

**POLICY FOR DISCRETIONARY LEAVE OF
ABSENCE**

This Policy does not form any part of any employee contract of employment and may be amended at any time subject to consultation with Trade Unions.

1. Introduction.

- 1.1 The Local Governing Body recognises that the success of the school/academy depends upon the contribution of all staff and gives full acknowledgement that a fair and effective policy on Discretionary Leave of Absence contributes to the maintenance of staff morale and thereby our success.
- 1.2 This policy sets out the Discretionary Leave of Absence provisions to make sure requests for leave of absence are dealt with in a fair and consistent way. The operational needs of the school/academy are the priority and therefore there will be times when the Headteacher has to refuse a request for leave and give reasons for so doing. The examples of discretionary leave given are non-exhaustive and where circumstances arise which are not identified in this policy the Headteacher has authority to make the decision on whether or not leave is granted, and whether it is with or without pay.
- 1.3 This policy also sets out what you must do in the event that you must take leave of absence because you have a personal emergency.
- 1.4 The statutory (required by law) leave of absence provisions are generally outside the scope of this policy though they are noted where they bear a relationship to discretionary leave of absence. If you need clarification on whether the leave of absence that you want to take is statutory or discretionary then you must speak to your line manager.
- 1.5 This policy does not cover leave which is included in the policies and procedures listed below:
 - Annual leave
 - Maternity/Paternity/Parental/adoption leave
 - Flexible working
 - Sickness absence
 - Redundancy
 - Training and Study leave
 - Trade Union and Facilities time
- 1.6 This policy applies to all teaching and support staff. This policy is non-contractual and may be amended at any time subject to consultation with Trade Unions.

2. Procedure and Decision Making

- 2.1 Except in emergencies, authorisation to take leave of absence must be requested from the Headteacher as soon as the need for the leave is known using the form at Appendix 1. Use of the form will not be mandatory where absence from work makes it difficult for the employee to access the document and a letter of request will be accepted instead. Where the leave of absence request is made by the Headteacher, the request should be made to the Chair of Governors or CEO of the Trust.
- 2.2 Requests for leave of absence and approval/refusal of such will be dealt with in a fair and consistent manner, having regard to the nature of the request, statutory obligations, pupil/student educational provision, service needs, eligibility, any previous requests and the degree of flexibility that you already have in your current working arrangements. Non-emergency leave of absence must not be taken unless and until it has been approved on the form at Appendix 1.
- 2.3 Where an **emergency** arises you must notify the school of your absence as early as possible, and not later than 8.30am on the morning of the absence, giving the reason for the absence and how long you expect to be absent from work to deal personally with the emergency which cannot be dealt with by anyone else.
- 2.4 Where a leave of absence request is refused there is right of appeal. Any appeal must be made on the form at Appendix 1 within 5 days of receipt of the leave of absence decision. The appeal will be considered by a manager more senior than the manager who has made the decision to decline the request. Where the Headteacher has declined the request the appeal will be dealt with by a panel of not less than two (and ideally three) governors. This decision is final.
- 2.5 A confidential record of requests for leave of absence and whether or not the request was granted will be maintained. Members of the LGPS scheme may seek information about the impact of taking unpaid leave on their pensionable service.

3. Discretionary Leave of Absence

3.1 Examples of discretionary time off work that may be granted with pay:

Summary non exhaustive examples of leave normally granted with pay	Days Per Rolling 12 month period
<u>compassionate leave</u> illness or injury of a significant other person giving rise to serious domestic difficulties	period reasonably necessary but not normally more than 3 days.
<u>bereavement leave</u> death (including funeral) of a significant other person	period reasonably necessary but not normally more than 5 days. (See section below in this policy for Parental Bereavement entitlements))
moving house where it cannot be arranged for a non-working time	1 day
<u>personal events or emergencies</u> i.e. an event which, if response were to be delayed, would result in significant personal loss to the employee such as fire or flood	1 day
<u>accepted impossible</u> travel because of weather or other public crisis.	period reasonably necessary but not normally more than 2 days
interviews for jobs in the education service	period reasonably necessary but not normally more than 3 days
<u>dependant care leave</u> . Employees may only request paid time off to provide personal care for a dependant where there is an immediate crisis. (there is a statutory right to take unpaid leave see 6.1 below)	In normal circumstances not more than 1 day on each occasion. Up to 3 days
<u>Mandatory attendance</u> as witness either on subpoena or other direction from a court or at the direction of the police, or mandatory attendance at an inquest as witness not representing the school	Period of attendance as required.

3.2 Examples of discretionary leave that may be granted without pay:

Summary non exhaustive examples of absence normally granted without pay	Days Per rolling 12 month period- All Staff
Any personal reason other than those above which it was not possible to schedule for a non-working day or time or within annual leave e.g. dentist, optician, medical appointment, driving test, important one-off family occasions.	maximum of 3 days
<u>Voluntary</u> attendance as witness either on subpoena or other direction from a court or at the direction of the police, or voluntary attendance at an inquest as witness not representing the school	period of attendance necessary.
Leave of absence for religious observance	reasonable time off

3.2.1 Medical appointments:

Upon production of a medical appointment letter/card normally up to half a day paid leave may be granted to attend an appointment at hospital (to include medical screening and blood donation but excluding any appointment associated with elective surgery) where it has proved impractical to attend outside normal working hours. In exceptional cases where the appointment involves travel/wait times in excess of half day then up to a full day absence may be granted. You should liaise with your line manager to agree a mutually convenient time so that the operational requirements of the school are met and then request leave from the Headteacher using the form at Appendix 1.

3.2.2 Attendance in court as a witness

If you are subpoenaed or summonsed to attend a Court (including an Employment Tribunal), as a witness and you are not representing the School/Academy then, on production of proof of required attendance, you must request leave from the Headteacher using the form at Appendix 1 and you will be granted unpaid leave to attend where the requirement is voluntary or paid leave where the requirement is mandatory. If you wish to attend Court as a witness on a voluntary basis then you should request leave of absence from the Headteacher as soon as the need for the leave is known using the form at Appendix 1 and a decision will be made on a case by case basis.

3.2.3 Leave of absence for religious observance

You may request unpaid time off work to attend religious festivals, pilgrimages, time off for prayer or may request an adjustment to your working time to accommodate periods of fasting or requirements to cease work by a particular time using the form at Appendix 1. Requests for time off will be considered sympathetically and on a case by case basis, taking into account the needs of the School/Academy pupils and surrounding circumstances. You should request time off at the beginning of the School/Academy year if possible, otherwise as soon as possible, so that plans for covering your absence can be made in good time.

4 Statutory Leave of Absence for Public Duties

- 4.1 Employees are entitled to a reasonable amount of **unpaid** time off work by law to carry out certain public duties. Public duties include service as a:
- Tribunal member
 - Magistrate
 - Local councillor
 - Member of an NHS Trust
 - Prison/other centre visitor/monitor
 - Lay visitor/observers
 - School governor
 - Special Constable
 - Army Reservist
- 4.2 As soon as you are aware that you will require time off for performance of a public service you should request leave of absence from the Headteacher using the form at Appendix 1.
- 4.3 The School/Academy will agree to requests for **paid** time off to undertake public duties wherever reasonably possible having regard to the criteria set out in this policy.
- 4.4 Each request for time off will be considered on its merits, in the circumstances in which it is made including:
- Whether time off for sabbatical periods can be accommodated by the school
 - Whether the activity is reasonable in relation to your employment
 - How much time off is reasonably required for the duty in question
 - How much time off you have already taken for the public duty in question
 - How your absence will affect the School/Academy.

5. Jury Service

- 5.1 You must inform your line manager as soon as you are summonsed for jury service and provide a copy of your Jury Service Summons and the accompanying Loss of Earnings form. Where, in our view, the release of an employee for jury service raises significant teaching or operational problems, assistance will be provided to the employee in order to appeal to the court to re-arrange or cancel the dates of service.
- 5.2 Employees attending Jury Service are usually able to claim compensation from the court for loss of earnings. We will make up the Loss of Earnings allowances to your normal level of earnings. We must complete the Loss of Earnings form and you must give the completed form to the Clerk of the Court on your first day of Jury Service.
- 5.3 Upon completion of Jury Service, the Court will pay an employee for travel, subsistence and Loss of Earnings and provide a remittance advice. This advice **MUST** be forwarded to the school office within 3 days of your return to work.
- 5.4 Your salary will be reduced by the "Juror's Loss" paid by the Court. Pension contributions are not affected. An Employee cannot be paid twice by the Court and the school/academy for the same days.
- 5.5 Where jury service lasts for less than half a day you must return to work for the remainder of the day wherever practicable. You must keep your line manager regularly informed about how long you are likely to be away from work.

5.6 Employees are protected from being subjected to a detriment or being dismissed, as a result of being summoned to attend for service as a juror or being absent from work on jury service.

6. Statutory Dependent Care Leave

6.1 Employees have a right to take a reasonable amount of **unpaid** time off work when it is necessary to:

- (a) provide assistance when a dependant falls ill, gives birth, is injured or assaulted;
- (b) make longer-term care arrangements for a dependant who is ill or injured;
- (c) take action required in consequence of the death of a dependant;(see section below on additional Parental Bereavement Leave)
- (d) deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependant; and/or
- (e) deal with an unexpected incident involving their child during school hours (or those of another educational establishment).

6.2 A **dependant** for the purposes of this paragraph 6.1 is:

- (a) an employee's spouse, civil partner, parent or child;
- (b) a person who lives in the same household as an employee, but who is not their tenant, lodger, boarder or employee; or
- (c) anyone else who reasonably relies on the employee to provide assistance, make arrangements or take action of the kind referred to in 6.1 above.

7. Parental Bereavement Leave

7.1 We recognise that, while dealing with any bereavement is difficult, the death of a child is among the most devastating events that an employee can ever face.

7.2 This entitlement applies to employees who have suffered the loss of a child (under the age of 18) or who suffer a stillbirth after 24 weeks of pregnancy on or after 6 April 2020.

7.3 Irrespective of the length of service, an employee can take parental bereavement leave if they are;-

- Parent of a child who has passed away
- Partner of the child's parent, where they live in an enduring family relationship with the child who has passed away and their parent.
- 'Parent in fact' of a child who has passed away, which means that for a continuous period of at least 4 weeks before the child died they had been living with the child and had day to day responsibility for the child (but had

not been paid to look after the child).

- 'Intended' parent of a child who has passed away i.e. a parent using a surrogate.
- 'Natural' parent of a child who has passed away who is named in a court order i.e. where a court orders some contact for an adopted child's birth parent.
- Adopter of a child who has passed away.

In practice this means that most employees with parental responsibility for a child who passes away after 6 April 2020 can take parental bereavement leave. If you have suffered a bereavement but are unsure if you are entitled to parental bereavement leave, you should contact your line manager for clarification.

7.4 What leave a bereaved parent can take.

For each child who has passed away, a bereaved parent can take one or two weeks' parental bereavement leave. Parental bereavement leave is not available as individual days.

7.5 Leave can be taken as a single block of two weeks or two separate blocks of one week at different times. The leave must be taken within 56 weeks of the date of decease of the child. This lengthy period recognises that, as a bereaved parent, you may need some flexibility as to when you take the leave. For example you may wish to take leave around the first anniversary of the child's death, or at another particular time that is special such as the child's birthday, or have already be on another type of leave such as maternity leave or sickness absence.

7.6 Notice to take parental bereavement leave.

Informal notification such as a phone call or e mail is sufficient to take parental bereavement leave. If you intend to take parental bereavement leave within the first 8 weeks after the child's death you can take the leave straightaway and do not have to provide a period of notice. If you intend to take parental bereavement leave more than 56 days after your child's death you have to give your line manager at least one week's notice of your intention to take the leave.

7.7. Cancellation of parental bereavement leave.

If you have asked to begin parental bereavement leave within the first 8 weeks of the date of the child's death you can cancel your leave as long as you let your line manager know before you would have been due to start work. If you have asked to

begin parental bereavement leave more than 8 weeks after the death you can cancel the leave by providing your line manager with one week's notice in advance.

7.8 Pay during parental bereavement leave.

Recognising the need to support bereaved parents and to minimise bureaucracy and uncertainty as such a difficult time the Trust will continue to pay normal pay during parental bereavement leave.

7.9 During parental bereavement leave all terms and conditions of contract will continue.

7.10 Returning to work following parental bereavement leave

You have the right to resume work in the same job when returning to work from parental bereavement leave if the period of leave, when added to any other period of statutory leave (typically maternity leave, paternity leave, adoption leave or shared parental leave) in relation to the same child is 26 weeks or less.

You are entitled to return to another job that is suitable and appropriate for you rather than the same job if the period of leave taken is more than 26 weeks when added to most other periods of statutory leave taken in relation to the same child and it is not reasonably practicable to return you to the same job.

Part 3

APPEAL AGAINST LEAVE OF ABSENCE DECISION

If you wish to appeal against a refusal to grant discretionary leave of absence then you must explain your reasons below and return this form to [the decision maker] within 5 days of the date of the decision as recorded above. Your appeal will be heard by (a panel of not less than two governors).

Signed:

Date: