



Adopted Guidance for

Academies

Leave of Absence and Special Leave

Management Guidelines

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Contents

Page No.

1.0	Introduction.....	1
------------	--------------------------	----------

2.0	Requests for Special Leave.....	1
	Table 1 – Summary of leave types and suggested maximum number of days to grant....	2

3.0	Family, Personal and Compassionate Leave	3
3.1	Serious Illness of a Close Relative	3
3.2	Bereavement Leave	3
3.3	Family and Domestic Crisis.....	4
3.4	Time off for Dependants	4
3.5	Parental Leave	4
3.6	Time off for Festivals, Events or Pilgrimage.....	5

4.0	Health.....	6
4.1	Medical, Dental or Ophthalmic Appointments.....	6
4.2	Medical Screening	6
4.3	Fertility Treatment	6
4.4	Cosmetic Surgery	6

5.0	Work-Related.....	6
5.1	Time off in Exceptionally Severe Weather	6
5.2	Time off for Career Development.....	7
	5.21 Job Interviews	
	5.22 Attendance at New School/Academy following Appointment/Prior to Interview	
	5.23 Examinations	
5.3	Time off to Seek Work or Arrange Training (due to Redundancy)	7
5.4	Time off to Accompany a Colleague at a Hearing.....	7

6.0	Trade Union Activities.....	7
------------	------------------------------------	----------

7.0	Public Duties.....	7
7.1	Justices of the Peace/Magistrates	7
7.2	Serving on Public Bodies or Undertaking Approved Public Duties.....	8
7.3	Jury Service/Attendance at Court as a Witness.....	8
7.4	Members of Reserve Forces and Territorial Army	9

	Appendix 1 – Shared Parental Leave – Factsheet	10
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1.0 Introduction

These guidelines have been produced to provide Academies with the information they need to shape policy on the different time off provisions for paid and unpaid leave that are available, other than sick leave and annual leave. The guidance applies to all staff, both Teaching and Support, and is based on Worcestershire County Council's procedures, local agreements and statutory entitlements.

It is recommended that Academies develop their own policies for dealing with requests for absence to standardise the management response to more routine requests or to limit those requests beyond a certain level. It is important that the policy is published and available to all staff and applied fairly and consistently. All new employees should be made aware of the policy as part of their induction programme. The policy should make clear the procedure and timescales for request, decision making authority and right of appeal.

Table 1 on page 3 provides a summary of leave types and the suggested maximum number of days that may be appropriate to grant for such leave.

Academies are responsible for the majority of replacement costs for all employees in the Academy and are advised to consider adequate insurance cover, where applicable.

Should you require further advice on the contents of this guidance please contact HR Consultancy for Schools.

2.0 Requests for Special Leave

Unlike most employees who are able to use annual holiday entitlement if they need to be away from their work for any reason, the vast majority of Academy based staff are restricted to taking holidays outside school term time. Occasions may therefore arise where requests for time off during term time need to be considered by the Headteacher.

In exercising discretion to grant leave, the Headteacher will need to balance three factors:

- The effective running of the Academy
- The particular merits of the employee's situation
- The equitable treatment of all staff within the Academy.

If the impact of an absence would be to create serious operational difficulties in the Academy, the request may have to be declined. Factors such as previous special leave, personal circumstances and the seriousness of the particular case may all be relevant.

Ensuring that there is equitable treatment of all employees is essential to avoid an employee invoking the grievance procedure or making a claim of discrimination.

Table 1 – Summary of leave types and suggested maximum number of days to grant

Type of special leave	Suggested maximum number of days to grant	Paid or Unpaid	Statutory requirement (yes/no)	Guidance for further details
Serious illness of a close relative	3	Paid	No	3.1
As above followed by death	7	Paid	No	3.1
Bereavement leave	5	Paid	No	3.2
Family & domestic crisis	7	Paid	No	3.3
Time off for dependants	Reasonable	Unpaid	Yes	3.4
Parental Leave	Up to 18 weeks	Unpaid	Yes	3.5
Time off to accompany partner to ante-natal appointment/adoption appointment	2	Unpaid	Yes	N/A
Time off related to religion/belief	Reasonable	Unpaid Or /TOIL	No	3.6
Funeral	1	Paid	No	-
Memorial service of a close relative	1	Paid/unpaid	No	-
Degree ceremony (employee)	1	Paid	No	-
Participation in sport, drama or music (employee)	3	Paid/unpaid	No	-
Moving house	1	Paid/unpaid	No	-
Medical, dental or ophthalmic appt	3	Paid	No	4.1
Medical screening	1	Paid	No	4.2
Fertility treatment	7	Paid/unpaid	No	4.3
Cosmetic surgery (medical reason)	Sickness absence	Paid	No	4.4
Cosmetic surgery (non-medical reason)	N/A	unpaid	No	4.4
Severe weather	As appropriate	Paid/unpaid	No	5.1
Job interview	Reasonable	Paid/unpaid	No	5.21
New School/Ac visit	1	Paid	No	5.22
Examinations	2	Paid	No	5.23
Redundancy	Reasonable	Paid	Yes	5.3
Accompany colleague at hearing	Reasonable	Paid	No	5.4
Public Duties	Reasonable	Paid/unpaid	Yes	7.1 – 7.4

3.0 Family, Personal and Compassionate Leave

3.1 Serious Illness of a Close Relative (followed by death)

Up to 3 days special leave with pay may be granted in connection with any single instance of serious illness of a close relative. A further 4 days with pay could be granted on the death of a close relative, giving a total of 7 days paid leave due to the illness followed by death of a close relative.

A 'close relative' in this context means:

- Spouse, partner, child (including foster child), parent, parent-in-law, grandparent, grandchild, brother/sister
- Any relative living with the employee
- Any situation where the employee is not related but has a particularly close relationship with the person concerned.

Employees are entitled to take a reasonable amount of unpaid time for urgent family reasons under the Time Off for Dependents Directive (refer to 3.4).

In very serious cases or when dealing with a terminal illness, Headteachers should contact HR Consultancy for Schools for advice.

In circumstances where a family member is expected to need care for an extended period of time, it may be appropriate to consider the feasibility of a period of special leave without pay or a temporary change of contract. This would be subject to the needs of the Academy.

3.2 Bereavement Leave

Up to 5 days special leave with pay **may** be granted following the death of a close relative (see paragraph 3.1 above for the definition of a 'close relative') **or 1 day in the event of the death of another relative.**

When considering a request for bereavement leave, Headteachers should take the following factors into account:

- The relationship between the employee and the deceased
- The responsibility for the affairs of the deceased. (This might include direct involvement in funeral arrangements, sorting out the will, letters of administration, etc. Account should be taken as to whether such responsibility is that of the employee alone or is shared with other family members.)
- The location of the funeral, the distance to travel and any other 'access' difficulties (e.g. the availability of public transport), if these are relevant
- Other special circumstances (for example, the sudden death of a spouse or partner may result in a need to make childcare arrangements)
- Practices related to the employee's religion or belief (for example, some religions specify a mourning period during which the individual remains at home following the death of a relative, followed by specifically timed periodical visits to their place of worship).

Where the practices of an employee's religion or belief following bereavement mean that they require time off, but the person does not meet the definition of a 'close relative', or the employee needs more than the five days special leave with pay, **time off may be given as special leave with or without pay.**

Grief will affect different employees in different ways and Headteachers need to be sensitive to this. Where there is a clear medical reaction to grief, any resultant absences should be treated as sick leave, not special leave, and the usual certification procedure should be followed. Employees should be encouraged to visit their GP or access counselling available through the Schools Sickness Absence Advisory Service or please speak to HR Consultancy for Schools.

3.3 Family and Domestic Crisis

Up to 7 days special leave with pay on compassionate grounds in any one year. Usually, this will be associated with the more traumatic experiences in life, such as the break-up of a marriage or other close personal relationship, or financial or housing problems. Dependent upon the trauma of the circumstances and the impact on the employee, special leave with pay may be justified for domestic crises such as burglary or fire. Time off should not be agreed for 'routine' problems such as repairs to a household appliance.

However disruptive the immediate absence might be, sympathetic consideration of such cases will usually be justified, especially if the employee is particularly distressed. The important point is to exercise sensible judgement. A few days off 'to get things sorted out' may also provide an opportunity for specialist help to be obtained.

3.4 Time off for Dependants

All employees have a statutory **right to take reasonable unpaid time off** in the case of emergencies relating to a dependant. You may agree a limited number of paid days in accordance with your school policy. (A "**dependant**" is defined as a parent, husband, wife, partner, child or someone who lives with you as part of the family - other than a lodger or tenant.)

All employees from their first day of work are eligible to take time off in the following circumstances:

- To help when a dependant is ill or has been injured or assaulted
- To cope when arrangements for caring for a dependant unexpectedly break down
- When a dependant is having a baby
- When a dependant dies, or
- To deal with an unexpected incident involving your child during school hours.

The right is intended to cover genuine emergencies, so there is no limit on the number of occasions an employee can be absent from work due to unforeseen events.

There is no fixed rule as to how much time off is allowed, since circumstances will be different in each case. Only "reasonable" time off can be taken, and it is expected that 1 or 2 days should be long enough to deal with most problems or sort out longer term arrangements. For example, this is not an entitlement to take time off to nurse a sick child, but rather time to make arrangements for the child's care.

3.5 Parental Leave

Parental leave is a statutory entitlement intended to help both mothers and fathers to spend more time with their children when they are young and to relieve some of the stresses of working and caring. It is unpaid, taken in weekly blocks, and needs to be authorised well in advance. Parents of disabled children have the flexibility to take a day at a time.

Following the most recent **changes to the regulations on 5 April 2015**, employees are entitled to **18 weeks unpaid leave** for each child which can be taken any time up to the child's 18th birthday. Both parents are eligible for leave provided they:

- Have at least one year's continuous service with their current employer
- Are the parent of a child who is less than 18 years old, **or**
- Have adopted a child who is under 18 years old, **or**
- Have acquired formal responsibility for a child who is less than 18 years old.

Part time employees get a **pro rata** allowance.

A maximum of 4 weeks can be taken in any one year.

An employee who has come from another employer will bring any outstanding parental leave entitlement with him/her but cannot start using it until they have been with their current employer for at least a year.

When the **first request** to take parental leave is made, an employee must provide proof of their entitlement, such as a **birth certificate or adoption papers**. A minimum of 21 days' notice of the intention to take parental leave is required, specifying when the leave is to start and end. The leave can be postponed by a Headteacher for up to six months for operational reasons, except where the leave is requested to be taken immediately after the birth or adoption of a child.

From 5 April 2015 there is also an entitlement to Shared Parental Leave. This is different to Parental Leave and is based on any unused Maternity Leave and Pay. Separate guidance is available on Shared Parental Leave but a factsheet outlining the provisions can be seen at Appendix 2.

3.6 Time off for Festivals, Events or Pilgrimage related to Religion or Belief

In this context, 'Religion or belief' is defined as being any religion, religious belief or similar philosophical belief as per the Equality Act 2010. It does not include philosophical or political beliefs, unless they are similar to religious belief. Examples such as being a supporter of a football team or of a political party are not covered by these provisions. Factors such as collective worship, a clear belief system, and a profound belief affecting way of life or view of the world are indicative of a religion or belief in this context. It is likely that in most cases, it will be clear what is or is not a religion or similar belief.

Employees may request special leave without pay in connection with their religion or belief (see definition above). For example, this might be to celebrate a festival or attend a ceremony. Requests should be made with advance notice and Headteachers should consider them sympathetically. Local arrangements may enable time off in lieu at the Headteacher's discretion.

Some people's belief or religion requires that they make a pilgrimage. This may be at a specific time and fall within the Academy's term time. Careful consideration must be given to the request but it could be refused if the needs of the Academy cannot be met. The Equality Act 2010 requires that for this type of indirect discrimination not to be unlawful, it must be "sufficiently justified by the need to meet a proper business requirement that cannot be achieved by some other means. Advice should be sought from HR Consultancy for Schools concerning this issue.

4.0 Health

4.1 Medical, Dental or Ophthalmic Appointments

Up to 3 days paid special leave may be granted per year. Please refer to the Managing Sickness Absence Policy for more information.

4.2 Medical Screening

Up to 1 day's special leave with pay may be granted where necessary for the purpose of routine health screening. This applies where there is a national screening programme in place, such as for breast or cervical cancer. Evidence of the appointment may be required.

4.3 Fertility Treatment

A combination of up to 7 days special leave with pay and special leave without pay should be considered where an employee is undergoing fertility treatment. Specific arrangements will vary according to each individual case. Headteachers should discuss and agree these in advance with the employee, taking the Academy's operational requirements into account.

In the event that such treatment results in the employee becoming unfit for work, the usual sickness absence provisions apply, including the procedure for certification.

Employees who wish to **accompany** their partner who is undergoing fertility treatment to appointments would usually be expected to request special leave **without pay**.

4.4 Cosmetic Surgery

Please refer to the Managing Sickness Absence Policy.

5.0 Work-Related

5.1 Time off in Exceptionally Severe Weather

It is the responsibility of employees to make every effort to attend the Academy even in exceptionally severe weather. It is recognised, however that the journey to work may be impossible, inadvisable or cause concern to employees.

Academies must ensure that there is clear guidance to employees on:

- Closure and communication arrangements, which should include employee responsibilities for making contact
- Requirements to make up lost time, take leave/unpaid leave and/or attend an alternative establishment.

Where an employee arrives significantly later than expected and it is accepted that all reasonable efforts were made to arrive at the usual time but the weather and/or its effects on travelling conditions prevented this, the employee should be treated as having arrived at their normal time.

Headteachers should use their discretion in allowing individuals the opportunity to leave early when weather conditions are bad or expect to worsen. This may be particularly relevant where employees have some distance to travel or may expect a difficult journey.

Employees should not suffer loss of pay in the event of the Academy closing.

5.2 Time off for Career Development

5.21 **Job Interviews** - It may be helpful for Academies to establish a clear policy which acknowledges and supports the professional advancement of staff by giving paid leave to attend job interviews, but addresses the financial needs of the school by limiting the amount of paid leave available for that reason to any individual in any one year.

5.22 **Attendance at New School/Academy following Appointment/Prior to Interview** - Up to 1 day's special leave may be granted with pay to visit a new School/Academy prior to starting a new job.

5.23 **Examinations** - Up to 2 days paid special leave may be granted to an employee sitting an exam related to their current post or career development.

5.3 Time off to Seek Work or Arrange Training – Employees at Risk of Redundancy

Employees who have at least two years continuous service with their current employer and are under notice of dismissal for redundancy are entitled to reasonable time off for the purpose of seeking alternative work or arranging training. This includes time off in relation to interviews and activities not related to the Academy.

5.4 Time off to Accompany a Colleague at a Disciplinary, Grievance or Flexible Working Hearing

An employee who has agreed to accompany a colleague at a disciplinary, grievance or formal flexible working hearing is entitled to a reasonable amount of paid time off to fulfil this responsibility. Such time off will be that which is necessary to cover any actual hearing and also a reasonable amount of time to confer with the employee who is the subject of the hearing.

6.0 Trade Union Activities

Requests for time off for attending various Trade Union duties should be initially channelled through the relevant County Representative who will seek approval/support from the Local Authority via HR Consultancy for Schools.

7.0 Public Duties

All employees are entitled, in accordance with employment legislation, to take reasonable time off in order to carry out public duties such as magistrates, school governors etc.

7.1 Justices of the Peace/Magistrates

Employees are entitled to reasonable time off in relation to approved duties.

Employees who are magistrates are entitled to reasonable time off to fulfil the duties of this office. They may be granted special leave with pay during Academy hours. This is subject to prior approval from their Headteacher. This leave is only available for actual service in the Court, not for training.

A Headteacher may decide to limit the amount of leave and/or the occasions on which it may be taken, or refuse a request altogether. This decision must be based on what is reasonable in the circumstances on the basis of the following criteria that are set out in the Employment Rights Act 1996:

- How much time off is required for the performance of the duties of the office
- The effect of the employee's absence on the running of the Academy.

Special leave with pay may be granted in any year under this provision. However, this limit does not represent an automatic entitlement nor an indication of how much time off should be granted.

7.2 **Serving on Public Bodies or Undertaking Approved Public Duties**

Employees are entitled to reasonable time off in relation to approved duties on certain public bodies and may be granted special leave with pay.

The public bodies for which this special leave is available are:

- Local authorities;
- Police authorities;
- Statutory tribunals;
- Health authorities or special health authorities or primary care trusts;
- The managing or governing body of an educational establishment maintained by a local education authority or a further or higher education corporation
- The Teaching Agency
- In England and Wales, the boards of prison visitors/prison visiting committees;
- Any other bodies covered by the Employment Rights Act, as amended from time to time by Statutory Instruments.

The entitlement to paid time off in relation to these bodies applies only for the following duties:

- Attendance at meetings of the body or any of its committees or sub-committees;
- Performance of duties approved by the body which need to be done in discharging its functions or those of any of its committees or sub-committees.

7.3 **Jury Service/Attendance at Court as a Witness**

All employees attending Jury Service will be granted time off with pay, but they **must claim the allowance for loss of earnings that is available from the Court.**

The School Employee Services team (SES) can administer this process. The Loss of Earnings Form sent to an employee from the Court should be forwarded to SES as soon as an employee receives this from the Court. SES will then complete the earning part of the form and return this to the employee. **The employee takes this form with them on the first day they report for Jury Service.**

Once Jury Service has finished the employee will receive reimbursement of Travel, Subsistence and Loss of Earnings from the Court direct to their nominated bank account. The employee then needs to **give** the School the **'Remittance Advice Slip'** from the Court, which the Academy needs to forward to SES for processing the deduction of 'Loss of Earnings' from the next available payroll run. This is to ensure that the employee is not paid twice for the period of time attending Jury Service.

7.4 Members of Reserve Forces and Territorial Army

Up to 2 weeks paid or unpaid special leave could be granted, which may be paid for attendance at a summer camp (which would normally fall in the summer holiday period).

HR/MJ/LY/djc
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Shared Parental Leave - Factsheet

What is shared parental leave?

Shared parental leave is a way for parents to share their statutory maternity/adoption leave and pay with their partner.

A parent can decide to opt out of statutory maternity or adoption leave/pay and into the shared parental leave system. Whatever leave and pay that is left under the statutory maternity or adoption schemes can be shared between the two parents.

What is the entitlement?

Employees are entitled to take up to 50 weeks shared parental leave during their child's first year in their family.

Employees may be entitled to receive up to 37 weeks shared parental pay while taking shared parental leave. This will be paid at a rate set by the Government for the relevant tax year (currently £138.18 a week or 90% of average weekly earnings, whichever is lower).

When can I start shared parental leave?

The mother/adopter can take shared parental leave after taking at least two weeks of maternity/adoption leave, provided the maternity/adoption leave has ended.

The father/partner/spouse can take shared parental leave immediately following the birth/placement of the child, provided the maternity/adoption leave has ended or binding notice to end it has been given.

How can shared parental leave be taken?

Shared parental leave can only be taken in complete weeks but may begin on any day of the week.

An employee can ask for leave between two dates (continuous leave) or a set number of weeks of leave over a period of time with breaks between the leave where they return to work (discontinuous leave).

Am I eligible?

Shared parental leave is available to parents of babies due/placed for adoption on or after 5th April 2015. Both parents must share the main responsibility for the care of the child.

The mother/adopter of the child must be or have been eligible to statutory maternity or adoption leave/pay.

An employee must:

- Have been continuously employed for at least 26 weeks by the 15th week before the child's expected due date/by the end of week they were informed of being matched.
- Be employed at the start of each period of shared parental leave.
- Provide correct notice of their entitlement and evidence as required.

The employee's partner must have worked for at least 26 weeks in the 66 weeks leading up to the child's expected due date/matching date to and earned an average of at least £30 a week in any 13 of those weeks.

What notice do I need to give?

Where an employee wants to take shared parental leave, they must give their manager a number of notices. The Guidance for Schools on Shared Parental Leave sets out what information is required and when it should be submitted to your Headteacher/Line Manager.

Where can I find out more?

The law covering shared parental leave is complicated. This factsheet provides a simple overview of some of the key points but is not intended to cover every situation or provide detailed guidance. Employees who think they may want to take shared parental leave (and their Headteachers/Line Managers) should refer to The Guidance for Schools on Shared Parental Leave (available on EduLink). Further advice can be sought from HR Consultancy for Schools.