



## THE LEARNING PARTNERSHIP

### Annual Leave Policy

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<b>Last review date:</b>	12 April 2021
<b>Next review date:</b>	12 April 2024
<b>Approval needed by:</b>	<b>Finance and Staffing Committee</b>

## SCOPE

Section A of this policy applies to part year or term time support staff, i.e. an employee who is only required to work for part of the calendar year. Section B of this policy applies to support staff employees who work on a full year basis, i.e. an employee who is required to work throughout the calendar year (less their entitlement to annual leave and bank holidays). Section C applies to teaching staff regarding the accrual of annual leave during maternity, adoption and shared parental leave.

## AIMS

The purpose of this policy is to detail the provisions that The Learning Alliance will make in relation to annual leave for support staff who work on a part and full year basis. The policy also clarifies the Trust's approach to the accrual of annual leave specifically for teaching staff during maternity, adoption and shared parental leave.

## PRINCIPLES

To have a consistent approach to the payment of leave for part year support staff and the approval of annual leave for full year support staff, and to confirm the arrangements in relation to annual leave and the rights of teachers taking maternity, adoption or shared parental leave.

## CONTENTS

This policy covers the school's provisions in relation to:

- A. [Annual Leave for Part Year Support Staff](#)
- B. [Annual Leave for Full Year Support Staff](#)
- C. [Accrual of Annual Leave during Maternity \(or Adoption/Shared Parental Leave\) Leave for Teaching Staff](#)
- D. [Annual Leave for Casual Staff](#)

Where appropriate, this Policy should be read in conjunction with the Trust's Flexible Working Policy.

This policy does not cover the Trust's provisions relating to Maternity Leave, Paternity Leave, Adoption Leave and Shared Parental Leave which are covered in separate policies.

## **SECTION A: ANNUAL LEAVE FOR PART YEAR SUPPORT STAFF**

A part year or term time employee (working full or part time hours) is a person who is only required to work for part of the calendar year.

### **Entitlement**

The annual leave entitlement for support staff is 25 days per annum for employees with less than 5 years continuous employment, and 30 days for employees with more than 5 years continuous employment. In some circumstances, previous employment with a related employer (i.e. an employer to which the Redundancy Payments Modification Orders (RPMOs) applies) may count towards the 5 years.

The above entitlements will be pro rata to actual hours of work for part time employees.

Entitlement to leave for part year staff is calculated and PAID rather than it being taken during term time by prior agreement. The paid leave entitlement is incorporated into an employee's salary using the Part Year Pay Calculator, and is normally spread over 12 months.

### **Annual leave period**

Part year employees will take their paid annual leave during the school closure periods. Arrangements should be made to ensure that employees who transfer from one school to another where the leave year is different, do not suffer a disadvantage.

It may be necessary to recalculate an employee's entitlement to annual leave when they leave or transfer to another establishment to ensure that they have received the correct entitlement to paid leave. Although part year employees do not work throughout the year, the payment of their salary (including entitlement to paid leave) is spread across the whole year. When an employee leaves the Trust, the appropriate pro rata entitlement for that year will be calculated for complete calendar months' service, from the **anniversary** of the start date of their part year contract.

Refer to the Guidance on Part Year Support Staff for further details of the pay and leave formula for part year staff.

### **General national holidays**

There is an entitlement to 8 days bank holiday per calendar year (pro rata for part time staff). Entitlement to the appropriate proportion of bank holidays for part year staff is incorporated into an employee's salary using the Part Year Pay Calculator.

### **Sickness absence and maternity/adoption/shared parental leave**

Part year employees who have long term sickness absence or take maternity, adoption leave or shared parental leave will have the same benefit that full year employees have in respect of leave accrued.

During a period of absence due to long term sickness or maternity, for example, an employee's pay is reduced and so they may not receive their full entitlement to leave through their normal pay. The

accrued leave during a period of absence where an employee's pay is reduced will need calculating and any payments of leave incorporated into their sickness/maternity pay, for example, will need to be offset against the accrued leave. This ensures that part year employees do not exceed their entitlement and receive the same benefit as full year employees. Schools should contact Payroll if they need guidance in working out the accrued leave.

The balance of accrued leave may be given as time off in term time or pay in lieu. This will need to be agreed with your Headteacher/Manager.

## **SECTION B: ANNUAL LEAVE FOR FULL YEAR SUPPORT STAFF**

A full year employee (working full or part time hours) is a person who is required to work throughout the calendar year, less the entitlement to annual leave and bank holidays.

### **Entitlement**

The annual leave entitlement for support staff is 25 days per annum for employees with less than 5 years continuous employment, and 30 days for employees with more than 5 years continuous employment. In some circumstances, previous employment with a related employer (i.e. an employer to which the Redundancy Payments Modification Orders (RPMOs) applies) may count towards the 5 years.

The above entitlements will be pro rata to actual hours of work for part time employees.

Leave may be calculated and taken in days or hours depending on the working arrangements of specific departments within the school.

Holidays may only be taken by prior agreement with the Headteacher/Manager.

### **Annual leave period and carry-over**

The annual leave year is from 1 April to 31 March each year. Arrangements should be made to ensure that employees who transfer from one school to another where the leave year is different do not suffer a disadvantage.

Employees are entitled to carry forward from the previous leave year or bring forward from the subsequent leave year, up to five days' leave to be added to the current entitlement. Headteachers may agree carry/bring forward of more than five days in exceptional circumstances (subject to the requirements of the Working Time Regulations being met, i.e. the entitlement to 28 paid days leave in each leave year).

For employees who commence, leave or have a change of entitlement during the leave year, an appropriate pro rata entitlement for that year will be calculated for complete calendar months' service. Employees leaving the school are expected to use up any outstanding leave. Any leave taken in excess of the entitlement to the date of leaving will be repaid through an appropriate deduction from pay. This will be the net equivalent for each day of holiday taken over and above the accrued entitlement.

## **General national holidays**

There is an entitlement to 8 days bank holiday per calendar year (pro rata for part time staff). Full time employees are entitled to paid leave on all bank holidays. Bank Holiday Guidance is available to calculate the entitlement for part time employees who work less than five days each week.

## **Sickness absence and annual leave**

Annual leave continues to accrue throughout periods of short- and long-term sickness absence. Where an absence extends beyond the end of a holiday year and the employee has not been able to use their holiday entitlement, the unused contractual entitlement will be carried forward and be added to the following year's holiday entitlement. If employment is terminated any remaining annual leave entitlement will be paid in the final salary payment.

In respect of bank holidays not taken due to sickness, these will not be given in lieu unless the employee has had less than, or not been able to carry over the minimum annual leave entitlement under the Working Time Regulations, which is 28 days per annum (this includes bank holidays) or the pro rata entitlement for a lesser period. If employment is terminated any accrued holiday entitlement accrued to the point of termination will be paid in lieu, in the final salary.

## **Maternity/adoption/shared parental leave and annual leave**

An employee is allowed to take their full annual leave entitlement before maternity, adoption or shared parental leave commences provided that:

- the employee intends to return to work;
- the employee is aware that if he/she does not return to work he/she will have to repay any leave he/she was not entitled to take;
- the leave is operationally convenient and agreed by the Headteacher/Manager; and
- if he/she subsequently decides not to return to work then the date used to calculate leave entitlement is his/her last day of employment.

Employees are encouraged to take any outstanding leave prior to commencing maternity, adoption or shared parental leave; all holidays must be taken in the year it is earned and therefore if the holiday year is due to end during maternity, adoption or shared parental leave, the employee should take the full year's leave before commencing maternity, adoption or shared parental leave. A discretionary 5 days leave may be carried over to the following leave year. Where the employee is unable to take his/her leave before commencing maternity, adoption or shared parental leave due to the early birth or placement of his/her child, or pregnancy related illness for example, or if the leave year runs in line with the maternity, adoption or shared parental period, exceptions may be made to carry over policies to allow the employee to carry the remaining period of leave into the next leave year.

Employees will continue to accrue contractual annual leave as per their contract of employment during ordinary and additional maternity, adoption and shared parental leave including entitlement to bank holidays, and which will be accrued pro rata to contracted hours.

## SECTION C: ACCRUAL OF ANNUAL LEAVE DURING MATERNITY, ADOPTION OR SHARED PARENTAL LEAVE FOR TEACHING STAFF

The following guidance is based on advice from the national employers and available case law in relation to the rights of teachers taking maternity leave (or adoption/shared parental leave) to continue to accrue rights to annual leave while they are away. Briefly, the national employers now advise that:

- Teachers are entitled to 28 days' statutory annual leave (SAL) under the WTR (this is **not** an additional entitlement on top of school closures);
- A teacher who takes maternity leave must be able to take the 28 days SAL at a time outside of her maternity (or adoption/shared parental leave) leave. The school may not treat any part of the maternity (or adoption/shared parental leave) leave period as annual leave;
- Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the maternity leave period;

To operate these arrangements it is necessary to fix a leave year for teachers. In consultation with the Cheshire Teachers' Panel, it has been decided that it would be logical to have a year running from 1 September in line with the school year.

### Action by schools

The following statement must be included in letters to teachers taking maternity leave:

*"Under the Working Time Regulations, you are entitled to accrue up to 28 days (or pro rata if part-time) statutory annual leave (SAL) during your maternity leave (NB: this is **not** an additional leave entitlement on top of school closures). If, on your return to work after maternity leave, your accrued SAL exceeds the aggregate paid school closure period during that leave year (the leave year runs from 1 September), the balance of SAL may be taken as leave during term-time with prior agreement. Where this is not possible, it will be carried forward to the following leave year when it will be added to the SAL entitlement for that year. Please contact your head teacher/line manager when you return to work so any entitlement can be determined."*

### Notice

Under the WTR, an employer must give an employee notice to take their annual leave. This must be at least twice the length of time as the leave the employee is to take. Equally, an employer can give an employee who requests leave notice that they cannot take it by giving notice of at least the length of the leave requested. Schools and Academies should follow these rules where a teacher has an entitlement to term time leave.

### Payment in lieu

The WTR prohibit payment in lieu being made for annual leave that has not been taken, except where employment terminates. Normally, the only instance therefore, when payment in lieu may be necessary, is if a teacher does not return to her job following maternity leave.

## **SECTION D: CALCULATION OF ANNUAL LEAVE FOR CASUAL STAFF**

### Casual Workers

A casual member of staff's entitlement to annual leave should be calculated retrospectively at the end of each month. Please access the calculation of annual leave calculator attached below.

Calculation of Annual Leave for Casual Staff [\\*add hyperlink](#)

This should then be entered into the Trust's pay information system.

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## **EQUALITY**

The Learning Alliance will ensure that, when implementing the Annual Leave Policy, no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the Policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

## **MONITORING**

Data relating to the operation of this policy will be collated and monitored periodically to ensure that the policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

## **REVIEW**

The policy will be reviewed in the light of operating experience and/or changes in legislation and in consultation with the Trade Unions.