

DEMAT Discretionary Leave of Absence Policy

In the development of this policy consideration has been given to Equality and Diversity and Data Protection.

Equality and Diversity

The Diocese of Ely Multi Academy Trust (DEMAT) is committed to promoting equality of opportunity for all staff and job applicants. We aim to create a supportive and inclusive working environment in which all individuals can make best use of their skills, free from discrimination or harassment, and in which all decisions are based on merit. We do not discriminate against staff based on age, race, nationality, ethnic origin, religious or political belief or affiliation, trade union membership, gender, gender reassignment, gender identity, marriage and civil partnership status, pregnancy and maternity, sexual orientation, disability, socio- economic background or any other inappropriate distinction or characteristic covered by the Equality Act 2010.

The principles of non-discrimination and equality of opportunity also apply to the way in which DEMAT staff, Trustees, Directors and Governors treat visitors, volunteers, contractors.

Data Protection

DEMAT will process personal data of staff (which may be held on paper, electronically, or otherwise). DEMAT recognises the need to treat it in an appropriate and lawful manner, in accordance with the General Data Protection Regulations (GDPR).

	Version	Date
Date of EPM Model Policy used as a baseline by DEMAT	2	September 2018
Date on which the DEMAT consulted with the unions	2	October 2018
Ratified by DEMAT Personnel Committee	2	November 2018
Effective date as determined by DEMAT	2	December 2018
Policy to be reviewed by DEMAT (unless statutory revisions require it be done earlier)		January 2021 (currently under review 2025)

For all questions in relation to this policy please contact the DEMAT HR Manager on 01353 656760 or contact the HR team at: HRteam@demat.org.uk

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Definitions

“Headteacher” also refers to any other title used to identify the Headteacher where appropriate.

“Senior Manager” refers to any Senior Manager within DEMAT. This may be either a Director/Senior Manager from the shared services team or within a constituent academy.

“Employee” refers to any member of staff, namely teaching, support and shared service staff employed to work within DEMAT.

“Companion” refers to a person chosen by the employee to accompany him/her, who shall be a trade union representative or a workplace colleague.

“Adviser” refers to any DEMAT Senior Manager duly appointed to the role by the CEO. In cases relating to employees within the DEMAT shared service team, the term ‘Chair of Governor’ or ‘Governor’ to be replaced by DEMAT Senior Manager. The CEO may exercise discretion in appointing a Senior Manager to deal with school-based issues, depending on circumstances (e.g. impartiality, capacity to carry out a prompt investigation).

Application of the Policy

This policy is to be used by all employees employed by DEMAT. The above definitions are included for reference purposes for both School and shared service team staff to enable clarity and transparency when applying this policy.

1. Introduction.

- 1.1 DEMAT recognises that the success of the Trust and schools 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 Trust and schools are the priority and therefore there will be times when Senior Management refuses a request for leave. The examples of discretionary leave given are non-exhaustive and where circumstances arise which are not identified in this policy Senior Management has authority to make the decision on whether leave is granted and whether it is with or without pay.
- 1.3 This policy also sets out what you must do if you must take leave of absence because you have a personal emergency.
- 1.4 The statutory 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 Facility Time
- 1.6 This policy applies to all Trust employees working in the shared service team, or a school level (both teachers and support). This policy is non-contractual and may be amended at any time.

2. Procedure and Decision Making

- 2.1 Except in emergencies, authorisation to take leave of absence must be requested from your line manager as soon as the need for the leave is known using the form at Appendix 1. Where the leave of absence request is made by the Headteacher, the request should be made to the Local Chair of Governors and the Director of School Improvement.

- 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 your line manager by telephone as soon as is reasonably practicable, 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.

For employees in the shared services team, the appeal will be considered by a Trust Director and the HR Manager (provided neither were involved in the original decision), whose decision is final.

For employees in schools, the appeal will be considered by the Headteacher (provided they did not make the original decision) and two governors, whose decision is final.

- 2.5 A confidential record of requests for leave of absence (regardless of outcome) will be maintained. Members of the LGPS scheme will be informed about the impact of taking unpaid leave on their pensionable service.

3. Discretionary Leave of Absence for all staff

- 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.
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.

Accepted impossible 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.
Dependent care leave. employees may only take paid time off to provide personal care for a dependent 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.

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

Summary non-exhaustive examples of absence normally granted without pay	Days per 12 month rolling period.
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.
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 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. 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 your line manager 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 Trust/School within the Trust then, on production of proof of required attendance, you must request leave from your line manager using the form at Appendix 1 and you will be granted unpaid leave to attend. If you wish to attend Court as a witness on a voluntary basis then you should request leave of absence from your line manager 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 Trust/School, pupils and surrounding circumstances. You should request time off at the beginning of the school 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 visitor
- Lay visitor to police stations
- School governor

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 your line manager using the form at Appendix 1.

4.3 The Trust/School 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 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 Trust/School.

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 your line manager within 3 days of your return to work, unless there are extenuating circumstances which should be disclosed.
- 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 Trust/School 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 Dependant 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 dependent who is ill or injured;
 - (c) take action required in consequence of the death of a dependent;
 - (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.

LEAVE OF ABSENCE DECISION

Part 2 Your request for leave is:

Approved with pay: ☐ Time to be made up: Yes ☐ No ☐
 Approved without pay: ☐

Not approved for the following reasons:

- ☐ Operational difficulties in covering absence.
- ☐ Detrimental impact on workloads of colleagues/ impact on service and education for pupils/students.
- ☐ Leave of absence limits already reached.
- ☐ The request is outside the policy framework.
- ☐ Other

Explanation of reason(s) for non-approval:

Signed:

Date:

Job title:

Part 3

APPEAL AGAINST LEAVE OF ABSENCE DECISION

If you wish to appeal against a refusal to grant discretionary leave of absence you must explain your reasons below and return this form to the decision maker within 5 working days of the date of the decision as recorded above. Your appeal will be heard by relevant parties identified in section 2 of this policy.

Signed:

Date:

