



# **POLICY FOR DISCRETIONARY LEAVE OF ABSENCE**

**Presented to  
Full Trustees Committee  
5 October 2023**

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Consultation:	Staff and Union Consultation November 2023 (completed)
Date of next review:	Autumn 2026
Linked to other policies:	Flexible Working Policy Sickness and Absence Policy Equality and Diversity Policy Public Sector Equality Duty Statement

Footnote:

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# DISCRETIONARY LEAVE OF ABSENCE POLICY

## 1.0 INTRODUCTION

- 1.1. The Trust Board recognises that the success of the Four Cs MAT depends upon the contribution of all employees and gives full acknowledgement that a fair and effective policy on discretionary leave of absence contributes to the maintenance of employee morale and thereby our success.
- 1.1 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 each school are the priority and therefore there will be times when the Headteacher has to refuse a request for leave. 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.
- 1.2 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.
- 1.3 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 Headteacher.
- 1.4 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
- 1.5 This policy applies to all teaching and support staff. This policy is non-contractual and may be amended at any time.

## 2.0 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 leave of absence form provided by the school office. Where the leave of absence request is made by a Headteacher, the request should be made to the Chief Executive Officer (CEO). Where the leave of absence request is made by the CEO, the request should be made to the Chair of Trustees.
- 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, 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 using the school leave of absence form (available from the school office).

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- 2.3 Where an emergency arises you must notify your school by telephoning the staff sickness absence line 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 in writing to the CEO within 5 days of receipt of the leave of absence decision. The appeal will be considered by the CEO and a panel of 2 Trustees whose 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 will be informed about the impact of taking unpaid leave on their pensionable service.

### 3.0 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 <u>with pay</u>	Days per annum
<u>Child Illness</u> Illness or injury of a child giving rise to serious domestic difficulties. (This includes child medical appointments).	Period reasonably necessary up to 3 days.
<u>Bereavement leave</u> Death (including funeral) of a significant other person.	Period reasonably necessary up to 5 days
<u>Moving house</u>	1 day
<u>Personal events or emergencies</u> ie an event which, if response were to be delayed, would result in significant personal loss to the employee such as fire or flood.  Personal event includes child university graduation.	1 day
<u>Accepted impossible travel</u> because of weather or other public crisis.	Period reasonably necessary but not normally more than 2 days
<u>Interviews</u> for jobs.	Period reasonably necessary up to 3 days
<u>Dependent care leave</u> 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 <u>unpaid</u> leave see 6.1 below).	In normal circumstances not more than 1 day on each occasion, up to 3 days per annum in total.

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

<b>Summary non exhaustive examples of absence normally granted <u>without pay</u></b>	<b>Days per annum</b>
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 eg dentist, optician, driving test, important one-off family occasions (for example child university visit).	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 (see item 3.2.2).	Period of attendance necessary
Leave of absence for religious observance (see item 3.2.3).	Reasonable time off

#### 3.2.1 Medical appointments

Upon production of a medical appointment letter/card/email/text 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 cosmetic surgery) where it has proved impractical to attend outside normal working hours. You should liaise with your HR Manager/Business Manager to agree a mutually convenient time so that the operational requirements of the school are met and then request leave using the school's leave of absence form (available from the school office).

#### 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 then, on production of proof of required attendance, you must request leave from the Headteacher using the school's leave of absence form and you will be granted paid or unpaid leave to attend at the discretion of the Headteacher.

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 school's leave of absence form and a decision will be made on a case by case basis (paid or unpaid at the discretion of the Headteacher).

#### 3.2.3 Leave of absence for religious observance

You may request 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 school's leave of absence form.

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Requests for time off will be considered sympathetically and on a case by case basis (paid or unpaid at the discretion of the Headteacher). Each case will take into account the needs of the school, students 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.

#### **4.0 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
- Lay observers, appointed under section 81(1)(1)(b) of the Criminal Justice Act 1991. These are volunteers who monitor conditions for prisoners under escort and in court custody;
- Members of Visiting Committees, for the immigration and detention estate, appointed under section 152(1) of the Immigration and Asylum Act 1999. These committees monitor the immigration detention estate;
- Members of Visiting Committees appointed to monitor short-term immigration holding facilities, for example at airports; and
- Independent prison monitors in Scotland appointed under section 7B(2) of the Prisons (Scotland) Act 1991.

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 school's leave of absence form.

4.3 The 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 school.

#### **5.0 JURY SERVICE**

5.1 You must inform your HR Manager/Business 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.

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- 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 Finance 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 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 HR Manager/Business 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.

## 6.0 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:
- provide assistance when a dependent falls ill, gives birth, is injured or assaulted;
  - make longer-term care arrangements for a dependent who is ill or injured;
  - take action required in consequence of the death of a dependent;
  - deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependent; and/or
  - deal with an unexpected incident involving their child during school hours (or those of another educational establishment).
- 6.2 A **dependent** for the purposes of this paragraph 6.1 is:
- an employee's spouse, civil partner, parent or child;
  - a person who lives in the same household as an employee, but who is not their tenant, lodger, boarder or employee; or
  - 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.

## 7.0 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 experienced the loss of a child (ie under the age of 18) or who experience a stillbirth after 24 weeks of pregnancy on or after 6 April 2020.

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

- Parent or foster parent of a child who has passed away
- Partner of the child's parent, where you 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 four weeks before the child died, you have been living with the child and had "day-to-day responsibility" for the child (but you have not been paid to look after the child)
- "Intended parent" of a child who has passed away, ie a parent using a surrogate
- "Natural parent" of a child who has passed away who is named in a court order, ie 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 on or 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. If you are a bereaved parent, you are able to take the leave as:

- A single block of two weeks
- Two separate blocks of one week at different times
- The leave must be taken within 56 weeks of the date of the death of your 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 your child's death or at another particular time that is special, such as your child's birthday.
  - 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 email, is sufficient to take parental bereavement leave.
- If you intend to take parental bereavement leave within the first 56 days after your child's death, you can take the leave straightaway. You do not have to provide a period of notice. This means that you can begin parental bereavement leave by letting your line manager know no later than when you are due to start work or, if that is not feasible, as soon as is reasonably practicable.
- 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 parental bereavement leave.

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#### 7.7. Cancellation of parental bereavement leave

- If you have asked to begin parental bereavement leave within the first 56 days of the date of your child's death, you can cancel your parental bereavement 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 56 days after your child's death, you can cancel your parental bereavement leave, as long as you let your line manager know at least one week in advance.

#### 7.8. Pay during parental bereavement leave

- Recognising the need to support bereaved parents, we will continue to pay normal pay during parental bereavement leave.

#### 7.9. Rights during parental bereavement leave

- During parental bereavement leave, all terms and conditions of your contract will continue.

#### 7.10. Returning to work following parental bereavement leave

- You have the right to resume working 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.

## 8.0 REVIEW

The Trust Board will review this policy in line with the procedure for policy review.

#### Date for Review

If no other reason for review (see policy review procedure) this policy will be reviewed in 3 years.

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