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**ST MARY’S RC PRIMARY SCHOOL, LANGLEY**

**POLICY & Procedure for DIScretionary Leave & Statutory LEAVE Entitlement**

**FOR ALL SCHOOLS BASED STAFF IN LOCALLY MANAGED SCHOOLS & ACADEMIES**

**APRIL 2021**

**Rochdale Borough Council**

**Number One Riverside, Smith Street, Rochdale, OL16 1XU** [**www.rochdale.gov.uk**](http://www.rochdale.gov.uk)

**t: 01706 647474**

Rochdale Borough Council

Number One Riverside, Smith Street, Rochdale, OL16 1XU www.rochdale.gov.uk

t: 01706 647474

**Author: Schools HR Advisory Service**

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**1. INTRODUCTION**

**1.1 Scope**

The Local Authority have consulted with the recognised Teacher Associations/Trade Unions on this procedure which shall be recommended for adoption by the Governing Boards of all schools with delegated powers of Local Management*.*

**1.2 Purpose**

The guidance has been drawn up to help Headteachers and Governors to operate an equitable and fair decision making process when dealing with requests from staff for discretionary leave.

The guidance notes are presented in the following format:

1. A quick reference table showing the main reasons for absence and an appropriate response; and
2. More detailed guidance running alongside to be taken into account when reaching your decision.

Please note that the allowances given are for a full time member of staff. Part time staff would receive allowances pro-rata to the hours they work.

**1.3.  Equality**

The Schools HR Advisory Service aims to regularly review all the policies and procedures we operate to ensure there are no negative equality impacts on staff based on their age, disability, gender, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation as outlined in the Equality Act 2010. Consultation with our customers is an important part of how we achieve this.  If you feel, on reading this policy, that there may be a negative equality impact within your school, please tell us about this.  Please also let us know if you need to access this policy in a different format.  You can do this by contacting the Schools HR Advisory Service on 01706 925194 or 01706 925169.

**1.4. Delegated Decision Making**

All decisions concerning whether leave of absence, with or without pay, should be permitted are the responsibility of the Governing Board.

Employment law and nationally agreed conditions of service, which must be followed, confine some decisions about leave and pay. In other cases, locally negotiated agreements may exist and these must also be followed unless School Governing Boards have negotiated their own agreements with all relevant trade unions. However, not all areas are covered by such agreements and some remain entirely at Governors’ discretion.

Where statutory, national and local agreements exist, these are clearly shown in the tables and the information given is current at the date of issue.

**It is recommended that the Governing Board delegate the responsibility for decision making to the Headteacher alone. An employee will have the right of appeal to a relevant committee of the Governing Board if they disagree with the Headteachers decision**

**The relevant committee should be appropriately called and clerked as minutes may be required in future proceedings.**

**2. GENERAL GUIDANCE**

When considering discretionary leave the progress and wellbeing of the pupils must be the primary consideration. However, Governors will need to balance the needs of the pupils against the need to maintain high morale when considering requests for leave of absence.

Teachers and other term-time staff can be expected to utilise the flexibility that the holiday periods bring to accommodate many of the situations mentioned in the accompanying tables. This is not the case with other staff who have more restricted annual leave entitlements.

Any member of staff, regardless of their working pattern, may find it necessary to apply for leave of absence (paid or unpaid). Each individual case must be considered on its own merits. A high level of consistency is important when reaching a decision if staff are to be treated equitably.

A sympathetic consideration of requests for leave of absence on compassionate grounds and where staff are not in a position to control or influence the timing of important activities, should be taken.

**Employee should be made aware that their failure to make a request in accordance with the schools agreed procedures will result in an automatic refusal of the discretionary leave request and an investigation, in accordance with the school’s Disciplinary Procedure, should the leave subsequently be taken.**

**Likewise any employee who requests discretionary leave but has the request declined, but subsequently chooses to take the leave without authorisation, will have the matter dealt with as a breach of contract on their return to work. This will result in an investigation taking place in accordance with the school’s Disciplinary Procedure and will be considered as gross misconduct which could result in the employee’s dismissal from their post at the school.**

**It is recognised that on occasion, there may be situations that result in an employee being unable to meet the requirements of the schools process for requesting discretionary leave. All endeavours should be made to meet these requirements. If there is no reasonable explanation for failing to meet the requirements then the request may be refused and an investigation undertaken if the leave is subsequently taken without authorisation.**

An employee who wishes to exercise a right of appeal against a refusal of their discretionary leave request must do so by letter within 14 calendar days of the original decision being communicated to them. The letter should be sent to the School based clerk to the Appeals Committee fully outlining the grounds of appeal.

An appeal will normally be heard by a relevant Committee of the Governing Board within 28 calendar days of receipt of the employee’s written notice of appeal.

At an appeal hearing the case for the school will normally be presented by the person responsible for deciding on the outcome (Headteacher or where the decision has been reached by a Committee the Chair of the Committee will response on behalf of the Committee), which is the subject of appeal. As part of their case they will explain the reasons for their decision. An appeal hearing will **NOT** be a re-hearing of the case but a review of the decision made by the Headteacher or Relevant Committee.

It is the responsibility of each member of staff to ensure that arrangements for attendance at routine medical appointments, etc. are made at times that will cause minimum disruption to their school commitments. Only specialist or emergency treatment would normally warrant discretionary leave.

The accompanying tables cover most situations but if an unusual request is made which is not covered, or the question of longer term leave arises, the help and advice of the Schools HR Advisory Service is recommended.

***A discretionary leave request process is included at Appendix B of the Management Handbook. It is suggested that this is adopted by schools for use in respect of any requests being made by employees.***

This policy does not preclude the consideration of other individual requests for discretionary leave which do not appear to fall clearly within the definitions in this policy. Approval for such requests will be by the Headteacher (where delegated authority exists) or the Resources Committee of the Governing Board were delegated authority has not been given to the Headteacher.

Where discretionary leave is unpaid it is the schools responsibility to notify Operational HR Team/or payroll provider of this on the weekly staffing returns.

**3. PARENTAL LEAVE**

Employment Rights Act 1996 and The Maternity and Parental Leave etc. (Amendment) Regulations 2014 (“the MPLA Regulations”) amend the Maternity and Parental Leave etc. Regulations 1999 (“the 1999 regulations).

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| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| To enable parents to care for their young child/children by making it easier to reconcile work and family life | Each parent can claim up to a total of 18 weeks up to the child’s 18th birthday  28 days prior notice has to be given | Statutory | Unpaid |

**3.1 Definition of ‘Parent’**

Those with responsibility for a child. Under the meaning of the Children Act 1989 this includes:

* the mother of the child
* the father of the child if he was married to the mother at the time of the birth or he is registered as the child’s father on the birth certificate.
* the father (if not covered by the above) if he has acquired parental responsibility under the Children Act 1989. This is done either by a court order or an agreement between the mother and father which complies with certain legal requirements.
* a guardian appointed under Section 5 of the Children Act 1989
* adoptive parents or foster parents
* have legal parental responsibility for a child under 18 for example Grandparents who have either adopted a child or by a residence order being made in favour of them.
* A step-parent can have parental responsibility if it has been approved by both biological parents. If an employee is separated from the other parent or do not live with the child, the employee still has the right to parental leave if parental responsibility for the child has been maintained.

**3.2 Employee’s Eligibility for Leave**

An employee must have no less than one year’s continuous service with an organisation covered under the Education (Modification of Enactments Relating to Employment) Order 2003 to qualify for this leave. Even if leave started with another employer, the employee still has to complete one year’s continuous service under the Order before taking the balance of their leave entitlement.

With the one year’s continuous service qualification, an employee is entitled to 18 weeks for each of their children, including adopted children, up to their 18th birthday. For employees who work part time, the leave will be pro rata to the hours worked.

Each parent is eligible for the leave entitlement in respect of each child including each child of a multiple birth.

**3.3 Children which qualify**

The entitlement is for 18 weeks’ leave for each child and adopted child, up to their 18th birthday.

You may request evidence of the child’s date of birth, their responsibility for the child and if applicable.

**3.4 Evidence of Employee responsibilities**

The Headteacher may request evidence to meet the requirements stipulated in section 3.1. This may include evidence of: of the child’s date of birth, the employee’s relationship to the child, papers confirming the child’s adoption or date of placement and, if applicable, the child’s entitlement to a disability living allowance.

**3.5 Notice to be given by the employee**

21 days’ written notice of intention to take leave must be given to the Headteacher, specifying when the leave is to begin and end.

If the employee meets the qualifying conditions and gives the required notice, the employee is entitled to take the leave. It cannot be refused, but it can be postponed under certain circumstances (see 5.9).

A discretionary proforma entitled ‘Application for Discretionary Leave’ is provided for the first time an individual applies in your school to help collect the required information. (See Appendix B).

**3.6 How Leave is to be taken**

Leave must be taken in blocks of one week at a time, except for a disabled child where it may be taken in multiples of one day. This also applies to part time staff.

There is a maximum of 4 weeks per child (unless disabled) that can be taken in any one year - a year commences with the birth date or adoption date of the child. This maximum does not apply to parents of a disabled child.

A popular option may be for employees to add 4 weeks’ parental leave on to the end of their maternity, paternity or adoption leave period. Parental leave is an individual right and the leave cannot be transferred between parents.

**3.7 Definition of a Week**

Where an employee’s working pattern does not vary, a week is the period which they normally work.

Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not others, a week is the total of all periods in which he/she works, divided by 52.

**3.8 Postponement of Leave**

A Governing Board or the Headteacher where delegated, has the power to postpone the leave for up to sixth months if it can demonstrate a significant reason that to take leave at a particular time would be ‘unduly disruptive’. An example of this would be leave taken during the run up to and sitting of National Tests.

However, if the planned leave is for the birth of the child or for immediately after the child is born or placed for adoption, it cannot be postponed provided that notice requirements have been met.

If postponement is to be enacted, the Governing Board or the Headteacher must give the reason for postponement to the employee within 7 working days of having received the request and they must provide a new start date within 6 months of the requested start date. The Governing Board or the Headteacher cannot change the amount of leave being requested.

If no agreement can be reached, the Governing Board or the Headteacher reserves the right to determine the dates.

**3.9 Return to Work**

If the parental leave taken is for 4 weeks or less, the employee has the right to return to the same job as they left at the start of the leave and to retain pension rights.

If the leave taken is more than 4 weeks in total, then the employee is entitled to return to the same job unless this is not reasonably practicable. Where this is the case, the employee must return to a job that is suitable and appropriate and on conditions no less favourable than the one they left.

The employee remains under contract during the leave (except for remuneration) and cannot suffer any detriment as a result of taking or seeking to take the leave.

An employee who wishes to exercise a right of appeal against a refusal of their discretionary parental leave request must do so by letter within 14 calendar days of the original decision being communicated to them. The letter should be sent to the School based clerk to the Appeals Committee fully outlining the grounds of appeal.

Employees have recourse to an Employment Tribunal if time off is not granted.

**3.10 Records**

Accurate records of leave taken must be kept in schools as entitlements can be transferred from one employer and also from one school to another. It is suggested that a leave record sheet should be filled in for each child as this will be easier to keep track of when the various entitlements start and finish. A suggested format for this is given (Appendix A).

**4. PATERNITY LEAVE**

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| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| This is separate from Parental Leave and is to allow ‘partners’ time to assist at home following the birth of a child or the placement of a child for adoption  Shared Parental Leave | Service eligibility requirements apply  Either 1 week or 2 consecutive weeks’ leave to be taken in one block, but must be completed either within 56 days of the actual date of the birth of the child or the Expected Week of Childbirth (if the birth is before the Expected Week of Childbirth), or placement with the adopter  Leave can start on any day of the week  Note: There is a statutory application process which must be followed  Up to 50 weeks (the child's mother or adopter must have started working again) | National Agreement for Support Staff Local Agreement for Teachers | Teachers: 1 week with normal pay  followed by one week on Statutory Paternity Pay if over Lower Earnings Limit  (School)  Support Staff: 1 week maternity support leave on normal pay  followed by one week on Statutory Paternity Pay if over Lower Earnings Limit  (School)  For Shared Parental Leave any relevant payment to the child’s mother must have stopped, with at least two weeks of the 37 week payment period remaining.  Shared Parental Leave Pay is only payable for 37 weeks |

The Maternity and Parental Leave Regulations (Amendment) 2002 provides for new rights to take up to two weeks’ paid paternity leave following the birth of a child or the placement of a child for adoption. This is separate from, and in addition to, Parental Leave and Shared Parental Leave.

Additional Paternity Leave provisions, increasing entitlements to paternity leave and pay, came in to force on 3rd April 2011.

**4.1 Eligibility for Leave**

An employee must satisfy the following conditions in order to qualify for paternity leave:

* the employee is the biological father
* the employee’s partner is having the baby, adopting the child or having the child through surrogacy
* the child’s adopter

An employee must give the correct notice and be an employee with 26 weeks’ continuous service by the end of the 15th week before the expected week of childbirth. (An employee will be deemed to have satisfied the 26 weeks’ service qualification if he would have satisfied it but for the fact that):

* the child was born before the 15th week before the EWC; or
* the child was stillborn after 24 weeks of pregnancy or has died).
* or the end of the week you are notified you are matched with your child

If the employee is in a same-sex relationship leave is still called paternity leave. One partner can take paternity leave and the other can take maternity leave or adoption leave.

If the employee is expecting child by surrogacy one partner is entitled to take adoption leave and the other partner is entitled to take paternity leave.

**4.2 The Leave Entitlement**

An employee has the option of taking either one week or two consecutive weeks’ leave, but must be completed either within 56 days (or 8 weeks) of the actual date of the birth of the child (or the EWC if the birth was earlier than the EWC), or placement with the adopter.

Whether taking one or two weeks, the leave must be taken in a single block. A week means any period of 7 days and may not be taken in odd days. The leave can start on any day of the week but not before the baby is born or placed. Leave must finish within 56 days of the baby’s birth/placement.

Only one period of leave will be available to employees irrespective of whether more than one child is born as a result of the same pregnancy or children placed together as part of the same placement.

Where an employee is entitled to paternity leave and adoption leave, he or she cannot exercise both statutory rights, but may choose to exercise whichever is the most favourable.

**4.3 Notification of Request for Paternity Leave**

The employee is required to inform the School of their intention to take paternity leave and then to send the completed Form Paternity 1 to the Operational HR Service, Shared Services, Number One Riverside, Smith Street, Rochdale as soon as possible and in any case no later than the end of the 15th week before the baby is expected (unless not reasonably practicable) or within 7 days of being told by the adoption agency that you have been matched.

If a school uses an alternative HR/Payroll; they should be contacted and duly notified.

The notification will state:

* the week the baby is due, or if the birth has already occurred the date of the child’s birth
* whether they wish to take one or two weeks’ leave
* the date they wish their leave to start
* a declaration that he/she is in an enduring relationship with the mother, will be responsible for the child’s upbringing and will be taking time off to support the child’s mother or to care for the child.

(The employee is able to change their mind about the start date after notification, providing that they tell the School at least 28 days in advance of the change unless this is not reasonably practicable. The employee’s right to pay may be adversely affected).

It is permissible for an employee to request a period of parental leave to be added to Paternity Leave to give a longer period to support mother and child.

**4.4 Pay During Paternity Leave**

**Paternity leave**

Income during maternity leave can come from two sources:

**Occupational pay**

**Maternity support pay for support staff under NJC Conditions**

For these employees; there exists a provision for maternity support leave, which allows for the first 5 days leave with normal pay (subject to the criteria in D.1 being met).

If an employee meets the eligibility criteria for paternity leave as well as Maternity Support Leave (and this includes same sex partners) they would be entitled to one week Maternity Support Leave with normal pay plus one week Paternity Leave at the standard rate of Statutory Paternity Leave.

**Local agreement for teaching staff**

This gives teaching staff the equivalent of the maternity support leave which allows the first 5 days’ leave with normal pay (subject to the criteria being met).

State benefits in the form of either Statutory Paternity Pay (SPP) available to an employee who:

* meets the qualifications for paternity leave;
* has 26 weeks’ continuous service at the 15th week before the EWC; and
* has earnings above the Lower Earnings Limit.

More detailed information about pay can be obtained from HR & Governor Support Service.

**4.5 Contractual Terms**

The terms and conditions of the employee’s contract of employment continue throughout Paternity Leave and Additional Paternity Leave with the exception of remuneration. This exception is because separate paternity pay arrangements apply.

Employees are entitled to return to the same job following Paternity Leave and Additional Paternity Leave on terms and conditions no less favourable than those which would have applied had they not been absent.

Employees will be protected from suffering unfair treatment or dismissal for taking or seeking to take Paternity Leave.

An employee who wishes to exercise a right of appeal against a refusal of their paternity leave request must do so by letter within 14 calendar days of the original decision being communicated to them. The letter should be sent to the School based clerk to the Appeals Committee fully outlining the grounds of appeal.

Employees who believe that they have been treated unfairly will be able to complain to an employment tribunal.

**4.6 Antenatal Appointments**

The Children and Families Act 2014 (Part 8 Section 127) allows fathers to be, and partners of pregnant women, to take unpaid time off work to attend antenatal appointments with the expectant mother. There is no qualifying period for this entitlement.

In relation to any particular pregnancy, an employee is only entitled to take time off to accompany a partner on two occasions. The maximum time allowed is capped at 6 hours and 30 minutes per appointment but it is expected that no more than half a day, including travelling and waiting time, would be required.

The employee will be required to complete a request form which can be found at appendix B, by completing this form the employee is verifying that they meet one of the following criteria

* The employee has a qualifying relationship with a pregnant woman or her expected child
* That the purpose in taking time off is to accompany the pregnant woman to an ante-natal appointment
* That the appointment is made on the advice of a registered medical practitioner, registered midwife or registered nurse
* The date and time of the appointment

This declaration should be provided at least 7 calendar days prior to the appointment.

## 4.7       Shared Parental Leave

## If they wish two parents can share 50 weeks shared parental leave. How much is shared is dependent upon how much the birth parent or primary adopter has already taken.

## Shared Parental Leave can be taken as follows:

## The birth parent or primary adopter returns to work early and take shared parental leave at a later date

## The birth parent of primary adopter return to work and the partner takes shared parental leave

## Both parents take shared parental leave at the same time

## Both parents take shared parental leave but use the leave at different times.

## 4.8       Eligibility Shared Parental Leave

To qualify for Shared Parental Leave:

If your employee is the birth parent or primary adopter they must have either ended their maternity/adoption leave or given notice to curtail or end their maternity/adoption leave

If you employee is the other parent, to qualify for Shared Parental Leave they must:

* Be child’s other parent
* Be legally classified as an ‘employee’
* Been employed for at least 26 weeks of 66 weeks by the end of the qualifying week for maternity leave (the 15th week before the baby is due) or the week they are matched with a child for adoption in the UK
* Earned an average of at least £30 a week in any 13 weeks

Headteachers can refuse requests for Shared Parental Leave, however it is recommended that you contact the School’s HR Service for advice prior to declining the request.

Employees will be protected from suffering unfair treatment or dismissal for taking or seeking to take Shared Parental Leave. Employees who believe that they have been treated unfairly will be able to complain to an employment tribunal.

Further information on eligibility for the increased entitlements, is available from the Schools HR Advisory Service.

**4.9       Requesting Shared Parental Leave**

When requesting Shared Parental Leave the employee must confirm the following:

* How much maternity or adoption entitlement has already been used by their partner
* How much leave and pay is left over from the maternity or adoption entitlement
* How much leave the parent wants to take
* When they want to take the leave
* Provide at least 8 weeks’ notice for their intention to take the leave
* A signature from both parents confirming that the information given is true and accurate (Appendix B & C)

**4.10     Considering a Request for Shared Parental Leave**

Employees have a right to request leave in both a continuous and a discontinuous manner.

**Continuous Request**

A continuous request allows for up to 3 blocks of Shared Parental Leave.

An employer cannot refuse a continuous leave notice

**Discontinuous Request**

A discontinuous leave request is for when a parent wishes to take blocks of Shared Parental Leave on and off throughout the year. Before deciding upon this type of leave it is imperative that there is a discussion with between the Headteacher and the employee to establish a best fit that would support the needs of the individual and the school.

A Headteacher has the right to refuse a discontinuous request for Shared Parental Leave it is detrimental to the organisation and an alternative suggestion can be made.

An agreement should be made within 14 calendar days of the request and if an agreement cannot be reached the employee can either withdraw the request or take continuous leave instead.

As discussed previously, an employee is entitled to give 3 notices if their intention to take Shared Parental Leave within the first year of birth or adoption.

If an employee withdraws their request on or before the 15th calendar day, after it was originally made, it would not count as one of the 3 notices to book leave. It is withdrawn after the 15th day it would count as notice and the employee would be using a total of 2 notices.

If the employee lets their discontinuous leave request become continuous leave, within 19 calendar days of their original request they can either:

* choose when the continuous leave will start (it cannot start sooner than 8 weeks from the date of the original leave request)
* let the continuous leave start when the discontinuous leave would have started

The employee should put the option they choose in writing to the Headteacher.

**4.11 Shared Parental Pay**

An employee who is not eligible for Shared Parental Leave might be eligible for Shared Parental Pay: this could be agency workers and so on. In this instance the employee might be eligible to claim for any remaining weeks after the birth parent or primary adopter stops their maternity leave or adoption pay.

For example, the primary adopter may stop their adoption pay in week 30. The partner is not eligible to take the remaining 9 weeks as shared parental leave but may be entitled to take the 9 weeks with shared parental pay.

Shared Parental Pay amounts to either of the following, which ever amount is lower:

* £151.97 per week or
* 90% of the employee’s average weekly earnings

To be eligible the birth parent or primary adopter must have:

* worked for the same employer for 26 weeks by the end of the 15th week before the baby is due or the adoption match date
* earned at least £120 a week, for 8 weeks before the 15th week of the expected birth or adoption match date

To be eligible the other parent must have:

* worked for at least 26 of 66 weeks
* earned an average of at least £30 a week in any 13 weeks

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| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Death of a child (where an employee has parental responsibility)  Death of immediate family, i.e. mother, father, husband, wife, partner, brother, sister, grandparent or grandchild  Where employee is appointed Executor of the Will of any of the above mentioned and is required to make all the necessary arrangements for the funeral, or has a long distance to travel to the funeral  Death of aunt, uncle, nephew, niece, cousin, brother-in-law, sister-in-law, spouse’s/partner’s close relative  Close friend | Up to 2 Weeks paid leave  Up to 5 days maximum including day of funeral  Up to 5 days maximum if this has not already been granted on account of the death  Up to 2 days maximum including day of funeral  1 day per year | Local for both Teaching & Support Staff | Paid  (School)  Paid  (School)  Paid  (School)  Paid  (School)  Paid  (School) |

**5. BEREAVEMENT LEAVE**

**5.1 Eligibility for Leave**

An employee has the right to time off if a dependent dies for example; their parent, partner, son/daughter or someone else related to them.

Each individual case should be sensitively explored and considered on its merits, taking into account such factors as existence of other relatives to assist with funeral arrangements; closeness of family and relationship and circumstances of the bereavement. The family relationships given in the tables are therefore only for guidance.

The periods of leave indicated in the table may, by discretion, be extended up to a maximum of five days for any one bereavement if it is felt that the factors surrounding the case warrant this.

**5.2 Parental Bereavement Leave**

Employees are entitled to two weeks leave **with pay** if their child dies under the age of 18 or if a baby is still born after 24 weeks of pregnancy. Those eligible would be one of the following:

* biological parent
* adoptive parent, if the child was living with them
* person who lived with the child and had responsibility for them, for at least 4 weeks before they died
* 'intended parent' – due to become the legal parent through surrogacy
* partner of the child’s parent, if they live with the child and the child’s parent in an enduring family relationship

**6. DEPENDENTS LEAVE**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| 1. To make arrangements for the provision of care, in relation to unforeseen and emergency matters:   * to deal with an emergency for a dependant * for a dependant who has fallen ill or been injured, or where an existing condition has deteriorated; or * in the event of unexpected disruption or termination of arrangements for care of a dependant   2. The facility to have time off to deal with a routine incident which involves a child of the employee and which occurs unexpectedly at a time when an educational establishment is responsible for that child. (This includes unexpected availability of a child-minder or regular carer) | Up to 2 days per academic year to make arrangements for on-going care but see Section 22 for exceptional circumstances  As necessary | Minimum legal requirement plus local for paid leave for both Teaching & Support Staff  Minimum legal requirement | Paid for 2 days only per academic year thereafter unpaid  (School)  Unpaid |

**6.1 Definition of a Dependent** (Section 57 (A) of the Employment Rights Act 1996)

‘A Dependant’ is defined as a spouse, partner, child, grandchild, parent who depends on the employee for care or person living in an employee’s household, other than as an employee, tenant or lodger. However, when it comes to making arrangements for the provision of care as set out in 1. in the box, ‘dependant’ can be defined as any person who reasonably relies upon the employee to make arrangements for the provision of that care.

**6.2 Considering Requests for Dependent Leave**

If the employee only needs an hour or so to make necessary arrangements, they may ask to make the time up later, rather than take a full day or half day’s leave. This should be considered on the merits of each case.

The employee must request the leave as soon as reasonably practicable and must give the reason for and likely length of that absence. It is permissible for this to be done after the absence if it could not reasonably have been done beforehand.

When considering requests for this leave, Headteachers should take into account the availability of other carers within the family unit and as appropriate the amount of the remaining holiday entitlement of the member of staff making the request.

In exceptional circumstances, carer’s leave may be extended up to a maximum of 5 days per annum at the discretion of school management. Should additional time be required staff could apply for parental leave (see section 3) or extra unpaid leave (see section 22).

The employee will have recourse to an Employment Tribunal if reasonable time off is not granted.

If it proves impossible to make alternative arrangements, for example, in the case of a terminally ill relative or very sick child, then up to 30 days unpaid leave may be granted subject to leave entitlement. (See Section 22)

**7. RELIGIOUS OBSERVANCES**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Attendance observance of a principal religious festival | A maximum of 2 days per academic year | None | 1 day with pay and  1 day without pay (unless deemed as a statutory holiday) in any one academic year  See note 7.1 |

There are no local agreements to cover this area, therefore there is no specific entitlement.

The Equality and Human Rights Commission advises that an employee has the right to manifest their religion or belief in a work environment. Where this religion or belief conflicts with existing work requirements, there is a need for the employer to consider whether reasonable accommodation / adjustment can be made to adapt these requirements to enable such needs to be met. This would cover time off for religious observance (prayer times or religious holidays). The definition of religion or belief is as follows:

Religion

* Must have a clear structure and belief system

Belief

* Must be an important and significant aspect of human life and behaviour

Having no belief is also protected.

The Equality Act 2010 states discrimination based on race or religion / belief is an unlawful prohibited conduct. Therefore, work requirements would generally be unlawful if they have a disproportionately adverse effect on a particular racial, religious / belief group and cannot be shown to be justifiable.

School holidays are based around the major Christian festivals. Christians would not be granted more than these. A maximum of two days discretionary leave for staff of other religious faiths may be allowed to enable them to observe their main religious festivals e.g. Eid, Diwali, Indian or Chinese New Year and Passover.

Requests for regular (weekly) leave of absence should be approved if it is possible to manage the member of staff’s absence and an alternative work pattern is possible. Refusing such a request would be justifiable if it could be demonstrated that the absence would have an adverse effect on pupil entitlement.

1. **URGENT REQUEST FOR LEAVE**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Transport failure, car breakdown or weather disruption  Urgent childcare or self- isolation due to COVID-19 | As unavoidably necessary  Up to 10 days paid leave within a year | None | At discretion of Headteacher/Governing Board  At discretion of Headteacher/Governing Board. Depending upon the reason for self-isolation it may be appropriate for the employee to work from home |

These are situations that must rely entirely upon managerial discretion as no two cases are the same. The first priority in all cases is the safety and welfare of staff and pupils.

**8.1 Requests for urgent leave due to Covid-19**

Due to Covid-19 you may be approached by staff requesting discretionary leave as a result of children/bubbles being sent home from school. We understand what a difficult situation this can be for both the individual and the school. Upon receipt of a request, have a discussion with the member of staff and consider the following:

* What is the individual request
* Discussion about sharing the parental responsibility or support from another member of their legal support bubble or childcare bubble
* Ability to work from home
* Unpaid leave
* Consideration of any employee suggestions
* Combinations of the above

When considering the request the Headteacher must take into account the above considerations in conjunction with the individual school budget. Headteachers are advised that the initial period is to deal with the urgency of the matter and look to review what alternative arrangements can be made. The 10 day period is the maximum that can provided within a year. Due to the nature of the pandemic and its impact on child support bubbles Headteachers should recognised that there may be future occasions of requests for time off for the same purpose.

**8.2 Transport Disruption**

If there is a major disruption to the public transport system because of a strike or bad weather then it is recommended that staff who use this means of transport and have no other alternative, they should make every attempt to attend work, however if not possible they should be treated sympathetically. Each individual case should be considered on its own merits, taking into account such factors as distance from home to school and availability of alternative methods of transport. It is expected that within these situations the school refers to the guidance issued in relation to managing in adverse weather conditions and implement their emergency plan/procedures.

Equally, if a member of staff’s car breaks down and they make every effort to come into work as soon as possible by other means, they too should be treated sympathetically, although you may wish to seek some recompense for the hours lost.

In all other cases the guidance rule should be that staff should not be paid for work that they have not done.

If the disruption is significant and impacts on the ability for a school to meet minimum staffing levels and a decision to close the school is required; school closure decisions made by Headteacher following consultation with the Chair of Governors. Headteachers are required to notify the LA (Head of Schools) immediately.

**9. MOVING HOME**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| House removal where removal falls on a working day | (a) For members of staff recently appointed and moving into the area, requiring up to 3 days absence  (b) For the staff where (a) does not apply | Local for Teachers.  None for Support Staff | Teachers  One day with salary  or  as advised within the Schools Relocation Policy  Support Staff  At the discretion of the Headteacher/Governors  or  as advised within the Schools Relocation Policy |

This facility is designed for situations where the removal cannot be on any other day than a working day. Discretionary leave can only be given within 6 months of the commencement of employment for support staff.

**10. URGENT FAMILY BUSINESS**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Urgent family business (e.g. house burglary, explosion, fire) | Nominally 1 day per incident. May be extended if necessary | None | 1 day per incident Paid thereafter Unpaid  (School) |

This is to allow staff time to meet with the police, arrange emergency housing for the family etc. It is only intended to cover emergencies, not general visits to solicitors, sick relatives etc.

**11. JOB INTERVIEWS**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Job Interview (NB in a redundancy situation the Change Management Policy will override this situation) | As necessary but for Public Sector appointments only | Local for both Teaching & Support Staff | 5 days Paid (School) in  any academic year thereafter Unpaid (School) |

Many interviews span more than one day and a member of staff seeking alternative employment may have two or three interviews.

Headteachers are recommended to be ‘reasonable’ about such requests.

If a member of staff’s absence is excessive and becomes unreasonable and/or unmanageable, then it would be appropriate to bring this to his/her attention and ask them to be more selective in their applications. They should also be encouraged to seek feedback after unsuccessful interviews and be given the opportunity to talk this through.

The member of staff will need to provide evidence of attendance of the interview/observation to the Headteacher prior to attendance. If the member of staff is unsuccessful at any point during the process they will be expected to return to work

In a redundancy situation, staff are automatically allowed time off for seeking redeployment and for finding out about jobs.

**12. SCHOOL OBSERVATIONS**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Visits of necessary observation to another school (e.g. as part of an interview or result of securing a new job) | At Governors’ discretion | None | 5 days Paid (School) thereafter Unpaid (School) |

This may occur when staff apply to other schools for jobs, or having secured a job, they may be invited to functions to get to know the school.

Such exchanges should not be discouraged, but once again, Headteachers should determine whether the number and frequency of such requests are ‘reasonable’ and act accordingly.

**13. EXTERNAL EXAMINER/MODERATOR**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| External examiner, marker, awarder;  external moderator;  setters or revisers of question papers;  the exam board’s instructors or presenters of INSET courses;  members of committees/subject panels  NB. Support staff on NJC Scale 6 and above need prior written authority from their line manager | At Governors’ discretion | National for Teaching Staff.  None for Support Staff | Paid |

This applies to work undertaken outside of school. Headteachers/Governors need to be mindful of the Teachers Pay and Conditions Document and the School’s Pay Policy when approving such work.

Staff should be encouraged to plan well ahead and to give schools good notice of their commitments to minimise disruption. Many staff like to do this work as a useful form of personal professional development. There are also other useful ‘spin offs’ for the school. Authorisation of discretionary leave, with or without pay, for these activities is totally at the discretion of the Governors/Headteacher. However, it is recommended that every effort should be made to release staff within the constraints of the needs of the school. When making decisions, Headteacher’s are urged to be firm but fair.

Fees are normally paid for this work. It is recommended that where absence is approved with salary, any fees other than for work done in a member of staff’s own time should be paid back to the school.

**14. EXAMINATION LEAVE**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Examination leave for programmes of study which fall within the School’s Staff Development Policy, or where exams taken will enhance the employee’s professional development | At Governors’ discretion | Local for both Teaching & Support Staff | Paid  (School) |

This facility should only apply where the member of staff is receiving financial and/or time support from the school for the programme of study.

It applies to examinations that have to be sat during working days.

It does not apply to driving tests (times for which can be selected) or for the written papers (which can be taken during evenings), unless the ability to drive is an integral requirement of that person’s work.

In situations where staff are undertaking a programme of study that does not fall within the School’s Development Policy, but that requires sitting an examination in work time, Governors may wish to exercise their discretion as set out in Section 8, provided that the qualification gained will enhance their professional development as a member of the school staff.

**15. CONSULTANT/SPEAKER OR LECTURER**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Guest lectureship & consultancy | At Governors’ discretion | Local for Teaching Staff. None for Support Staff | At Governors’ discretion  (School) |

This may occur if a member of staff is invited to speak publicly to an audience on a particular subject. Discretionary leave, with or without pay is at the discretion of the Governing Board/Headteacher. Members of staff should notify the Headteacher well in advance of the event and ensure that all aspects of absences are covered, including any fees paid.

There is often great kudos attached to these occasions from which a school might benefit. Sometimes payment can be made in the form of equipment or resources for the school. In any case, the member of staff may have prepared for the occasion and travelled in their own time so it would not be unreasonable to allow some remuneration earned to stay with the member of staff, in recognition for the work done. A split between member of staff and school is therefore recommended.

**16. MEDICAL APPOINTMENTS**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Ante-natal care appointments where advised by a doctor, mid-wife or health visitor | As necessary | Legal requirement | Paid  (School) |
| Medical appointment (hospital) or screening where the time or the appointment cannot be chosen to fall out of working hours | As necessary to a maximum of 12 hours in any one academic year  Over 12 hours in any one academic year | Local for both Teaching & Support Staff | Paid  (School)  Unpaid |
| Appointments for Medical Screening | As necessary | Local | Paid  (School) |
| IVF Treatment | Dependent upon the duration of treatment. Long term may need to be dealt with via Annual Leave/Time Off in Lieu or Sickness Absence provisions | Local | Initially With Pay |

Discretionary leave should not normally be requested for visits to doctors, dentists, opticians, etc which should be taken out of school hours (or core time for those support staff working Flexitime). Discretionary leave may be approved for emergency appointments or for conditions classed as a disability under the Equality Act 2010

Discretionary leave should be used for medical or screening appointments (this includes cancer screening for both men and women) where the member of staff has no choice but to attend during working hours.

Before approving the absence always ask staff whether they have tried to seek an appointment outside the school day, and if preferred you may request to see proof of the appointment.

The member of staff should provide evidence of appointment prior to attendance.

**17. OTHER PUBLIC DUTIES**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| Jury service or witness at court for the school/local authority | As necessary | Statutory | Paid, loss of earnings claimed from the court and reimbursed to school |
| Witness at court for personal reasons | As necessary | Minimum legal requirement | Unpaid, loss of earnings claimed from the court |
| Attendance at court as a defendant or plaintiff (except where the member of staff is in legal custody) | As necessary | Statutory | Paid |
| Election duties in connection with Council elections    Parliamentary elections | 1 day to contest an election plus the day after  Three weeks up to & including the day of election plus the day after | Local for both Teaching & Support Staff | Paid |
| Councillors duties  Councillors acting as Mayor or Chair  of a major Committee | 18 days out of the 195 working days per year  Additional 36 days per year | Local for both Teaching & Support Staff | Paid  (School)  Paid  (School) |
| Service in Non-Regular Forces -attendance at annual camp | Where employee entitled to 5 weeks annual leave/school holidays a year, 10 additional days permitted during term time.  Employees with a leave entitlement  21 days (excluding 5 days for 5 years continuous service).  Employees with a leave entitlement  23 days (excluding 5 days for 5 years continuous service).  Employees with a leave entitlement  28 days (excluding 5 days for 5 years continuous service) | Local for both Teaching & Support Staff | Paid for 10 days  (School)  Paid for 10 days  (School)  Paid for 8 days balance unpaid or part of normal leave entitlement  Paid for 5 days balance unpaid or part of normal leave entitlement |

The member of staff should acquire a claim form from the court. The form is then given to the Employer to sign. The court will then reimburse the individual for loss of earnings/subsistence. The Employer will then make appropriate deductions from the individual’s salary.

Where a member of staff is on paid discretionary leave and receives an allowance for work done (e.g. juror’s or councillor’s allowance), any such monies must be paid back to the School. Where discretionary leave is granted without pay, salary will be deducted for working days only.

The onus for recovering allowances lies within the school. The Headteacher authorising the absence should advise the members of staff of their responsibility to pay any allowance back to the school and explain the process. It is then the school’s responsibility to ensure recovery.

An employee must have time off work for Jury Service, but a Headteacher can ask the employee to make a request to delay their jury service if the absence will have a serious effect on the school and provide a letter of support to accompany the request.

An employee should be able to take time off to attend court as a witness in relation to personal matters; however this should be without pay. The employee should acquire a form from the court for re-imbursement of loss of earnings.

Service in Non-Regular Forces- attendance at annual camp. Wherever possible, staff should negotiate to attend a camp outside term time.

**18. TIME OFF TO FACILITATE OTHER STATUTORY PUBLIC DUTIES**

(Employment Rights Act, 1996, Section 50)

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF ABSENCE** | **NATIONAL/LOCAL AGREEMENTS** | **PAID/UNPAID & SOURCE OF FUNDING** |
| Attendance at committee meetings as a member of:  a local authority  a police authority  a statutory tribunal  an NHS Trust, District/  Regional Practitioner Committee  Board of Prison Visitors | Up to a maximum of 18 absences (pro rata) for part time staff per academic year | Statutory/Local for both Teaching & Support Staff | Schools delegated budget or LA Centrally Retained Funds (as agreed by Schools Forum) |
| School Governor duties  Chairs and Vice Chairs of School Governing Bodies within Rochdale LA  Members of School Governing Bodies (excluding Chairs and Vice Chairs) within Rochdale LA | Up to a maximum of 18 absences (pro rata) for part time staff per  academic year | Local for both Teaching & Support staff | Paid  Unpaid |

An employer must allow “reasonable” time off to fulfil a statutory public duty, the amount of time off should be agreed between the employee and employer beforehand, taking account of:

i) how much time off is required to perform duties as a whole and how much for the particular duty in question;

ii) how much time off the member of staff has already had for other public duties

iii) the impact of the member of staff’s absence on the school.

Headteacher’s therefore have the ability to exercise discretion within the maximum limits set.

Please note that the law only refers to attendance at committee meetings, not to any other related attendance. Situations may occur where a member of staff asks for time off for meetings of an official working party. It is recommended that where the working party is an official subset of the committee, the request should be considered favourably within the confines of ‘reasonableness’.

**19. UNPAID LEAVE**

|  |  |  |  |
| --- | --- | --- | --- |
| **REASON FOR ABSENCE** | **PERIOD OF**  **ABSENCE** | **NATIONAL/**  **LOCAL**  **AGREEMENTS** | **PAID/UNPAID**  **& SOURCE OF**  **FUNDING** |
| University Graduation for the teacher, son/daughter, spouse/partner where graduation falls on a working day  All other categories come under this heading including family weddings, extended university graduation, discretionary extension to other discretionary leave allowances, elective/cosmetic surgery | As necessary  At Governors’ discretion.  Up to a maximum of 30 days in any one academic year | Local  Local for Support Staff.  None for Teaching Staff | 1 day with pay  1 day without pay  Unpaid |

In exceptional circumstances the Headteacher/Relevant Committee can authorise unpaid leave of up to 30 days in any one year where other leave provisions do not apply.

There exists a wide range of situations where staff may genuinely need time off during term time and, unlike other Authority staff, are unable to take annual leave. In these situations, schools are asked to consider requests submitted by staff.

Governors/Headteachers are advised to think carefully about the effects on school organisation, disruption to pupil’s education, the effects on other staff and the danger of setting precedents you may not wish or be able to follow.

Generally speaking, a compromise can often be found either on timing of the leave, using school holiday periods as part of the leave or rearranging the member of staff’s working year (providing there is a benefit to the school). None of these would probably result in the need for significant amounts of unpaid leave.

Advice can always be sought from Schools HR Advisory Service.

The Governing Board are able to place a maximum on the number of requests they authorise within any one Academic Year, for extended unpaid leave, irrespective of the reason for the discretionary leave request.

The LA Policy/Practice is not to place a cap on the maximum number of requests within any one Academic Year.

Decision Required

\* The Governing Board adopt the LA Policy/Practice

or

\* The Governing Board agree and stipulate (in written form) the maximum number of requests to be authorised within any one Academic Year and the process to be followed in respect determining how requests would be authorised.

**20. Deduction of Pay for former APTC & manual staff**

Calculation of a day’s pay for unpaid leave for all staff employed on NJC terms and conditions.

Calculation of daily pay for periods of less than one week (normally five consecutive working days) is as follows:

Monday 1/5th

Tuesday 1/5th

Wednesday 1/5th

Thursday 1/5th

Friday 1/5th

In cases where the period covers five consecutive working days a full week’s pay applies.

**21. Deduction of Pay - TEACHERS**

Calculation of a days pay for teachers 1/365th

Calculation of a weeks pay for teachers 5/365th

1. **ADDITIONAL GUIDANCE IN RELATION TO EXTENDED DISCRETIONAL LEAVE REQUESTS**

Guidance on responding to requests from staff for time off for discretionary leave is covered within the Discretionary Leave Policy.

There is not an entitlement to time off for discretionary leave, however where requests are received, forward planning on behalf of both the employee and employer are necessary.

Staff should submit requests in writing (Appendix B) in a timely manner, stating the reason, the relevant dates providing as much notice as possible. If actual dates are not known, approximate dates should be provided with an explanation why it cannot be taken during a period of school closure. Staff should be mindful that it may not be possible to accommodate discretionary leave requests.

**A decision needs to be made at individual Governing Board level as to who will make the decision for the extended unpaid discretionary leave and this should be clearly recorded. The decision lies with the:**

* **Headteacher**
* **Personnel and Pay committee**

**In order to preserve Governance for a potential appeal hearing it is recommended that the decision for Discretionary Leave for staff is delegated to the Headteacher.**

In consideration of any decision, the decision maker/s should consider the following:

* Continuity of educational provision
* The impact on the education and care of the children affected, which are the contractual duties of a teacher and other staff in school
* If it makes service delivery impossible, the request should be refused
* The precedent set for other staff, and the need to ensure fair and equal treatment for all
* Health and safety
* Budgetary i.e. any costs that may be incurred including employing cover staff
* Organisational implications
* Organisational context i.e. special measures, category
* Timing when the request if for i.e. when HMI are due to revisit
* The particular individual circumstances e.g. if the request was for Hajj, could the person undertake the pilgrimage at another time

Objectively justifiable reasons for any refusal should be provided, based on a legitimate business need.

The key consideration is balancing the need of the school against that of the individual.

All staff should be considered in the same regard.

It is essential that written records of discussions are kept, along with discretionary leave request forms/letters, outcome letters, notes of meetings etc.

An employee has the right of appeal against any discretionary leave request. Appeals will be heard by the Appeals committee of the Governing Board.

****

**DISCRETIONARY LEAVE PROCEDURE**

**MANAGERS HANDBOOK**

**APPENDIX A**

**PARENTAL LEAVE RECORD**

Employee’s Name:

Child’s Name:

Child’s DOB:

Other children qualifying? Yes/No *(If yes, pin cards together)*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Date Leave to begin | Date Leave to end | Number of  weeks (days) | Cumulative total of  (days) taken |
| Yr 1 |  |  |  |  |
| Yr 2 |  |  |  |  |
| Yr 3 |  |  |  |  |
| Yr 4 |  |  |  |  |
| Yr 5 |  |  |  |  |
| Yr 6 |  |  |  |  |
| Yr 7 |  |  |  |  |
| Yr 8 |  |  |  |  |
| Yr 9 |  |  |  |  |
| Yr 10 |  |  |  |  |
| Yr 11 |  |  |  |  |
| Yr 12 |  |  |  |  |
| Yr 13 |  |  |  |  |
| Yr 14 |  |  |  |  |
| Yr 15 |  |  |  |  |
| Yr 16 |  |  |  |  |
| Yr 17 |  |  |  |  |

It is important that entitlement to parental leave is established on appointment and confirmed with the previous employer on the second reference request pro-forma.

Parental leave records should be shared with new employers when staff leave the service of the school.

False declarations should be regarded as a disciplinary offence.

**APPENDIX B**

**DISCRETIONARY LEAVE REQUEST FORM**

This form should be completed in all cases where Discretionary Leave is requested

|  |  |
| --- | --- |
| **Name of Employee:** |  |
| **Address:** |  |
| **Job Title:** |  |
| Tick the box which best described the type of leave sought. The relevant section of the policy is next to the option. By ticking this option and signing this form you are declaring that you have read and understood the particulars concerned:  **Parental Leave (3)  Paternity Leave (4)**  **Anti-Natal Appointment (4)**  **Shared Parental Leave (4)**  **Bereavement Leave (5)**  **Dependents Leave (6)**  Religious Observances (7)  Urgent Request (8)  Moving Home (9)  Urgent Family Business (10)  Job Interview (11)  School Observations (12)  External Examiner/Moderator (13)  Examination Leave (14)  Consultant, Speaker, Lecturer (15)  Medical Appointment (16)  Other Public Duties (17)  Statutory Public Duty (18)  Extended Discretionary leave (22) | |
| Is your request for leave (see the relevant section) :  With Pay  Without Pay | |
| State the details of the leave requested: | |
| If this is a request for Shared Parental Leave, have you included the signed declaration from the other parent or adoptive partner (see Appendix C)?  Yes  No  If this is a request for Shared Parental Leave, please confirm the number of requests for shared parent leave made since the birth of the child or adoption placement? | |
| Summary of evidence provided to support application (if applicable): | |

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  | | --- | --- | | **I understand that by signing this form (and providing the additional information requested) I am declaring that I meet the specified criteria as detailed in the relevant section of the Policy. The information provided is factual and accurate and that I am aware that providing false information is an offence and could result in my summary dismissal and referral to the police** | | | **Employee Signature:** | **Date:** |  |  |  |  | | --- | --- | --- | | **Approved by the Headteacher ( please circle)** | **Yes** | **No** | | **Headteacher Signature** |  | **Date:** | |
| **APPENDIX C**  **SHARED PARENTAL LEAVE DECLARATION- TO BE COMPLETED BY THE OTHER PARENT OR PRIMARY ADOPTER**   |  |  | | --- | --- | | **By signing this declaration I hereby confirm the following:**  That I share responsibility with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_for the care of the child concerned.  I meet the employment and earnings test as stipulated in section 4.8 of the (Insert Name of School) Discretionary Leave Policy  That is agree to the amount of Shared Parental Leave given to the employee  The information I have provided on this form is factual and accurate and that I am aware that providing false information would result in a referral to the Police. | | | Name of the birth parent or primary adoptive parent |  | | Signature of the other parent or adoptive parent |  | | Date |  |   **APPENDIX D**  **REQUEST FOR DISCRETIONARY LEAVE OUTCOME LETTER**  (***Please note that statutory requests cannot be declined, however they can be scheduled to meet business need. For guidance please contact the School’s HR Advisory Service***)  Dear  **APPLICATION FOR DISCRETIONARY LEAVE**  Further to your application for discretionary leave dated the \_\_\_\_\_\_\_\_\_\_\_, after careful consideration I have determined to **allow/not allow** your request.  **Option 1 (if request has been allowed) You will therefore be granted leave from the xxxxxxx to the xxxxxxxx and in accordance to section xx of this policy this will be with pay/without pay.**  **Option 2 (Statutory Requests-if request is allowed but dates need to be changed from what has been requested by the employee) You will therefore be granted leave and in accordance with section xx of this policy this will be with pay/without pay. Further to our discussion, due to the business need of the school, I am unable to grant the period requested on your application form; however I am willing for you to take your period of discretionary leave from the xxxxx to the xxxxxxx**  **Option 3 (if request has not been allowed) My reason for declining your request is as follows**:  ***Outline the rationale for declining the request.***  You have a right of appeal against this decision. Should you choose to exercise this right of appeal, you should notify the school based Clerk to the Governing Board, in writing, within 7 calendar days of receipt of this letter.  Your appeal letter should include your grounds for appeal, any evidence on which you intend to rely and the name and address of your representative.  Yours sincerely  Headteacher/Relevant Committee of the Governing Board |

**APPENDIX E**

**DISRECTIONARY LEAVE REQUEST- INVITE TO APPEAL HEARING**

**PRIVATE & CONFIDENTIAL**

Dear

**DISCRETIONARY LEAVE MEETING – APPEAL HEARING**

Further to your appeal letter dated (insert date) I am writing to inform you that an appeal hearing against {my decision/the decision by the Relevant Committee of the Governing Board} at the meeting held on (date of meeting) has now been arranged. The date of the appeal hearing is (insert date) at (insert name of school) at the school.

Please find the enclosed documents submitted by the Management Representative which includes a copy of the order of proceedings. Please be aware that the appeal will not be a re-hearing of the case but a review of the decision made by the Headteacher/relevant committee, based on the grounds of appeal you submitted.

If you wish to submit any documentary evidence or call witnesses to the appeal hearing, you are required to submit details for the attention of the school based Clerk to the Governors, c/o (name of contact) no less than 7 calendar days prior to the appeal hearing.

You are advised that you may, if you so wish, have a Teacher Association/Trade Union representative or a work colleague present at the hearing but no one else.

Additional copies of the documentation have been attached in order that you may pass them to your representative if you so wish.

Please note that the decision of the Appeal Committee is final.

Yours sincerely

**APPENDIX F**

**SCHEDULE FOR APPEAL HEARING**

1. The committee will ideally consist of 3 members of the Personnel Appeals Committee of the relevant Board (excluding the Headteacher or any other member of staff who works at the school). This may be 2 members where the School’s Governing Board constitution dictates this or in exceptional circumstances. A member of the HR & Governor Support Service may be in attendance to support the panel.

2. The employee will be given a minimum of 14 calendar days’ advanced notice of the hearing; informed, by the clerk to the Appeals Committee of Governors, in writing, of the purpose of the hearing, the allegations and a list of witnesses to be called by the Management Representative. The employee will also be supplied with copies of any documents to which it is intended to refer, and be advised of the right to be accompanied at the hearing by a Trade Union/Teachers’ Association representative or a work colleague of his/her choice if he/she wishes, but by no-one else.

3. Not less than 7 calendar days in advance of the hearing the employee (or his/her representative) shall send to the Clerk of the Appeals Committee copies of any documents that he/she intends to refer to at the hearing, together with a list of witnesses that he/she intends to call.

4. The under mentioned procedure will be followed at an appeal hearing:

1. Employee (or his/her representative) to put his/her case based on the grounds of appeal submitted.
2. Employee to call any witnesses.
3. The Headteacher/Nominated Person to ask questions of the employee (and/or his/her representative) and witnesses.
4. The Appeals Committee to ask questions of the employee (and/or his/her representative) and witnesses.
5. Employee’s witnesses to withdraw from proceedings, if applicable.
6. The Headteacher/Nominated Person to put his/her case in response to the grounds of appeal provided.
7. The Headteacher/Nominated Person to call witnesses.
8. Employee (or his/her representative) to ask questions of the Headteacher/Nominated Person and witnesses.
9. The Appeal Committee to ask questions of the Headteacher/Nominated Person witnesses.
10. Headteacher/Nominated Person witnesses to withdraw from proceedings, if applicable.
11. Headteacher/Nominated Person to summarise their case.
12. Employee (or his/her representative) to summarise their case.
13. Summing up should concentrate on the key points of the case. These points should be concise and last no more than a few minutes.
14. The Headteacher/Chair of the committee may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, s/he will specify the nature of that information. Any adjournment will normally be for a stated period.
15. Following the summing up, both parties, together with their representatives will withdraw. If it is necessary to recall one of the parties for further information. If a member of the HR & Governor Support Service is in attendance to support the panel then, he/she shall remain during the relevant Committee’s deliberations.

5. During the Appeal hearing the decision of the Chair of the committee, as to procedure and which matters are of relevance to the proceedings, will be final.

6. The Chair of the Appeals Committee will communicate the decision, with reasons, to both parties either orally at the conclusion of the hearing or in writing by the Clerk within 7 calendar days of the hearing. If given orally, the decision will be confirmed in writing by the Clerk. No further right of appeal will be available to the employee under this procedure.

**APPENDIX G**

**DISCRETIONARY LEAVE- APPEAL HEARING OUTCOME LETTER**

**PRIVATE & CONFIDENTIAL**

Dear

**DISCRETIONARY LEAVE – APPEAL HEARING OUTCOME**

Further to the Appeal Committee hearing on ­(date of meeting) I confirm that the Committee has considered your appeal.

The Appeals committee decision is, that after careful consideration, to:

**DISCRETIONARY LEAVE**

Option 1 (delete as necessary)

allow your request with/without pay (delete as necessary) . This will be for the period {date from} to {date to}

Option 2 (delete as necessary)

not allow your request (insert any final statement).

If you decide to take the discretionary leave without the required authorisation, this matter will be dealt with as a breach of contract on your return to work. This will result in an investigation taking place in accordance with the school’s Disciplinary Procedure and will be considered as gross misconduct which could result in your summary dismissal from post.

you will be expected to return to work on {insert date}

**BOTH**

The decision of the Appeal Committee is final.

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September 2008, Revised September 2013, Revised January 2021