



# Leave of Absence Policy & Procedure

Document Control	
Title	Leave of Absence Policy & Procedure
Date	January 2019
Supersedes	To take into account changes to employment legislation, the ACAS guide - Shared Parental Leave: a good practice guide for employers and employees
Amendments	Maternity, Paternity , Adoption, Shared Parental Leave, Right to request flexible working
Related policies/guidance	
Review	HR and People, One Education Ltd
Author	Leave of Absence Policy & Procedure
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Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented. The HR and People team regularly reviews all policies and procedures which are recommended to schools/academies to ensure compliance with education and employment legislation including the Equality Act 2010. Consultation with schools/academies is an important part of this review process. Executive Heads, Principals and Governing Bodies are asked to contact the HR and People team via the HROne Helpline if they believe there are any negative equality impacts in their school/academy in relation to the application of this policy/procedure.

## Introduction

- 1.1 This Leave of Absence Policy and Procedure (referred to as procedure only hereafter) is recommended for adoption by all maintained schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special and voluntary aided schools.
- 1.2 This procedure is also recommended for adoption by academies and free schools modified as appropriate and taking into account the particular circumstances of the relevant academy or free school. It will be made clear in this procedure where a provision is relevant to maintained schools only.
- 1.3 This procedure accords with education and employment legislation and nationally negotiated terms and conditions for both teachers and support staff. It also takes into account the provisions of the ACAS website "Rights and Responsibilities at Work", and the BIS guidance regarding "Time off to accompany at antenatal appointments" 2014. This procedure is also in accordance with both teachers and support staff terms and conditions.
- 1.4 Where appropriate this procedure should be read in conjunction with the school's Maternity, Adoption and Shared Parental Leave Policies and Procedures.
- 1.5 This policy does not cover requests for time off for training or continuing professional development (CPD) purposes.
- 1.6 This procedure sets out the entitlement and the steps employees need to take should they wish to make a leave of absence request.

## Scope

- 2.1 This procedure applies to all teaching and support staff employees including the Executive Head. It does not apply to self-employed staff, contractors, external consultants, agency staff and governors. However, **Section 9** for the right to attend antenatal appointments **does** apply to agency workers. The needs of the Academy are paramount however the aim of this policy is to ensure requests are considered fairly and consistently.

## Key principles

- 3.1 The Trust recognises that there are times in the school working day and calendar when employees need time off to fulfil personal and or professional commitments. The Trust is committed to promoting flexibility in the context of achieving the aim of providing a high quality teaching and learning environment for pupils and also developing working practices and policies that support work-life balance for employees. The Trust recognises that working flexibly can raise staff morale, reduce absenteeism and improve productivity and retention of experienced and skilled employees.
- 3.2 All requests for time off will be considered on merit and the school will respond constructively and sensitively to all requests for leave of absence.
- 3.3 The responsibility for exercising discretion on behalf of the Trust is the Executive Head's. Where the Executive Head requests time off this will be considered by the Board of Trustees.
- 3.4 Leave of absence will normally be on an unpaid basis, unless otherwise specified.

- 3.5 The school will be mindful of its obligations and duties under the Equality Act 2010 and will be mindful of the protected characteristics in the Equality Act (i.e. age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership) in the application of this procedure and when considering flexible working requests.
- 3.6 All leave allowances will be applied pro rata to an employee's contracted hours, unless otherwise stated.
- 3.7 Entitlements will be based upon a 'rolling year' not an Academic year. For example an employee can apply up to 3 days for childcare in a rolling year. To review entitlements for a request made in April you will look back 12 months from April to the previous April.

#### 4. Annual leave entitlement for Employees covered by Local Government terms and conditions

For support staff employed on a contract for 52 weeks per year, the leave entitlement is dependent on grade and continuous Local Government service. This leave must be taken during the school holidays unless specified otherwise within the terms and conditions of employment and must be agreed with the Executive Head or nominated person in reasonable time, prior to the leave being taken.

#### 5. Teachers' working time

A Teacher employed full-time must be available for work for 195 days in any school year. 190 of those days must be days on which he/she may be required to teach pupils and perform other duties and 5 days must be days on which he/she may only be required to perform other duties. The same applies for a Teacher employed part-time, except the number of hours he/she must be available for work must be a proportion of full-time hours.

In addition to the hours a teacher is required to be available for work, he/she must work such reasonable additional hours as may be necessary to enable him/her to discharge effectively his/her professional duties.

These provisions do not apply to deputy head teachers, assistant head teachers, advanced skills teachers or teachers in receipt of an acting allowance for carrying out the duties of a Executive Head, Deputy Executive Head or Assistant Executive Head.

#### 6. Application to take leave

- 6.1 Where leave of absence is considered necessary only minimum periods of leave should be requested. This is particularly relevant to those provisions that provide for up to a given maximum – **the stated maximum must not be seen as the norm or as a given that it will be approved.** It is incumbent on the Executive Head when considering leave of absence, to take account of the effect on the school and **whether the employee could reasonably have made other arrangements which would not interfere with their duties.**

- 6.2 Applications for leave of absence should always be submitted to the Executive Head on the approved leave of absence application form **See Appendix A**. The maximum possible notice of proposed absence should always be given.
- 6.3 In cases of extreme necessity, where an employee is compelled to absent themselves without having obtained in writing prior consent the member of staff must notify the Executive Head of the school at once using the school's usual absence reporting process and must complete a leave of absence application form as soon as possible after return to duty.
- 6.4 Any additional leave requested or for reasons not outlined in the policy will be considered on its own merits and circumstances. The granting of leave whether paid or not, will not necessarily set a precedent for other cases.
- 6.5 Approved absence may be with or without salary. If with salary this shall be reduced by an amount equal to any allowance in respect of loss of earnings which the employee is entitled to claim from any other source, whether or not the employee actually claims the allowance.

## **7. Time off for emergencies relating to dependants**

- 7.1 The Employments Rights Act (ERA) 1999 provides all employees with the right to take reasonable **unpaid** time off to deal with certain unexpected or sudden emergencies relating to dependants.
- 7.2 Circumstances when an employee may take time off are: If a dependant falls ill, or has been injured or assaulted, to make longer term care arrangements for a dependant who is ill or injured, to deal with a death of a dependant, to deal with an unexpected disruption or breakdown of care arrangements for a dependant, to deal with an incident involving the employee's child during school hours.
- 7.3 Employees may be granted up to 3 days paid leave in any one 'rolling' year to look after a sick child or elderly relative where there is no alternative care available. The Executive Head may consider extending this having taken into account individual circumstances.

## **8. Compassionate, domestic emergency or exceptional leave**

Employees may be granted up to 3 days paid leave in compassionate, emergency or exceptional circumstances, such as bereavement or serious illness of a close relative or a domestic emergency in any one 'rolling' year. The leave is to deal with the immediate issues and to sort out long term arrangements if necessary. In some cases a longer period of absence may be approved on an unpaid basis.

## **9. Time off for significant events**

The Trust recognise that from time to time employees may wish to attend a significant event during term time such as a graduation ceremony for a son or daughter or the wedding of a close family member. The Executive Head may grant one day of paid leave in a school year in order to attend a significant event. Employees must seek the express permission of the Head teacher for paid leave in advance of the event. The operational needs of the school will be considered before granting leave and there may be times when the Head teacher will need to refuse such a request.

## 10. Time off for dental and medical appointments

All school employees, where possible, are expected to make appointments out of school time. In exceptional emergency circumstances, reasonable paid time off may be allowed at the discretion of the Executive Head.

## 11. Time off for fertility treatment

Employees have no statutory right to paid time off for fertility treatment appointments. However, the Executive Head will deal sensitively and reasonably with requests to paid time off. Up to five days per annum will be granted for females undergoing treatment and one day for partners to attend an appointment. Medical appointments related to the above will be treated the same as other medical appointments.

## 12. Time off for ante-natal appointments

Maternity Regulations provide the right for all women to take paid time off to attend antenatal care. Pregnant staff must produce evidence of appointments if requested to do so by their line manager or Head teacher.

## 13. Time off to accompany expectant mothers to antenatal appointments

- 13.1 An employee or agency worker who has a "qualifying relationship" with a pregnant woman or her expected child is entitled to take time off during their working hours to accompany the woman to ante-natal appointments. A qualifying relationship includes an expectant father or the partner (including same sex) of a pregnant woman. A "Partner" includes the spouse or civil partner of the pregnant woman and a person (of either sex) in a long term relationship with her. The right applies whether the child is conceived naturally or through donor insemination.
- 13.2 The right is to take **unpaid** time off work for this purpose.
- 13.3 Employees qualify for the right from the first day of employment as there is no qualifying period.
- 13.4 Employees accompanying the expectant mother to her ante-natal appointments are entitled to unpaid leave for 1 or 2 appointments.
- 13.5 The time off is capped at six and a half hours for each appointment.
- 13.6 The Executive Head is not entitled to ask for any evidence of the ante-natal appointments, such as an appointment card. However, they are entitled to ask the employee for a declaration stating the date and time of the appointment, that the employee qualifies for the unpaid time off through his or her relationship with the mother or child, and that the time off is for the purpose of attending an ante-natal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

## Time off for religious observance

- 14.1 A maximum of three days paid leave will normally be granted to observe the days of obligation for the main religious festivals e.g. Eid, Diwali and Passover where these fall in term times.

- 14.2 Employees must submit their request in writing and give as much notice as possible. The Executive Head will be sympathetic and give serious consideration to requests. However, where reasonable notice is not given or if the request makes the service delivery impossible, the Executive Head has the right to refuse the time off.
- 14.3 At times, extended leave of absence for religious observance may be requested, for example, individuals may request a period of time off for Haji. Individuals should submit their request in writing with plenty of advance notice with the reason, duration and return to work date to the Executive Head, who will give serious consideration to their request. Such extended leave will be without pay.

## 15 Extended leave of absence

Requests for longer periods of leave will be considered on an unpaid basis, for example, in the case of a lengthy period of caring for a chronically sick, disabled, or terminally ill, dependent relative. Extended leave may be for up to a year's duration depending on the circumstances. Sufficient notice that allows the appointment of a temporary replacement post-holder should be given wherever possible.

## 16 Service with Auxiliary Forces

Volunteer members of UK Armed Forces are allowed two weeks paid leave to attend an annual summer camp. Teaching and term time only staff are only granted paid leave if the force's unit cannot arrange exercises during holiday periods. Confirmation of these circumstances will be required.

## 17 Mobilisation

When reservists are needed to fulfil their part of the UK's defence strategy, they are 'mobilised' or 'called out' into full time service with the regular forces or military operations. While the reservist is mobilised the school does not have to continue to pay them, the Ministry of Defence (MOD) will pay their salary. For further information on mobilisation, please refer to the SaBRE (Supporting Britain's Reservists and Employers) website: [www.sabre.mod.uk](http://www.sabre.mod.uk)

## Attendance at court proceedings

### Jury Service

18. 1 The school cannot refuse time off for employees who have been summoned for Jury Service. Employees are however required to claim the allowance for loss of earnings from HM Courts & Tribunals Service (HMC&TS) and an equivalent amount will be deducted from the employee's salary. This means that the employee is not disadvantaged and receives the equivalent of their normal salary for the period of Jury Service. A failure to claim or advise the school's payroll provider of the amount of allowance received may result in full pay being deducted for the period of absence.

## **Witness summonses and subpoenas**

- 18.2 Time off to attend court as a summoned or subpoenaed witness is not discretionary. Any witness expenses **must** be claimed and declared to the relevant payroll provider. Failure to do so may result in pay being stopped for the relevant period. Time off to attend court as a voluntary witness is discretionary. The head teacher will consider the individual circumstances including the impact on the school and the cover arrangements.

## **19. Public Duties**

There is no statutory requirement to pay employees who fulfil public roles. However, the Executive Head has discretion to allow up to 10 days paid leave per annum to carry out the duties of the office of Leader, Mayor, JP or Chairman of Local Authorities. For employees who are school or college Governor's, up to 3 days paid leave per annum will be granted. In addition, reasonable unpaid leave may be granted for employees carrying out public duties.

## **20. Time off for Trade Union duties**

The school recognises the legal requirement for employers to allow reasonable time off work for the school's elected representatives of recognised trade unions to carry out their duties. Duties that warrant time off with pay include:

- consultation on terms and conditions of employment or the physical conditions of work;
- consultation on redundancy and dismissal arrangements;
- meetings with school management or LA officers on matters of joint concern;
- representing a union member at grievance, capability or disciplinary interview;
- attendance at relevant training courses organised by the trade union.

Time off should be considered in conjunction with the School or Academies Trade Union facility agreement.

## **21. Study leave**

For employees who are sitting examinations relevant to their current post or career, half a day paid study leave per examination plus half a day paid per examination will be granted.

## **22. GCSE duties & activities**

Teachers who are engaged in activities for examining groups may be released with pay by the school where they satisfy the conditions set out in appendix II of the Burgundy Book, Memorandum of Agreement for the Release of Teachers.

## **23. Moving house**

Where possible arrangements should be made for the move to take place outside normal school days. Where this is not possible an employee may be granted one days paid leave. The Executive Head's agreement must be sought beforehand.

## **24. Emergency school closure / Adverse weather conditions**

There may be circumstances when an employee is unable to attend work due to bad weather but the school remains open as usual. All reasonable effort should be made to attend work.



Alternative arrangements may be agreed with the Executive Head, e.g. working from home or at a different location. Where this is not possible, non-attendance will be treated as unpaid leave.

If the school is closed for health and safety reasons or other emergency reasons as determined by the Executive Head or Chair of Governors and employees cannot work from home or at another location, time off with pay will be granted for the duration of the disturbance.

## 25. Interviews

An employee may take up to one day's paid leave for an interview, subject to a reasonable total within any one term. The Executive Head's agreement must be sought beforehand. If a teacher is applying for a Headship then two day's paid leave will be granted in this instance.

## 26. Unauthorised Absence

If an employee absents him/herself without the prior consent of the head teacher this may warrant an investigation under the School's Disciplinary procedure.

## 27. Holidays in term time

Holidays in term time are not normally permitted and will be granted **only** in very exceptional circumstances. Employees must not therefore book holidays in term time without the express written permission of the Executive Head. Employees who absent themselves during term time for the purpose of a holiday without permission will be subject to disciplinary action.

## Appeals

Employees have the right of appeal against the Executive Head's decision to refuse an application for leave of absence to the Chair of Governors. The Executive Head will need to objectively justify why they have refused any request and the Chair of Governor's decision is final. All requests for Leave of absence should be submitted in writing on the leave of absence form (**Appendix A**).



## Appendix A

### Leave of Absence Request Form

<b>Name:</b>			
<b>Job Title / Department:</b>			
<b>Date form submitted:</b>			
<b>1. What is the reason for your request?</b> (Please supply as much detail as possible) Where your reason is particularly confidential, you should give brief details and be prepared to amplify these at a meeting)			
<b>2. What is the date and time requested for the leave of absence? <i>Please specify if any duties / out of school activities will require cover if leave request approved</i></b>			
<b>3. In your opinion, what arrangements could be made to accommodate your leave of absence?</b> (Please consider issues such as the impact on services to pupils, on your own workload and on that of your colleagues. Please suggest ways in which, in your view, these issues could be addressed).			
Please return this pro forma to the Executive Head as soon as possible. Please also retain a copy of this pro forma for your own records.  <b>Unpaid leave is not pensionable therefore the taking of unpaid leave will have pension implications. Further advice can be sought from Teachers Pensions (<a href="http://teacherspensions.co.uk">teacherspensions.co.uk</a>) or LGPS (<a href="http://lgps.org.uk">lgps.org.uk</a>)</b>			
<b>Signed Employee:</b>		<b>Date:</b>	
<b>Received by Executive Head:</b>		<b>Date:</b>	
<b>Authorised by the Executive Head &amp; returned</b>		<b>Date:</b>	
<b>Paid</b>	<b>Yes/ No</b> – delete as appropriate	<b>Date to Payroll:</b>	