that previously would have been unauthorised. However, the LA level data on authorised and unauthorised absences does suggest that LA areas have very different approaches to determining what are authorised and unauthorised absences. This could explain some of the considerable differences shown in Figures 4.5 and 4.6 below. For example:

- There are very different proportions of authorised/unauthorised absence among LAs. In Gwynedd unauthorised absence accounts for just 6 per cent of all absences. In 10 LAs they account for over 20 per cent of all absences while in Cardiff and Newport they account for around a third of all absences;

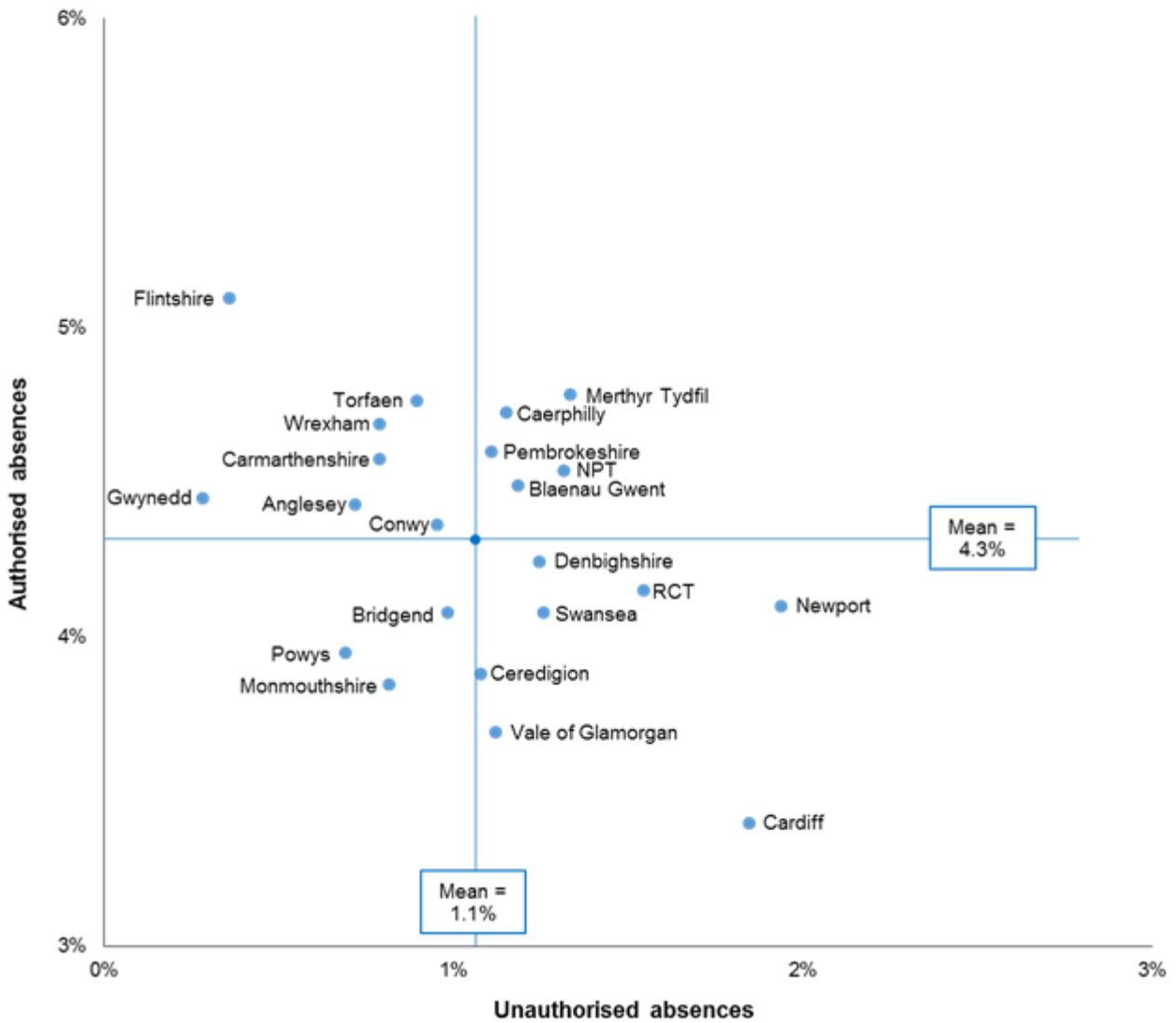
- There does not appear to be a relationship between high levels of unauthorised absence and high levels of authorised absence. Some LAs have relatively low levels of unauthorised absence and high levels of authorised absence (such as Flintshire and Torfaen). Others have high levels of unauthorised absence and low levels of authorised absence (such as Cardiff, Newport and Rhondda Cynon Taf).

Figure 4.5 Total absences and proportion of unauthorised and authorised absences out of all pupil absences by LA in 2015/16



Source: Statistics Wales School Attendance data, ICF analysis

Figure 4.6 A scatter plot of the percentage of authorised and unauthorised absences in all local authorities, 2015/16

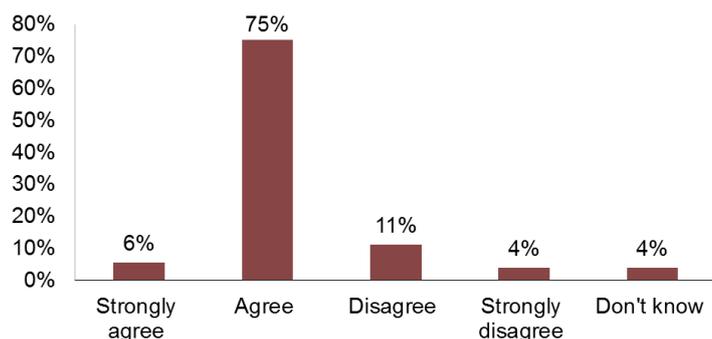


Source: Statistics Wales School Attendance data, ICF analysis

Does the FPN Code influence the number and nature of FPNs issued

4.33 Most survey respondents (81 per cent) agreed that FPNs issued meet the requirements and follow the procedures set out in LA codes, as shown in Figure 4.7. This view was generally shared by interviewees.

Figure 4.7 In general, FPNs issued meet the requirements and follow the procedures set out in the LA code

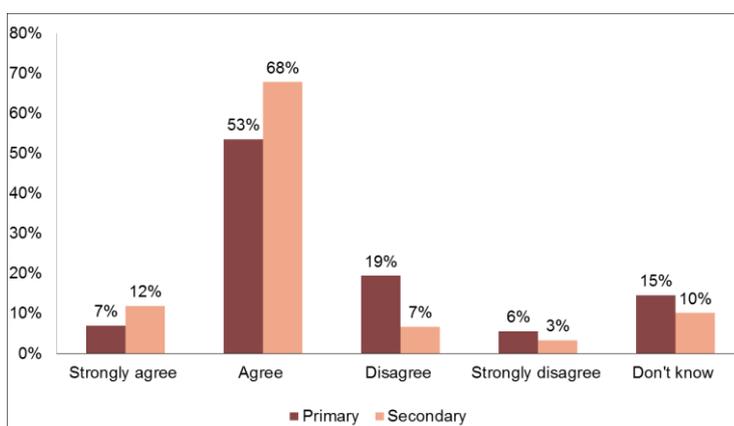


178 responses, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

4.34 LA officers explained that the wording of codes did not necessarily convey or explain the extent of discretion used in determining whether an FPN should be issued – though this could be perhaps expected in such a document of an official and legal nature where the discretion resides with head teachers and LA staff. Two thirds (65 per cent) of all survey respondents agreed that the LA code provided suitable flexibility to take account of family and other circumstances. Agreement is higher among respondents from secondary schools (80 per cent) than primary schools (61 per cent), as shown in Figure 4.8.

‘[We should perhaps amend our Code to] better reflect what we do in [name of LA] when we come to issue the FPN, as the code makes it appear we issue them a lot sooner than we actually do in practice.’ Local Authority Officer

Figure 4.8 The LA code provides suitable flexibility to take account of family and other relevant circumstances



144 responses from primary schools; 59 responses from secondary schools, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

4.35 Interviewees have not indicated that FPNs are issued for reasons not stated in LA codes or any instances where procedures stated in codes have not been followed.

Payment

4.36 In the first two years 71 per cent of FPNs that were not withdrawn were paid within 42 days, as shown in Table 4.7. The share of FPNs paid within 28 days increased slightly (2 percentage points) but this cannot be considered significant.

Table 4.7 No. of Paid and Unpaid FPNs. 2014/15 and 2015/16, Wales

	2014/15	2015/16
FPNs issued	2,178	4224
<i>Of which</i>		
FPNs withdrawn	362 (17%)	1,007 (24%)
No. of remaining FPNs	1,816 (83%)	3,217 (76%)
<i>Of which:</i>		
Paid within 28 days	1,132 (62%)	2,069 (64%)
Paid between 29 and 42 days	170 (9%)	238 (7%)
Unpaid after 42 days	530 (29%)	932 (29%)
<i>Of which:</i>		
Total prosecutions due to non-payment	380 (71%)	583 (63%)

Source: FPN Data held by Welsh Government

4.37 Interviewees offered a number of reasons why many fines are paid on time. Some parents expect the fine. They will have also received a warning letter. The period allowed for payment enables most parents to make arrangements to pay it. A few spoke about practical reasons why parents fail to pay fines such as losing the warning letter, difficulties interacting with council payment systems and parents (often those whose first language is not English) failing to understand the content of the letter.

4.38 Interviewees also shared stories of travel agents paying fines (advertised in advance as part of the holiday deal) or of a social worker paying fines for families that they support to ensure the family's wellbeing is not adversely affected.

4.39 Conversely, some speculated that parents did not pay fines because they did not believe the LA would proceed to prosecution or that, if it did, the Magistrates Court would rule in their favour. A few interviewees felt that the *Isle of Wight Council v Platt* case (at least until the Supreme Court's decision in favour of the Isle of Wight was made in April 2017) and the January 2016 Ministerial letter encouraged non-payment.

Conclusions

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

- 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;
- 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;
- 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;
- Most FPNs (71 per cent) are paid within 42 days.

5. Alignment of the code with other policies and practices and its effectiveness

5.1 This chapter provides evidence for considering the following research questions:

- Investigate how head teachers interpret and use LA codes when considering FPNs
 - What kind of monitoring arrangements are there to track FPNs? Are these fit for purpose?
 - Does the LA code align with school policy on attendance? Do schools consider parental requests for absence on a case by case basis?
 - How are FPNs used in comparison to other options to approve attendance?
 - Do stakeholders think FPNs contribute to improved attendance? If so, why? If not, why not?
 - What elements of the code enable/hinder this?

Monitoring processes and tracking outcomes

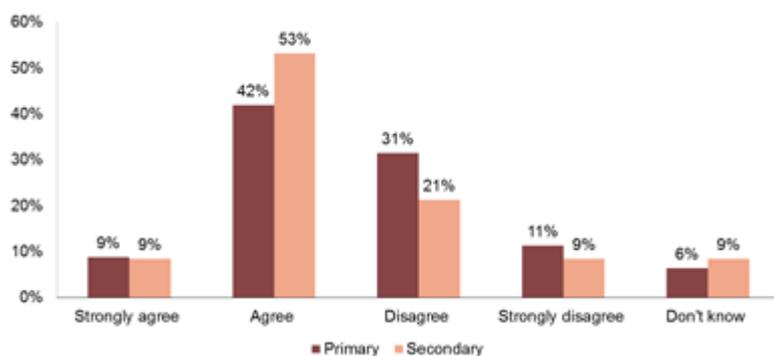
5.2 LAs keep records on FPNs which they use to provide specified annual data to the Welsh Government. All LAs therefore collect data on the number of FPNs issued, the number paid and unpaid, the number of FPNs withdrawn and the reasons for this, and the number prosecuted.

5.3 Most LAs use a caseload/workload management system and thus also collect information on warning letters and record dates of issuing FPNs and payment of fines. Monitoring spreadsheets also record information about the pupil, parental engagement and EWS and school actions related to improving attendance. In some LAs these records also include evidence collected to support the FPN issued or, if relevant, the prosecution. We have not found any examples of further in-depth analyses of this data.

5.4 LAs have provided annual or bi-annual reports to their respective LA's Directors of Education (or to the appropriate individual as specified by their codes) which generally contain the data provided to the Welsh Government.

5.5 LAs also communicate with schools on a frequent, but usually ad-hoc, basis. This includes providing updates on FPN processes and discussing FPNs as part of wider actions to address attendance, welfare and school improvement. As shown in Figure 5.1, most schools are satisfied with the communication they receive from LAs about FPNs. However, a considerable share of primary school respondents (42 per cent) disagree or strongly disagree that the LA communicates effectively, considerably higher than the share of secondary school respondents (30 per cent).

Figure 5.1 The Local Authority effectively communicates with me about how FPNs can be or are being used



124 responses from primary schools; 47 responses from secondary schools, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

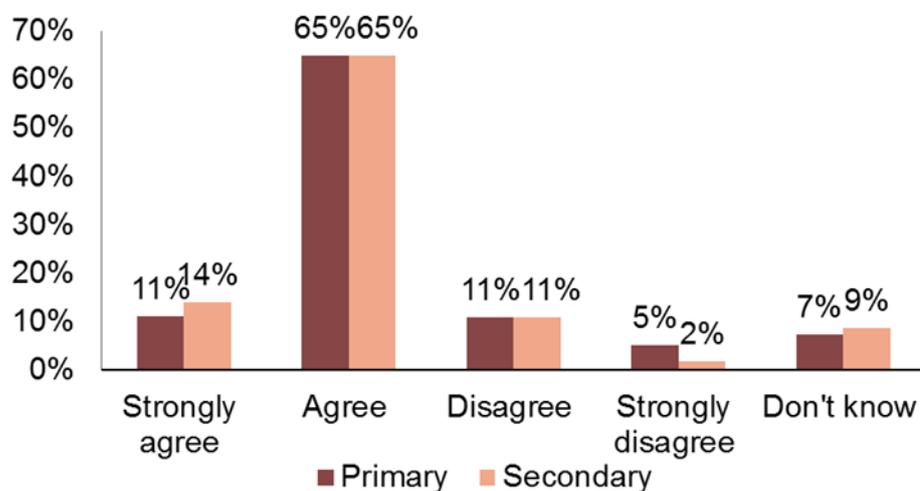
- 5.6 Some LAs have undertaken (or were undertaking at the time of the research) small-scale tracking exercises where they attempt to monitor any improvements in attendance. These appear to be in response to requests from elected councillors / scrutiny committees.
- 5.7 Where results were available, these exercises have pointed to improvements to attendance over the period of tracking in some cases. In others they were inconclusive. LA interviewees noted that they did not have the resources to undertake tracking to evaluate the FPN policy in practice, including undertaking work to identify whether any improvements in attendance could be attributed to FPNs or other factors.
- 5.8 Schools in the study generally collect information about FPNs as part of keeping attendance records. We have not found any examples of schools systematically analysing attendance data to show whether FPNs have led to improvements in attendance.

Alignment with school policy

- 5.9 Figure 5.2 shows that 76 per cent of primary school survey respondents strongly agreed or agreed that the LA code is strongly aligned with their internal school policies. But this does not necessarily mean that a school will consider issuing an FPN even when trigger points for doing so are met. In our discussion groups with head teachers, some participants agreed that their schools had included FPNs in attendance policies but they were clear that they had no intention of requesting an FPN as they did not feel that sanctions were a good fit with their school ethos and the relationship they wanted between school and parents. This was particularly the case in primary schools.

'We looked at FPNs in detail and our Governing Body discussed them in detail. They are part of our attendance policy but we have never used them... .' Deputy Head teacher, Primary School

Figure 5.2 The LA code is aligned with our internal school policies



135 responses from primary schools; 57 responses from secondary schools, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

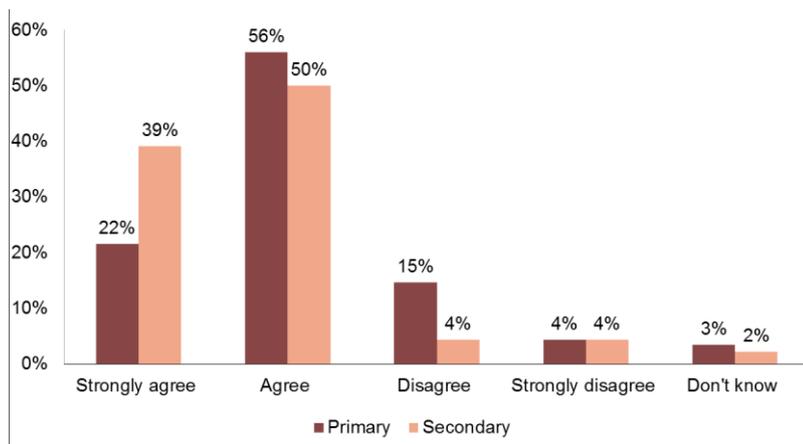
5.10 School staff participating in case study discussions all mentioned a number of practices employed to improve attendance. These include informing parents about the importance of attending school and not missing sessions and raising awareness at the beginning of the school and each school term, including through publicity in local news outlets, as well as promoting and rewarding good attendance through awards and celebrations. For children with high levels of unauthorised absence, many head teachers talked about the importance of working collaboratively with EWS and other services through Team Around the Family (TAF) meetings to put interventions in place that would help improve attendance.

'They [EWS] provide very intensive support to deal with critical situations – this is what works best. If this hasn't worked, what would an FPN achieve?' Deputy Head Teacher, Primary School

'Using the EWS is far more beneficial for the type of client we have.' Behaviour Support Manager, Pupil Referral Unit

5.11 Participants from schools in the discussions all agreed that they had considered FPNs as part of their attendance policy, though it was clear that some schools had considered the option and had decided that they were not going to make requests for FPNs. In the survey, more than eight in ten school survey respondents (81 per cent) agreed that they have considered the use of FPNs as part of policy and practice to improve attendance (Figure 5.3). More secondary schools (39 per cent) strongly agreed that they had, compared to primary schools (22 per cent).

Figure 5.3 Our school has considered the use of FPNs as part of the process of reviewing and monitoring policy and practices to improve attendance



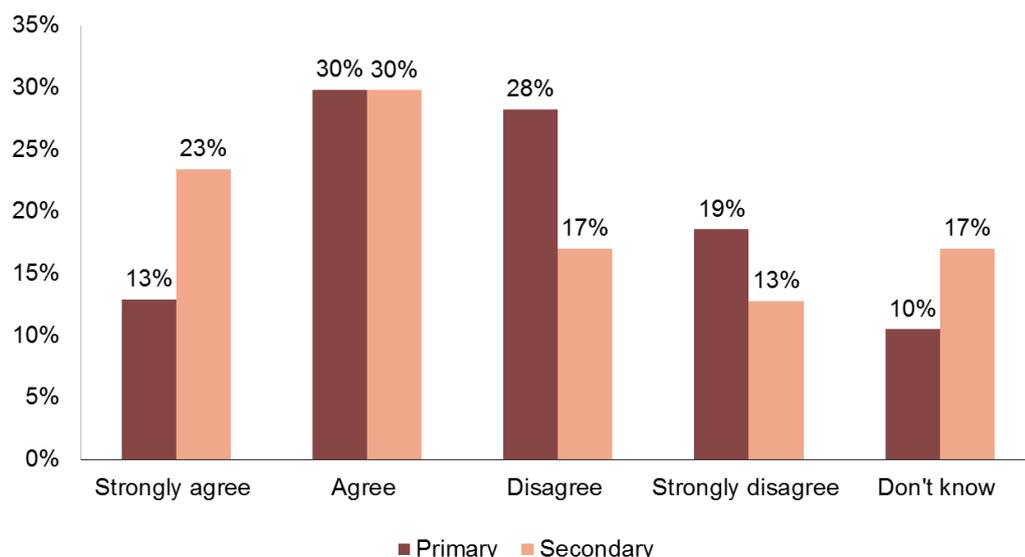
116 responses from primary schools; 46 responses from secondary schools, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

5.12 Schools appear to be considering parents' request for absence on a case by case basis. Many LA interviewees believed that up to 2016 a few schools were refusing to authorise absence for holidays in term time. The January 2016 Ministerial Statement provided clarification to both LAs and schools on this issue and they believe that such blanket bans have come to an end.

FPNs effectiveness as a tool to improve attendance

5.13 Stakeholders expressed a mix of views on whether FPNs contribute to improved attendance. In our survey, 56 per cent of all respondents agreed that FPNs are an effective tool to improve attendance while 37 per cent disagreed. Considering school respondents only, more secondary school respondents strongly agreed (23 per cent) compared to primary school respondents (13 per cent), as shown in Figure 5.4.

Figure 5.4 FPNs are an effective way of deterring unauthorised absences



124 responses from primary schools; 47 responses from LAs, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

5.14 Some stakeholders who were initially sceptical about the use of FPNs have changed their mind as a result of improved attendance following a warning of an FPN being issued.

‘Schools were really frustrated by the lack of clarity when we implemented it and how it would fit in... but then child attendance has improved. I think they just thought (it) was a waste of time initially.’ Local Authority Officer

5.15 Many interviewees felt that warning letters have had an effect on reducing unauthorised absences. In some cases, LA officers and schools report that the effect of warning letters is strong and sufficient to result in positive changes in behaviour for (at least some) parents. For example, one LA analysed data on 326 children whose parents were issued with FPN warning letters and found that in 87 per cent of these cases attendance had improved to the point of not needing to issue an FPN.

‘We’ve been pleasantly impressed by the warning period, and schools are getting up to speed with the system.’ Local Authority Officer

5.16 Many stakeholders believe that issuing fines and prosecutions in the first two years of implementation has been a strong enough threat to encourage (at least some) parents to take action to reduce unauthorised attendance. This suggests that the introduction of FPN regulations alone may be acting as a deterrent to regular unauthorised absences by some pupils and parents.

'The warning letter now gives parents a nudge...The threat of action is really effective.' EWS Officer

- 5.17 Several interviewees believe that FPNs are effective in changing the behaviour of some parents, but not all (in line with Welsh Government the guidance on improving attendance summarised in sections 2.18 and 2.19 above). These interviewees explained that, for some families experiencing a variety of long term problems and challenges, the threat of a fine or other sanction does not by itself encourage action to reduce unauthorised absences. They also stated that other actions to improve attendance may be more appropriate or effective in such cases. A few raised concerns about parents removing their children from school into home-schooling as a result of an FPN (or the threat of an FPN) which (in their view) resulted in children who needed the most support being removed from supportive environments. The evidence does not suggest that this effect is reported for many pupils; though the concern remains that it may have affected some of the most vulnerable children.

'It [FPNs] may have some short term impacts on attendance, acting as a deterrent across the school, but it doesn't seem to have a big impact on the attendance of pupils from the families who receive them.' Head teacher, Primary School

'The main crux of the FPN is that it needs to be issued to effect change, but we've got such entrenched behaviour in some cases, it doesn't affect change.'
Local Authority Officer

- 5.18 A few participants in discussion groups reported instances of parents adjusting their behaviour to ensure that their child did not hit the FPN trigger points. For example, parents who opt to take two holidays instead of three during term time over an academic year or parents who report that their child was ill instead of seeking authorisation for holidays where this would mean that overall attendance would not drop below 90 per cent.

'Parents can play the system as it only takes account of the unauthorised absences in a term- so effectively they could have 4 days each term.' Survey comment

- 5.19 Several interviewees and survey respondents stated that the level of fine (£60 or £120) was too low to encourage behaviour change. This was particularly true in cases of unauthorised absences for holidays in term time when they believed that

parents preferred to pay a £60 fine compared to the price of a holiday in the school holidays (which may be hundreds of pounds more than the fine).

‘In this deprived area, many families simply cannot afford the costs of a holiday out of term time. If they can, they soak up the cost of the FPN as part of the holiday cost (which means the FPN has zero effect).’ Survey comment

Conclusions

- All LAs collect the FPN data required by the Welsh Government and do no other analysis of their detailed data or of the links between school attendance data and FPNs.
- Very little analysis of attendance data for individual pupils who have been issued with FPN has been carried out to monitor the effect of FPNs on individual pupils;
- Most survey respondents believe the LA codes align with their school policies on attendance and have considered the use of FPNs. But interviewees indicate that this did not mean that FPNs are routinely considered when pupils’ attendance levels reach triggers and thresholds. In some schools there is a tacit understanding that FPNs will not be used or considered as an option;
- All interviewees recognise that FPNs are one of the various measures that can be used to encourage good attendance and that for some families and individual pupils they are not appropriate;
- There are mixed views among survey respondents on the efficacy of FPNs with 56 per cent believing they are effective but 37 per cent believing they are not. Some interviewees have changed their mind about their efficacy and many believe the warning letter to be an effective deterrent;
- Some unintended consequences have been reported by interviewees as parents become knowledgeable about the attendance triggers and thresholds in LA codes and the fines when paid on time are considerably less than the savings on term time holidays.

6. Future Policy Options

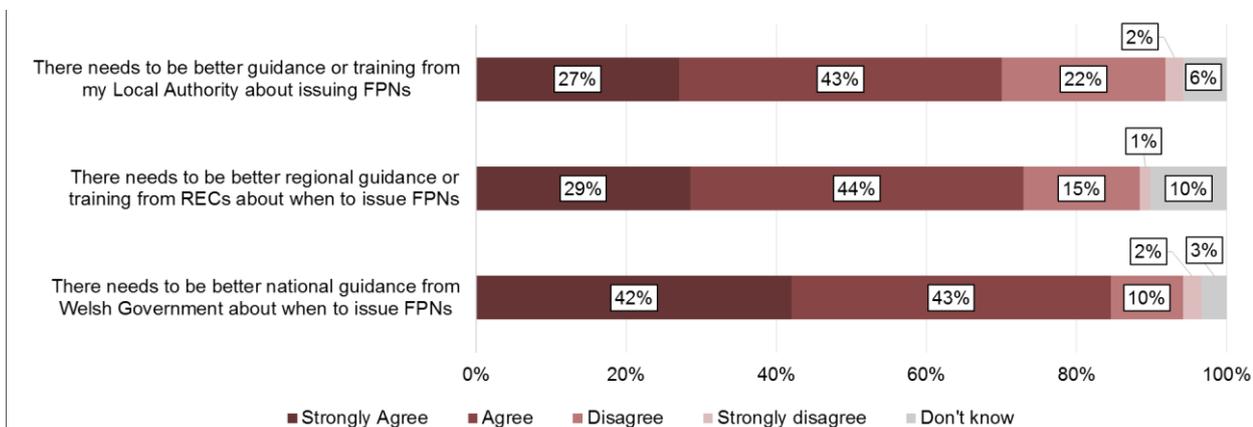
6.1 This chapter provides evidence towards answering the following research questions:

- Consider if a national code of conduct is required and what stakeholders feel would be appropriate
 - Is it appropriate to keep LA codes?
 - Would it be useful to have additional guidance from RECs?
 - Would it be useful to have additional guidance from the Welsh Government?
 - What are the advantages/disadvantages of having an all Wales code?

Need for additional guidance and action from the Welsh Government

6.2 Stakeholders interviewed and responding to the survey conveyed that there is a strong need and demand for additional guidance on FPNs. Seven in ten respondents agreed or strongly agreed that there needs to be better guidance or training from their LA, while nearly three quarters (73 per cent) agreed that there needs to be better regional guidance or training from RECs. A greater share (85 per cent) agreed that there is a need for better national guidance from the Welsh Government (Figure 6.1).

Figure 6.1 There needs to be better guidance or training about issuing FPNs



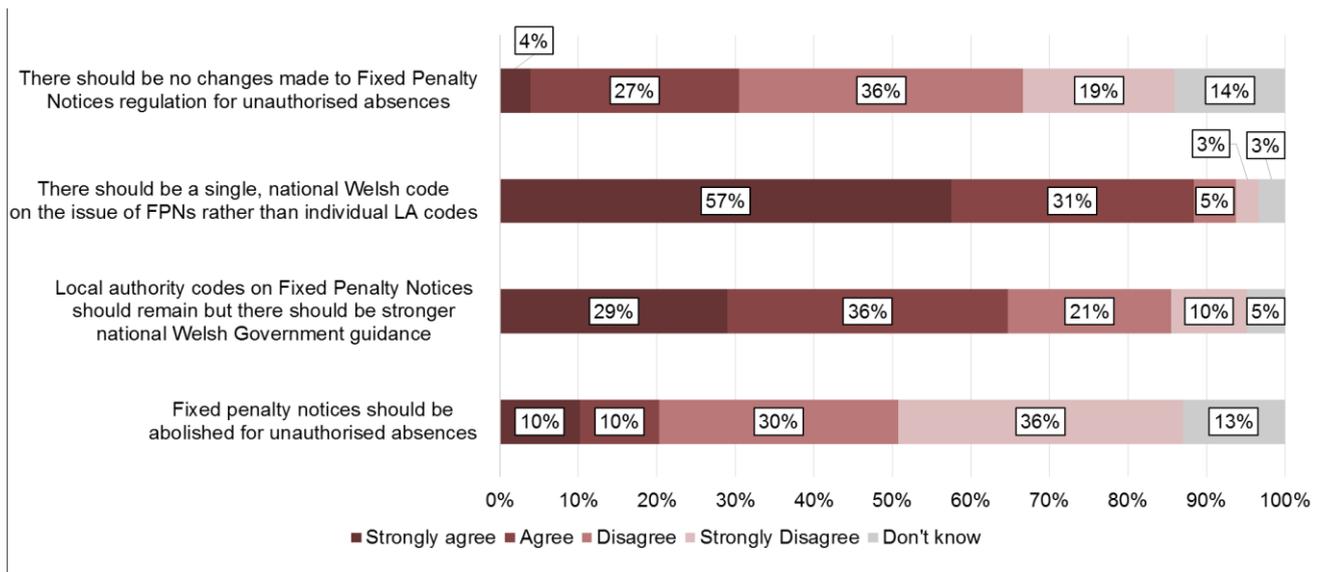
207 responses, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

6.3 In interviews, head teachers and LA officers felt that better guidance is needed to promote and ensure consistency and coherence in the application of FPNs across schools in Wales. There is generally a concern about how individual schools and individual teachers are interpreting FPN codes and making decisions about unauthorised absences differently. Stakeholders generally believed that consistency is important as it provides a sense of fairness around the issuing of FPNs. Inconsistencies in application and interpretation make some head teachers nervous

about embarking on a course of action that could penalise parents with a fine or even, as they believed, a criminal record²⁹. Despite the strong preferences for greater consistency, interviewees were less clear about what specific changes to current guidance would help to achieve consistency.

6.4 Most interviewees did state a strong preference for introducing a single, national Welsh Code on the issue of FPNs. This is consistent with survey responses: nearly 9 in 10 respondents (88 per cent) agreed that there should be a single, national Welsh Code with more than half (57 per cent) strongly agreeing (shown in Figure 6.2). The Welsh Government’s 2012/2013 public consultation on proposals to introduce FPNs for regular non-attendance found no clear agreement or disagreement among the 53 respondents about proposals to introduce a local code of conduct but a number of respondents stated that the code should be a national code (Welsh Government, 2013).

Figure 6.2 Policy options (State to what degree you agree with the following statements)



207 responses, Source: Fixed Penalty Notices Survey 2017, ICF, May – June 2017

6.5 Considering other options for future policy action by the Welsh Government, 65 per cent agreed that there should be stronger national guidance but that LA FPN codes should remain. Quite a few interviewees and respondents explained that they did not believe that stronger national guidance alone would lead to improved consistency (which they wanted) as differences in local codes would remain.

²⁹ This refers to head teacher’s perceptions. Receipt of an FPN does not constitute a criminal act. Non-payment of an FPN could lead to a parent being prosecuted for failure to ensuring their child is in receipt of a suitable education which, if found guilty, would constitute a criminal act.

6.6 Almost two thirds of respondents (66 per cent) do not wish the regulation to be abolished.

‘There is a need to improve consistency across all LAs. All schools should be working within the same guidelines. All schools should be adhering to the same attendance codes; [FPN] codes should be fixed by Welsh Government.’ Survey Comment

‘As we are benchmarked against schools across Wales for attendance - which feeds into categorisation procedures, ESTYN procedures and AWCDs [All Wales Core Data Set]- then the [FPN] code and application of the code needs to be consistent across ALL of WALES.’ Survey Comment

‘There are still huge discrepancies amongst schools, even in a small local authority...if there was a national policy parents would be clear and we could say “here is a black and white document and this is why you’re getting a FPN”.’ Head teacher, Primary School

6.7 When asked about considering the need for the Welsh Government to take action at all, just under a third (31 per cent) of survey respondents agreed that there should be no changes – with over a half (55 per cent) disagreeing. Some stakeholders expressed concern about what the burden for change would be if there were changes, especially because they feel that systems are understood by parents and schools. None felt the ability to issue FPNs should be removed. LA officers especially feel that they have invested considerable time and effort into introducing the FPN system and making it work effectively in their localities.

6.8 The warning letter system does appear to have a positive effect in reducing unauthorised absences. Many stakeholders felt strongly that they did not wish to lose the option of issuing an FPN warning letter when considering strategies to improving attendance.

‘It is a tool in a tool box. It will work with some families and won’t work with others. It’s nice to have as an option.’ Local Authority Officer

Evidence from elsewhere

Effectiveness of sanctions

6.9 The research literature suggests that there is mixed evidence on the effectiveness of financial sanctions in changing the behaviour of adults.

- 6.10 A report for the Joseph Rowntree Foundation (Giggs and Evans (2010)) examined sanctions in a range of social policy areas. They found that with job-seekers, the main focus of their research, sanctions changed claimants' motivation and attitudes to work in only a minority of cases. The authors found inconclusive evidence in other public policy programmes with financial sanctions, such as health improvement (e.g. immunisation and substance abuse) and child support.
- 6.11 The authors did find evidence from two US examples where well designed financial sanctions in the form of reduced welfare payments had positive impacts on school attendance. A 2009 evaluation for the Wisconsin Learnfare programme, which penalised teenage welfare recipients, or their parents, for having more than two unexcused absences a month found a 4.5 per cent increase in attendance and a 3.7 per cent increase in enrolment, with the most positive effect on subgroups at risk of dropping out of school. An evaluation of the US Learning, Earning and Parenting (LEAP) programme which reduced welfare payment for pregnant and parenting teenagers who had not graduated from school if they did not attend school and were given additional payments and case worker support if they did, found positive effects for those participants on the programme who had still been at school when they entered LEAP compared to a control group.
- 6.12 The impact of sanctions on school attendance from other research shows mixed results. Some studies found no effect. Zhang (2007) in a study of pupil absence rates in England between 2004 and 2006 found no significant association between LAs' propensity to issue attendance related penalty notices over the two years and the change in absence rates in the same period. This was true for both primary and secondary schools. It could be argued that such data needs to be analysed over a longer period (when at least three years of data is available) and LAs categorised in relation to their level of absence to assess the impact of financial sanctions.
- 6.13 On a very small scale, Wright (2009) found positive effects. Of the 15 cases in one English LA in which court cases against parents had concluded, their children's attendance improved in 80 per cent of cases; in seven cases attendance rose to over 85 per cent, meaning that they could be closed by the EWS, and five exceeded 94 per cent to be above the LA's average attendance.
- 6.14 Giggs and Evans's (2010) research suggests some good practices which have to be in place if sanctions are to have the best chance of being effective. These include participants taking part in programmes having good knowledge and understanding of how sanctions are imposed and what will happen if they fail to

meet these expectations so that they are not effectively being punished for a lack of understanding rather than (deliberate) non-compliance. They argue that good practice also requires consistency so that sanctions are applied rationally and equitably and do not disproportionately fall on some groups of participants.

- 6.15 There is some evidence that prosecution may be effective in itself, irrespective of the final court decision. Kendall and White's (2004) study in 119 LAs in England considered a range of court outcomes for non-attendance which included fines along with other outcomes such as parenting orders. The study found that prosecutions made parents (including parents who were not prosecuted but had heard about prosecutions of others) more aware of their responsibilities and helped them realise the importance of school attendance.
- 6.16 Kendall and White (2004) however found a mixed effect when analysing actual improvements in attendance. Of the 30 children they followed, attendance improved after prosecution in just over 40 per cent; about 33 per cent had no significant improvement and about 20 per cent had some improvement followed by decline. None of the four cases where there were multiple prosecutions resulted in any improvement in attendance. Generally, parents felt fines had little or no impact on their children's willingness to attend school. Prosecutions were seen as more likely to be effective for those families who found it difficult to enforce boundaries with their children but were in a position to do. Prosecutions were less effective where families were not in a position to enforce boundaries this might be because relationships between the parents and children were complex or because the family did not see education as a priority and were not willing to engage with services.
- 6.17 Some studies stress the inconsistencies of court decisions as potentially limiting the effectiveness of sanctions. In his study of school attendance in England, Taylor (2012) reported that of the 9,000 or so parents taken to court under Section 444 of the Education Act 1996 and found guilty in 2010, only 72 per cent received a fine or a more serious sanction. Interviewees in Kendall and White (2004) were also critical of the low level (the average in 2010 was £165) and inconsistency of fines and lack of enforcement of payment which led, in their opinion, in parents not changing their behaviour.

Best practice in improving attendance

- 6.18 As outlined in Section 2.3 of this report, the All Wales Attendance Framework sets out a range of good practice that schools should have in place to improve attendance. Key themes include having:
- A comprehensive attendance policy, which all staff are aware of and, which is consistently administered;
 - Strong communication with parents, including promoting the benefits of regular attendance and early contact when pupils miss school;
 - Early intervention with pupils (and parents) when they start to miss school; and
 - School Leadership Teams regularly reviewing attendance data and the effectiveness of interventions with their pupils;
 - Effective collaborative and multi-agency working.
- 6.19 These themes reflect the evidence provided to the National Behaviour and Attendance Review in Wales (Reid 2009) and are commonly found in the literature presenting evidence of what has worked in schools. This largely draws on practitioners' experience and peer discussion, not empirical research studies.
- 6.20 Much of the literature stresses the importance of preventative strategies, early intervention when pupils start to miss school and being consistent in follow up action to improve on persistent poor attendance. Reid's (2012) review of evidence suggests that early interventions are more likely to be successful than interventions with pupils who have become persistent non-attendeers. Preventative strategies such as raising awareness, attendance audits and computerised registration systems are well documented in the literature as key policies identified in improving school attendance (Wright 2009). Reid (2010) promotes the importance of seeking out pupils' views on how to encourage good attendance, including engaging schools' student councils.
- 6.21 In terms of good practice once pupils start having attendance problems, Wright (2009) reports that school level actions, which are regularly reported as being effective in the literature include rewards for good attendance (both for groups and for individuals), first day calling, truancy sweeps and close liaison between home and school to identify underlying reasons behind a pupil's poor attendance and to agree solutions with parents and carers which could lead to improvements. Having learning mentors and family-school link workers in schools can build bridges and

have achieved great success in improving attendance. Reid (2012) emphasises the importance of schools' tracking and monitoring of attendance and of staff being adequately trained in how to tackle poor attendance. Taylor (2012) echoes the importance of staff tracking attendance and sees a gap in primary schools systematically monitoring attendance and taking action so that bad patterns of attendance emerging early in a child's school life do not become entrenched. He encourages intervention in early years' settings to tackle parents' behaviour before school routines are established. He argues that there is an equity argument for early intervention as children with low attendance in early years are also most likely to come from poorer backgrounds.

- 6.22 Positive engagement with parents can also improve attendance. In three successful primary schools in areas of high deprivation, Taylor (2012) identifies that these schools put considerable effort into supporting parents to get children into school on time including walking buses, home visits and school pick-ups if the family is having difficulties. These schools also promote clear and consistent messages to parents on when it would be appropriate or not for a pupil to be absent and reinforce messages that they will not authorise holidays in term time except for truly exceptional circumstances.
- 6.23 Schools should look behind the behaviour to see if they can address any underlying issues preventing attendance. Kendall and White (2004) reported that over half of the parents prosecuted felt that prosecution did not improve attendance as it did not address the cause of why their children were not attending. Disengaging with lessons and falling behind may also result in future low attendance. Early intervention and support, especially at primary school, for pupils with low levels of literacy and numeracy may prevent them from become poor attendees Reid (2010). Reid (2012) reports that as persistent school absentees are likely to have lower belief in their academic ability and lower levels of self-esteem than their peer groups; schools should work to raise the self-esteem and academic confidence of vulnerable pupils.
- 6.24 Anti-bullying interventions can also support attendance policies. Dalziel and Henthorne (2005) found that bullying was given as a reason for poor attendance by some parents while Reid (2010) reports that the most common reasons pupils gave for non-attendance (apart from illness and holidays) were bullying, tiredness, dislike of teachers/lessons and boredom.

Revising current guidance

6.25 Considering the findings presented in sections 3, 4, and 5 above on how FPN codes were developed and how they are used in practice in Wales, the Welsh Government's 2013 publication "*Guidance on Penalty Notices for Regular Non-attendance at School*"³⁰ would merit revision. This could include the following:

- **Links with the Attendance Framework and other strategies and policies:**

The first two sections of the Guidance document (pages 3 to 11) include the following key messages:

- Penalty notices are an additional option
- Penalty notices will be most effective for less entrenched attendance issues
- Children who miss school can do less well in school
- Schools should work with parents/carers and pupils as far as possible to encourage attendance
- Targeted EWS interventions can be very effective where there are specific needs
- Penalty notices should not be used as alternatives to taking action on Additional Learning Needs (ALN).

While these messages are important and useful context to the operation and interpretation of FPNs, they have not generally appeared in LA codes. School respondents therefore have misconceptions about when they are expected to use FPNs. Many respondents' objections to FPNs relate to using FPNs for entrenched attendance issues – even though it is clear from this Guidance that this was not the original intention of the Regulation. Revised guidance ought to encourage LAs to include these key messages in codes and remind schools about the intended use of FPNs as one option among many.

- **Consortium working (pages 10 and 11):** This section should be revised to set out RECs' role in securing regular school attendance as a key supporting aspect of school improvement. This is required alongside the need to enable LAs to work closely together to improve coherence and consistency in how codes are interpreted and FPNs are issued in practice.
- **Roles and responsibilities for issuing penalty notices (pages 12 to 14):** In practice, head teachers and the police do not issue FPNs (even though they are empowered to do so by the Regulations). This section should be revised thoroughly to reflect current roles and responsibilities of schools, head teachers,

³⁰ <http://gov.wales/docs/dcells/publications/130925-guidance-regular-non-attendance-en.pdf>

the police and LA staff. It should, for example, clarify that it is the school's responsibility to monitor attendance, collect evidence and take its decision to request the issue of an FPN by the LA.

- **When it will be appropriate to issue a penalty notice (page 14):** while the guidance is not intended to be prescriptive to LAs about the unauthorised triggers or thresholds for considering and issuing an FPN, it could be simplified by not specifying triggers for different causes of unauthorised absence. As some pupils will have various reasons for unauthorised absence, specific triggers for lateness, holidays and truancy are in effect superfluous.
- **Discretionary powers to authorise requests for absence due to holidays:** The guidance should include a section reiterating what was issued in January 2016 about head teachers' discretionary power to authorise leave for a family holiday during term time where parents seek permission. The language could be clearer that head teachers have the discretion to refuse leave for a family holiday of 10 school days or less if there are good reasons in relation to attendance and timing, such as proximity to exams. This will strengthen head teachers' positions as holders of discretionary power and refute the perception which exists among some parents and practitioners that all requests for holidays of no more than 10 school days should be authorised. This section could replace the paragraph on authorising and or not authorising absence on page 14.
- **Who can receive a penalty notice (page 15):** users would welcome guidance on who can receive a penalty notice if parents' are separated.
- **Warning letters (pages 15 and 16):** Warning letters appear to be effective. Guidance on recommending their use could be strengthened by stating it must be carried out (not just good practice).
- **Retention of receipts and revenue collection (page 18):** encouraging LAs to publish auditor's statements would aid transparency and dismiss some perceptions among parents that FPNs are used as a revenue raising measure by LAs.

Assessment of policy options

Definition of options

- 6.26 To provide an assessment of the strengths and weaknesses of policy options for improving the existing regulations and guidance on FPN for unauthorised absences, it is first necessary to define a limited menu of alternatives to choose from. The

following four options provide a limited list of substantially different but feasible alternatives for comparison.

- **Option A: No change**

In this scenario, the Welsh Government makes no changes to regulations or guidance on FPNs. LA codes remain and these codes determine the rules about when an FPN can be issued in their local area. The legal and regulatory situation remains “as is”.

Schools remain responsible for making a request to issue an FPN and collecting evidence. LAs remain responsible for granting a request and undertaking the administrative tasks of issuing the warning letter and FPN, receiving payments of fines and proceeding with prosecutions.

Head teachers retain discretion on authorising requests for absences of up to 10 school days in term time where parents seek permission and consider requests for absences of more than 10 school days where there are exceptional circumstances.

- **Option B: Local Authority codes remain but there is stronger national guidance from the Welsh Government**

In this scenario, the Welsh Government makes no changes to regulations about FPNs. LA codes remain and these codes determine the rules about when an FPN can be issued in their local area. The Welsh Government issues stronger guidance on the appropriate use of FPNs. We anticipate that this would be in line with the emerging conclusions in section 6.26 above.

Schools remain responsible for making a request to issue an FPN and collecting evidence. LAs remain responsible for granting a request making reference to their own code and undertaking the administrative tasks of issuing the warning letter and FPN, receiving payments of fines and proceeding with prosecutions.

Head teachers retain discretion on authorising requests for absences of up to 10 days in term time where parents seek permission and consider requests for absences of more than 10 days where there are exceptional circumstances but they are informed by stronger guidance.

- **Option C: A single, national Welsh code replaces LA codes**

In this scenario, the Welsh Government introduces an All Wales (national) code on issuing FPNs. This All Wales Code replaces LA codes which are abolished. An All Wales code can be expected to include definitions of the following:

- The trigger point(s) for considering when the level of unauthorised absence (number of missed sessions due to holidays, truancy and lateness) would merit consideration of an FPN preceded by a warning;

- Lateness, when the end of registration is (the Welsh Government advises schools should close the register to pupils 30 minutes after the register was taken);
- The time frame for the accumulation of unauthorised absences towards a trigger point (over an academic year, over a term or over a rolling 12-month period);
- Whether a pupil’s overall attendance (number of school days missed overall) should be considered in conjunction with any trigger points for unauthorised absence (and the time frame for this: termly, annually (academic year) or rolling 12-month attendance);
- How many FPNs can be issued per parent, per pupil, per year
- Minimum expectations from schools and EWS about parental contact prior to a warning letter (number of letters/phone calls/meetings)

Additionally, changes to the Guidance in Option B would be introduced.

Schools remain responsible for making a request to issue an FPN and collecting evidence. LAs remain responsible for granting a request making reference to the National Code and undertaking the administrative tasks of issuing the warning letter and FPN, receiving payments of fines and proceeding with prosecutions.

Head teachers retain discretion on authorising requests for absences of up to 10 days in term time where parents seek permission and consider requests for absences of more than 10 days where there are exceptional circumstances but they are informed by stronger guidance.

- **Option D: Fixed Penalty Notices for unauthorised absences are abolished**

In this scenario, the Welsh Government regulation which allows for FPNs is revoked. There are no provisions for parents to be issued with a FPN for their child’s unauthorised absence from school.

Head teachers retain discretion on authorising requests for absences of up to 10 school days in term time where parents seek permission and consider requests for absences of more than 10 school days where there are exceptional circumstances.

Options not considered

6.27 The four options above concern only the revision (or not) of the Welsh Government’s regulation and guidance on FPNs, as required by this study’s research aims and objectives. Other options to improve overall attendance and reduce unauthorised absences (such as further engagement with parents, making more EWS resources available to schools, focusing REC resources and Estyn inspections on attendance issues) are not considered as that would require a wider review of attendance policy which is outside the scope and resources for this study.

6.28 Additionally, the options above do not include other changes which would not be considered feasible. For example, these could include (not an exhaustive list):

- Creating a central government Welsh panel to consider FPN requests from schools and issue guidance;
- Creating four regional bodies (led by RECs) to consider and administer FPNs and lead prosecutions;
- Delegating the whole process to schools.

Definition of criteria for option assessment

6.29 To make an assessment of the four options above, it is necessary to define a set of criteria against which the consequences (costs and benefits) of each option can be appraised. Criteria need to reflect what would be considered “success”. To determine appropriate criteria of “success” we firstly considered the original and continuing purpose of the ‘2013 Regulations’ and its objectives. We also considered users’ expectations (in this case parents, schools and LAs), best practice according to published evidence and any wider public cost and benefit implications.

6.30 Following this process, we have selected the following criteria for the assessment of the options above:

1. Fewer unauthorised and overall absences (higher overall attendance)

The overall objective of the FPN regulation is to encourage behaviour change in parents so that their children miss fewer days of school and are therefore prepared and able to learn. Each option should be appraised against the likelihood of achieving the maximum behaviour change in parents.

Weighting: this is the most important criterion in assessing the success of regulatory change. High weighting.

2. Consistency and transparency in issuing FPNs

Equal treatment of potential offenders or offences and uniform and consistent application is a fundamental principle of any law or regulation. On the contrary, any perceptions of unequal application or unequal treatment of potential offenders or offences creates a sense of unfairness and is a source of frustration for stakeholders (including those affected and those executing the process).

Schools which are concerned about harming relationships with parents if they make a request for an FPN may be less concerned if it was felt that all parents were treated fairly under a consistent, transparent set of rules. Welsh

Government’s 2013 Guidance on FPNs makes reference to the need for

“consistency, fairness and transparency in the way penalty notices are applied”.

Evidence from England also suggests that inconsistencies in court decisions and

inconsistencies in fines may limit the effectiveness of sanctions. In this context, any improvements that lead to greater consistency in the application and interpretation of codes and guidance around FPNs can be considered a benefit.

Weighting: this is an important criterion in assessing the success of a regulatory change. Medium weighting.

3. Burden of change

Any regulatory change will create an administrative burden for individuals and organisations. This burden reflects a cost arising from staff time spent on implementing the change and any higher ongoing cost as a result of change. Implementing a regulatory change also requires a certain amount of time from initiation to implementation, depending on the extent and complexity of change. Time to implement a change should also be considered a burden.

Weighting: this is criterion is of low importance assessing the success of a regulatory change to achieve desired effects. Low weighting.

Assessment of the options

6.31 In this section, we assess the four options against the three criteria.

Option A: No change

Fewer unauthorised and overall absences	Current FPN Regulations and arrangements appear to be having some effect on reducing unauthorised absences for some parents and in some LAs. Warning letters and the threat of FPN believed to have some effect. Data to corroborate this effect not currently available. Any improvement in reduction in unauthorised and overall absences achieved to date is maintained.
Consistency and transparency	Differences in LA codes will remain. Differences in interpretation of LA codes will remain. Differences in interpretation and application of LA codes by schools will remain. No expected improvement in consistency and transparency.
Burden of change	No burden. Immediate implementation.

Option B: Local Authority codes remain but there is stronger national guidance from the Welsh Government

Fewer unauthorised and overall absences	Stronger national guidance may lead to more effective application of FPN regulations. Parents (and pupils) and schools should have greater clarity about unauthorised absences, how these are recorded and interpreted and what the consequences will be. This in turn may encourage more parents to change their behaviour and may lead to fewer unauthorised and overall absences. Small improvement in reduction of overall absences can be expected.
Consistency and transparency	Differences in LA codes will remain, although it can be expected that some codes may be revised and differences reduced. Differences in interpretation of LA codes will remain, although it

	<p>can be expected that revised guidance will reduce areas of uncertainty and lead to more consistent interpretation and application of processes across LAs. Differences in interpretation and application of LA codes by schools will remain, though it can be expected that improvements in consistency of schools' actions occur. Revised guidance may encourage schools to act with greater consistency when taking decisions about unauthorised absences. Some improvement in consistency and transparency expected.</p>
Burden of Change	<p>Welsh Government staff will need to revise guidance. This is expected to require considerable staff time for consultation, drafting, revision and legal advice. LAs may decide to revise their own codes in light of the new guidance. Similar costs may be expected. There will be a cost associated with disseminating information to schools and parents about the new guidance. The timeframe for implementation will be long and may depend on actions of individual LAs.</p>

Option C: A single, national Welsh Code replaces LA codes

Fewer unauthorised and overall absences	<p>A single, national Welsh Code should lead to more effective application of FPN regulations. It should provide absolute clarity to parents (pupils) and schools about what the rules are about when and how an FPN can be issued. National publicity may raise awareness of the importance of attendance among parents (and schools) and may encourage changes in behaviour. Small improvement in reduction of unauthorised absences can therefore be expected from improvements in clarity and national publicity (but greater than Option B).</p>
Consistency and transparency	<p>A single, national Welsh Code means that there are no more differences in the rules determining when and how an FPN can be issued. LAs will continue to take decisions about when an FPN can be issued, therefore differences in interpretation are expected to persist. Schools will continue to use their discretion over when to request an FPN, therefore differences in the use of FPNs as a measure will remain. A revised Code may encourage schools to act with greater consistency when taking decisions about unauthorised absences. Considerable improvement in consistency and transparency expected.</p>
Burden of Change	<p>Welsh Government staff will need to produce a single, national Welsh Code. This is expected to require considerable staff time for consultation, drafting, revision and legal advice. LAs will have to revoke their own codes. LAs will have to adapt existing processes to reflect requirements of new national Code. This is expected to require some LA staff time. There will be some costs associated with disseminating information to schools and parents about the new Code. This may be achieved through nationally coordinated publicity with economies of scale (compared to Option C). The timeframe for implementation will be long (expected to be longer than Options B and D).</p>

Option D: Fixed Penalty Notices for unauthorised absences are abolished

Fewer unauthorised and overall absences	Schools and LAs no longer have the option to use FPNs or warning letters to address persistent unauthorised absence. Parents' whose behaviour did change as a result of the FPNs (or the warnings) may revert to their previous behaviour. Rise in unauthorised absences expected. May signal to parents that attendance is not an important issue for the Welsh Government leading to higher overall absences.
Consistency and transparency	There are no differences in interpretation and application of FPNs because these do not exist. Consistency and transparency are improved.
Burden of Change	Welsh Government will need to revoke Regulations. This is expected to require considerable staff time for consultation, drafting, revision and legal advice (similar to Options B and C). LAs will need to revoke codes and may substitute guidance. Timeframe for implementation may be shorter than for Option B and C though this depends on LA action.

6.32 In summary, the achievement of success against each criterion is as follows:

- **Unauthorised absences:** Options A, B and C are expected to maintain any gains or slightly improve reductions in unauthorised absences. Unauthorised absences are expected to increase under Option D. This criterion carries the most weighting as it is essential to achieving the purpose of the regulation.
- **Consistency and transparency:** Option D achieves the greatest improvements in consistency because FPNs will not exist (although LAs may introduce their own penalties). Options B and C are expected to increase consistency, although differences in interpretation and application will remain. Option C is more likely to lead to improvements than Option B. Option A has no positive consequences against this criterion. This criterion is of medium importance.
- **Burden of Change:** Option A achieves the maximum positive consequences as it has no associated cost or implementation delay. Options B, C and D carry costs in terms of staff time and overall time needed to revise and adopt documents and implement policy. Option C may have higher costs for the Welsh Government but lower costs for LAs. There may be economies of scale in publicity efforts gained from Options C and D compared to Option B. Option B may be lengthier to implement depending on the speed by which LAs respond to revised Guidance. This criterion is of low importance.

6.33 Considering the weighting of options against expected successes, Option C (a single, Welsh Code of Conduct) is expected to, on balance, achieve more desired consequences against costs. Of the four options, it is likely to best achieve a reduction in unauthorised and overall absences by influencing parents' behaviour through national publicity and improvements in clarity and to improve consistency and transparency. It does have higher costs and possibly longer implementation duration than some of the other options, but these are not expected to be greater than the benefits. It is more likely to be supported by stakeholders than the other options.

Conclusions

- Survey respondents and interviewees believe there is a need for better guidance and training from LAs and the Welsh Government;
- Interviewees indicate they want guidance to increase consistency and therefore fairness;
- There is little appetite among survey respondents for maintaining the status quo or abolishing FPNs;
- Eighty-eight per cent agree that there should be a single national code but many interviewees recognise that while this ought to improve consistency it depends on how far schools believe FPNs are an effective measure;
- The research literature does not provide strong evidence that financial sanctions by themselves always have a positive effect on the behaviour of adults in social policies. At a small scale some studies have found overall positive effects which are likely to be greater where those affected have a good knowledge and understanding of why the sanction has been used and how it is determined;
- There can be unintended consequences or little positive effect if fines are too low or enforcement is perceived to be weak. This mirrors some of the findings from this study;
- The Attendance Framework largely reflects published good practice, particularly the focus on prevention and early intervention. It might benefit from considering good practice in addressing attendance in early years settings to set good behaviours, engaging parents, analysing monitoring data at LA level and emphasising the relationships between attendance and falling behind and bullying;

- Drawing on the findings of this study, the current guidance on penalty notices could be strengthened to address some of the problems arising from the LA codes. These are set out in section 6.3;
- From an assessment of the policy options it is clear that change (options B and C) would be more beneficial than no change (option A); and that option C (a single national code with strengthened guidance to LAs and schools on applying the code) would have a greater effect on administrative consistency and the level of unauthorised absence than option B (strengthened guidance to LAs and schools on LA codes and their implementation).

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