

## LEAVE OF ABSENCE POLICY

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## **Leave of Absence Policy**

### **Introduction**

The Local Authority in consultation with recognised Trade Unions originally developed these guidelines. This policy has been developed to promote a clear and consistent approach within the Trust for the management of requests from staff for leave of absence.

It is the Academy responsibility to manage their staff. The Headteacher will assist the Governors in the discharge of this responsibility and may act in certain circumstances in the absence of the Governors.

### **1 Purpose of this Policy**

- to comply with statutory entitlements to leave of absence;
- to clarify the conditions under which other leave of absence may be taken;
- to enable a consistent and transparent approach to requests for leave of absence;
- to establish a system which is fair to all employees.

### **2 General Points for Consideration**

Any leave of absence taken by employees may cause disruption to pupils' learning, involve the Academy in additional organisation and may incur costs. Employees will be mindful of these considerations and, as far as is reasonably practicable should make arrangements to minimise the necessity to ask for leave of absence, for example by making medical appointments outside of school hours, if able to do so. However, the Academy recognise that situations will arise from time to time, outside of any statutory entitlement, where the Academy will need to grant employees leave of absence.

The decision about whether leave of absence is paid or unpaid is at the Headteacher's discretion, in line with this policy, unless there is a statutory entitlement to pay.

It should be noted that there might be occasions when circumstances arise that are not identified in this policy. In such circumstances the decision regarding leave of absence remains within the discretion of the Headteacher. Each case will be judged on its own merits and circumstances. The granting of time off in one case will not necessarily set a precedent for other cases.

### **3 The Legal Position**

Those employees who have a contractual obligation to work during school term periods should avoid applications for leave of absence, for example, to enable staff to accompany members of their family or partners on holidays etc. These will not be granted by the Academy unless there are very exceptional circumstances and acceptable cover arrangements can be arranged by the Academy.

### **4 Considerations in Granting Leave**

The most common requests for leave are home emergencies, serious illness/death of a partner/near relative and funerals. Each situation may be different and it is essential not to make assumptions about the surrounding circumstances or nature/status of the relationship of an individual to the employee.

Headteachers/Governors should take account of the following:

- their duty of care to their staff;
- the stated reason/purpose for the leave and the impact upon the person concerned;
- any anticipated effect upon the welfare of the Academy if leave is granted;
- any benefit (for example educational or personal development) to the employee making the application

Employees should endeavour to give the Headteacher/Governors as much notice as possible as longer notice will give the Academy a greater opportunity to make alternative arrangements.

In instances where frequent requests for leave of absence are made, the Headteacher should discuss the requests with the employee and consider whether the Academy can assist with any underlying difficulties either on a temporary or permanent basis.

## **5 Emergency Leave**

Where the absence of the employee is unavoidable, for example due to the illness of a dependant relative, and after due consideration by the Headteacher, or nominated representative, the employee would normally be granted immediate paid leave of absence to put in place emergency arrangements. The Headteacher should then consult the Chair of Governors at the earliest opportunity and agree how much leave is reasonable in the circumstances. In such instances, the employee should be asked to contact the school, the next day at the latest, to inform the Headteacher of the current position and to establish the duration of leave granted and whether or not it is paid.

In recognising Family Friendly issues employees are allowed up to one paid week of leave in a rolling year to assist them in managing the illness/support of dependents and relatives.

## **6 Applications for Other Non-Urgent Leave**

For applications for leave of absence for any other reasons, other than Emergency Leave detailed above, or for leave of absence for a period longer than 2 weeks, a written application should be sent to the Headteacher. The employee should give at least 15 school days of notice before the absence is to be taken. Such requests should be considered by the Governors.

Employees should note that the 15 school days of notice is a minimum period, and staff should provide as much notice as possible.

**However, as previously stated, other than in exceptional circumstances no leave will be granted by the Academy during term time.**

## **7 Extended Leave of Absence (for example of at least half a term in duration)**

Requests for an extended period of leave, including leave for sabbaticals, exchanges and voluntary work, should be by written application to the Headteacher giving at least a full term's notice. The Academy will consider the request taking account of any recommendations made by the Headteacher. Such periods of absence may affect the leave entitlement of relevant employees.

## **8 Pay Considerations**

Where leave of absence has been granted without pay, salary will be deducted in line with the employee's contract of employment.

## **9 Statutory Entitlements and Requests for Absence**

Statutory entitlements are given below, followed by a list of the most common requests for leave of absence. A suggested appropriate amount of leave is given and whether it should be paid or unpaid. Each case will be judged on its own merits and circumstances. The granting of time off in one case will not necessarily set a precedent for other cases. Where paid leave of absence has been granted, further unpaid leave may also be granted at the Academy's discretion.

## Statutory Entitlements

### A Maternity Leave

The Employment Act 2002 gives all employees an entitlement to 26 weeks' paid ordinary maternity leave, and subject to qualification, a further 26 weeks' unpaid additional maternity leave. **Different maternity provisions apply to teaching and non teaching staff.** For more information see '[Maternity Provisions for Non Teaching Staff](#)', or the provisions set out in the Burgundy Book for Teachers.

### B Paternity Leave

The Employment Act 2002 gives a qualifying employee an entitlement of up to 2 weeks' paid paternity leave (at Statutory Paternity Pay) for the purpose of caring for a newborn (or newly adopted) child and supporting the mother (or adopter). Different criteria apply depending on whether the leave is connected with a birth or an adoption. For more information see [Paternity Leave \(Newborn Child\)](#), UK Adoptions and Overseas Adoptions or contact the Academy's HR department.

Employees are entitled to take time off during working hours to accompany a pregnant partner to up to two appointments to receive antenatal care, lasting no more than 6 and a half hours each, provided they meet the relevant criteria.

### C Adoption Leave

The Employment Act 2002 gives a qualifying employee an entitlement of 26 weeks paid ordinary adoption leave (at Statutory Adoption Pay) and 26 weeks' unpaid additional adoption leave. Different criteria apply depending on whether the adoption is from within the UK or from overseas. Please see information bulletins Adoption Leave UK Adoptions and Overseas Adoptions. Teachers should also refer to the Burgundy Book.

### D Parental Leave

The Parental Leave Regulations give a qualifying employee an entitlement to 18 weeks' unpaid parental leave for the purpose of caring for a child born or adopted on or after 5 April 2015. This entitlement lasts until the child's 18th birthday.

If an employee has completed one year's continuous service with an employer, they are entitled to 18 weeks unpaid parental leave for each child born or adopted. The leave can start once the child is born or placed for adoption, or as soon as the employee has completed a year's service, whichever is later. Employees can take it at any time up to the child's 18th birthday.

A request should be made to an employer giving 21 days' notice of the start date of the parental leave. To take parental leave straight after the birth or adoption of a child, an employee should give notice 21 days before the beginning of the expected week of childbirth or placement. In cases where this may not be possible they should give notice to the employer as soon as possible. For example, if a child is born prematurely or where less than 21 days' notice is given that a child is to be placed with you for adoption.

Parental leave should be taken in blocks of a week or multiples of a week, and should not be taken as "odd" days off, unless the employer agrees otherwise or the child is disabled. Employees cannot take off more than four weeks during a year per child. A week is based on an employees working pattern.

An employee will remain employed while on parental leave and some terms of the contract, such as contractual notice and redundancy terms, still apply.

## **E Shared Parental Leave**

A new Shared Parental Leave Regulations arrangement giving working couples greater flexibility to share childcare has been introduced. The arrangements only apply to parents or adopters of babies due or children placed for adoption on or after 5 April 2015.

The regulations give the birth mother or primary adopter the option to end their maternity or adoption leave and pay entitlements early; in order to transfer to, or share with their partner of either sex, any remaining leave and/or statutory pay entitlements.

The statutory rate of Shared Parental Pay (ShPP) is a set amount per week published each year.

This replaces Additional Paternity Leave. However, Ordinary Paternity/Maternity Support Leave of two weeks after birth or adoption will continue as before.

Ordinary Parental Leave (different to Shared Parental Leave) gives every parent the right to a total of 18 weeks unpaid Parental Leave per child. Previously, this total amount had to be taken before the child's fifth birthday or anniversary of adoption. It may now be taken up to the child's 18th birthday, but still at a maximum of 4 weeks per year.

For more information, please see the ACAS guidance 'Shared Parental Leave: a good practice guide for employers and employee' provides a useful overview of the scheme.

Expecting parents may wish to use an on line 'ready reckoner' to calculate any entitlement to maternity, paternity or shared parental leave, and how much (if any) statutory pay they will be entitled to during such leave. This does not take into account that Academy employees on maternity or adoption leave may also be eligible for additional 12 weeks contractual maternity pay.

## **F Time Off for Dependents**

Since December 1999, all employees have the right to take a reasonable period of unpaid time off work to deal with an emergency or sudden problem involving a dependent, such as illness, accident or an unexpected breakdown in care arrangements, and not to be dismissed or victimised for doing so. A dependent is the partner, child or parent of the employee, or someone who lives with the employee as part of their family e.g. a grandparent. This right is intended to enable employees to make necessary longer term care arrangements for the dependant.

Under the Family Friendly principles operated by the Academy, employees are allowed up to 37 hours paid leave in a rolling year to assist them in managing the illness/support of dependents and relatives.

### **Circumstances under which employees may take time off**

The right enables employees to deal with an unexpected or sudden problem and make any necessary longer-term arrangements:

- if a dependant falls ill or has been involved in an accident or assaulted, including where the victim is hurt or distressed rather than injured physically;
- when a partner is having a baby;
- to make longer term care arrangements for a dependant who is ill or injured;
- to deal with the death of a dependant; for example, to make funeral arrangements or to attend a funeral;
- to deal with an unexpected disruption or breakdown in care arrangements for a dependant; for example, when the childminder or nurse fails to turn up;
- to deal with an incident involving the employee's child during school hours; for example, if the child has been involved in a fight or is being suspended from school.

### **Definition of Dependant**

A dependant is the partner, child or parent of the employee, or someone who lives with the employee as part of their family. For example, this could be an elderly aunt or grandparent who lives in the household. It does not include tenants or boarders living in the family home, or someone who lives in the household as an employee, for example, a live-in housekeeper.

In cases of illness, injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency.

### **Amount of Time Off allowed**

There is not a set limit to the amount of time off which can be taken. In most cases, the amount of leave will be 1 or 2 days at the most, but this will depend on individual circumstances. It should be remembered that these provisions relate only to an emergency involving a dependant, although an employee may be able to take a longer period of leave under other arrangements with the employer. For example, if a child falls ill, the leave should be enough to help the employee cope with the crisis - to deal with the immediate care of the child, visiting the doctor if necessary, and to make longer term care arrangements. It does not mean that the employee may take 2 weeks leave to look after a sick child.

### **Time Off will be without pay**

The statutory right does not include a right to be paid. Whether or not the employee will be paid will depend on the existing terms and conditions of employment. These arrangements remain unchanged.

### **Notice employees are required to give**

Employees need to tell their employers as soon as possible about their absence, the reason for it and how long they expect to be away from work. There may be times when an employee returns to work before it was possible to contact his or her employer, but he or she should still tell his or her employer the reason for the absence on return to work. The standard should be the same as for sickness absence.

### **Refusal of Time Off**

Employees who think they have been unreasonably refused time off, or victimised for taking it, may complain using the formal grievance procedure.

Where it is suspected that an employee is abusing the right to time off for dependants, a reference should be made under the appropriate disciplinary process.

### **Employees needing longer time off, or knowing in advance that the problem is going to arise**

The new right is intended to cover unforeseen matters. If employees know in advance that they are going to need time off, they may be able to take this time as part of their annual leave entitlement. The right to Parental Leave covered in the next section should also be considered.

### **Other Requests for Leave of Absence and Suggested Approach**

#### **Death of a Partner or Child**

- 2 weeks' paid leave
- additional leave at the discretion of the Headteacher/Academy

#### **Death of a Relative or Close Friend**

- up to 2 school days' paid leave
- a further 1 school day paid leave for travelling if out of the County

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- an additional 5 school days' unpaid leave if appropriate decided by the Academy

### **Terminal Illness of Partner, Child, Near Relative or Close Friend**

- the employee must be the main carer
- 2 weeks' paid leave to be taken when needed as appropriate
- up to 12 weeks' unpaid leave also to be taken when needed by the employee

### **Compassionate Leave**

- in circumstances not covered by any of the above, at the discretion of the Academy
- up to 1 week paid leave
- up to 6 weeks' unpaid leave

### **Funerals**

- 1 day's paid leave depending on the circumstances
- a further 1 school day paid leave for travelling if out of County
- if an employee intends to attend an overseas funeral then the Academy has the discretion to grant additional unpaid leave

### **Maternity Support Leave (in conjunction with Paternity Leave)**

- 5 school days' paid leave for partner

### **Leave of Absence for Public Duties**

Leave of absence with full pay is granted to enable employees to attend to public duties as a:

- Justice of the Peace;
- member of a local authority (including a parish council or a county council established under the Local Government Act 1972);
- member of a police authority;
- member of a relevant health body;
- member (in England and Wales) of the managing or governing body of an educational establishment maintained by a local authority and members of the governing body of a further or higher education corporation;
- member of the General Teaching Council for England and Wales;
- member of the Environment Agency or the Scottish Environment Protection Agency;
- member (in England and Wales) of boards of prison visitors, and in Scotland, prison visiting committees;
- member of the service authority for the National Criminal Intelligence Service or the service authority for the National Crime Squad;
- member of a water customer consultative panel.

### **Jury Service**

- paid time off for the whole period of service in court. Individuals are expected to reclaim salary expenses from the Court and reimburse the school

### **Court Action**

- if the court action is external to the school, then leave will be granted on an unpaid basis
- if the court action is related to the person's employment, whether directly or as a witness, then paid leave would be granted

### **Agreed Training**

- if the training has been agreed as part of the professional development of the employee (and therefore to the mutual benefit of the school and employee) leave with pay would be appropriate
- if the training is primarily to the benefit of the individual, unpaid leave would be appropriate but it would be at the Academy's discretion to vary this

### **Approved Union Activities for Accredited Representative**

- necessary paid time off within the conditions of service

### **Staff Governor**

- necessary time, with pay, to attend meetings

### **Governor/Trustee of a School other than own School**

- reasonable necessary paid time off
- the Academy has the discretion to grant additional unpaid leave if appropriate

### **Interviews for Posts related to the Education Service**

- paid leave for the duration of the interview process
- up to 1 school day paid leave where necessary if out of County travel is involved

### **Interviews for Posts not related to Education**

- as above, unpaid

### **Graduation Ceremony**

- 1 school day's paid leave
- up to 2 school days' paid leave for travel if out of County

### **Hospital Appointments**

- Trust policy is: all appointments to be made outside of school hours
- if unavoidably in school hours, necessary time off with pay

### **Optician and Dental Appointments**

- outside school hours except in an emergency

### **Leave of Absence for Religious Observance**

Many religions or beliefs have special festival or spiritual observance days. An employee may request holiday in order to celebrate festivals or attend ceremonies. The Academy should sympathetically consider such a request where it is reasonable and practical for the employee to be away from work, and they have, where appropriate, sufficient holiday entitlement in hand. Employees specifically contracted to work term time must be treated equally and consistently. For example, using the criteria mentioned above, employees contracted to work in term time should not be granted time off other than in exceptional circumstances to be decided by the Academy. The Academy should consider carefully whether the criteria for deciding who should and who should not be granted leave may indirectly discriminate. Staff may request annual leave, if appropriate, to coincide with religious festivals. Refusal to grant such leave may be discriminatory if it cannot be justified by a legitimate business need, which cannot be met by any other reasonable means.