Model Whole School Leave Of Absence Policy
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Model Whole School Leave of Absence Policy

Introduction

These guidelines have been developed by the Local Authority in consultation with recognised Trade Unions. This policy has been developed to promote a clear and consistent approach within schools for the management of requests from staff for leave of absence. This policy is recommended to schools for adoption immediately. However, should schools decide to develop their own procedure, they will need to reopen Trade Union consultation on an individual basis.

It is the Governing Body's responsibility to manage their staff. The Headteacher will assist the Governors in the discharge of this responsibility and he/she may act in certain circumstances in the absence of the Governors.

1 Purpose of this Policy

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

2 General Points for Consideration

Any leave of absence taken by school employees may cause disruption to pupils' learning; involves the school in additional organisation and may incur costs for the school's budget. Employees will be mindful of these considerations and, as far as is reasonably practicable, should make arrangements to minimise the necessity to ask for leave of absence. However, the Governors recognise that situations will arise from time to time, outside of any statutory entitlement, where the school will need to grant employees leave of absence.

It is at the Headteacher's/Governing Body's discretion, in line with the model policy, whether leave of absence is paid or unpaid unless there is a statutory entitlement to pay.

The information given below does not supersede the National Agreement on Pay and Conditions of Service (National Joint Council for Local Government Services) or the Conditions of Service for Teachers (The Burgundy Book).

3 The Legal Position

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

4 Considerations in Granting Leave

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

Governors should take account of the following:

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

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

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

5 Emergency Leave

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

Under the Family Friendly Policy operated by Cornwall Council, employees are allowed up to 37 hours (pro rata for part time employees) paid leave in a rolling year to assist them in managing the illness/support of dependents and relatives.

6 Applications for Other Non-Urgent Leave

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

Employees should note that the 15 school days' notice is a minimum period. As much notice as possible would assist the school and could increase the likelihood of having the leave approved.

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

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

Requests for an extended period of leave, including leave for sabbaticals, exchanges and voluntary work, should be by written application to the Headteacher giving at least a full term's notice. The Personnel Committee should consider the request and may refer the request to the full Governing Body. Such periods of absence may affect the leave entitlement of relevant employees.

8 Pay Considerations

Where leave of absence has been granted without pay, salary will be deducted based upon 1/365 of appropriate salary for each day of absence.

9 Statutory Entitlements and Requests for Absence

Statutory entitlements are given below, followed by a list of the most common requests for leave of absence. A suggested appropriate amount of leave is given and whether it should be paid or unpaid. Governors may increase this, but should be careful to treat all employees equally under the policy. Where paid leave of absence has been granted, further unpaid leave may also be granted at the Personnel Committee's discretion.

Statutory Entitlements

A Maternity Leave

The Employment Act 2002 gives all employees an entitlement to 26 weeks' paid ordinary maternity leave, and subject to qualification, a further 26 weeks' unpaid additional maternity leave. **Different maternity provisions apply to teaching and non-teaching staff**. Please see the Maternity Information Pack, the provisions set out in the Burgundy Book for Teachers or contact HR Employee Relations.

B Paternity Leave

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

C Adoption Leave

The Employment Act 2002 gives a qualifying employee an entitlement of 26 weeks' paid ordinary adoption leave (at Statutory Adoption Pay) and 26 weeks' unpaid additional adoption leave. Different criteria apply depending on whether the adoption is from within the UK or from overseas. Please see information bulletins Adoption Leave (UK Adoptions) and (Overseas Adoptions). Teachers should also refer to the "Burgundy" Book clause 12.1 or contact HR Employee Relations.

D Parental Leave

The Parental Leave Regulations 1999 give a qualifying employee an entitlement to 18 weeks' unpaid parental leave for the purpose of caring for a child. This entitlement lasts until a child's 18th birthday. For details, please refer to the attached document Family Friendly Issues – Parental Leave or contact HR Employee Relations.

E Shared Parental Leave

Shared Parental Leave is a legal right that enables eligible working parents (mothers, fathers, partners and adopters) to choose to share time off for the purpose of caring for a child(ren) in the year following birth or adoption. Eligible parents can elect to convert unused maternity/adoption leave and pay into shared parental leave and

pay. Please see the shared parental leave policy for further information and to access the relevant notice forms in the appendices

F Time Off for Dependents

Since December 1999, all employees have the right to take a **reasonable period of unpaid time off work to deal with an emergency or sudden problem involving a dependent,** such as illness, accident or an unexpected breakdown in care arrangements. A dependent is the partner, child or parent of the employee, or someone who lives with the employee as part of their family eg a grandparent. This right is intended to enable employees to make necessary longer term care arrangements for the dependent. For details, please refer to the attached document Family Friendly Issues – Time Off for Dependents or contact HR Employee Relations.

Under the Family Friendly Policy operated by Cornwall Council, employees are allowed up to 37 hours (pro rata for part time employees) paid leave in a rolling year to assist them in managing the illness/support of dependents and relatives.

Other Common Requests for Leave of Absence and Suggested Approach

Death of a Partner or Child

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

Other Common Requests for Leave of Absence and Suggested Approach

Death of a Relative or Close Friend

- up to 3 school days' paid leave
- a further 2 school days' paid leave for travelling if out of the County
- an additional 5 school days' unpaid leave if appropriate decided by the Personnel Committee

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

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

Compassionate Leave

- in circumstances, not covered by any of the above, at the discretion of the Personnel Committee

- up to 2 weeks' paid leave
- up to 6 weeks' unpaid leave

Funerals

- 1 day's paid leave depending on the circumstances
- a further 2 school days' paid leave for travelling if out of County
- if an employee intends to attend an overseas funeral then the Governors have the discretion to grant additional unpaid leave

Maternity Support Leave (in conjunction with Paternity Leave)

- 5 school days' paid leave for partner

Leave of Absence for Public Duties

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

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

Jury Service

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

Court Action

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

Agreed Training

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

Approved Union Activities for Accredited Representative

- necessary paid time off within the conditions of service

Staff Governor

- necessary time, with pay, to attend meetings

Governors of a School other than own School

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

Interviews for Posts related to the Education Service

- paid leave for the duration of the selection process
- up to 2 school days' paid leave where necessary if out of County travel is involved

Interviews for Posts not related to Education

- as above, unpaid

Graduation Ceremony

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

Selection for County/National Teams

- 1 school day's paid leave
- up to 2 school days' paid leave for travel if out of County
- time off to attend events outside of the Country will be at the discretion of the governing body

Hospital Appointments

- if unavoidably in school hours, necessary time off with pay

Optician and Dental Appointments

- outside school hours except in an emergency

Leave of Absence for Religious Observance

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

HR Employee Relations can offer further guidance to Headteachers/Governors on individual queries.

Family Friendly Issues

The Maternity and Parental Leave etc Regulations 1999 were laid before Parliament on 4th November 1999 and derived from the provisions of the Employment Relations Act 1999. They brought into law important changes to the arrangements for Maternity Leave that came into force from 30th April 2000, together with new entitlements in respect of Parental Leave that applied from 15th December 1999. Additionally, the provisions in the 1999 Act relating to time off for dependents came into effect from 15th December 1999.

Time Off For Dependents

From 15th December 1999, all employees will have the right to take a reasonable period of time off work to deal with **an emergency involving a dependent**, and not to be dismissed or victimised for doing so.

Circumstances under which employees may take time off

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

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

Definition of Dependent

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

living in the family home, or someone who lives in the household as an employee, for example, a live-in housekeeper.

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

Amount of Time Off allowed

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

Time Off will be without pay

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

Notice employees are required to give

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

Refusal of Time Off

Employees who think they have been unreasonably refused time off, or victimised for taking it, may make a complaint to an employment tribunal against their employer. However, in practice, employees should be encouraged to make a reference under the appropriate grievance procedure.

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

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

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

Parental Leave

The implementation of the Parental Leave Arrangements will be the subject of consultation with the recognised trade unions and Cornwall Council may decide to reach a collective agreement. However, in the absence of a collective agreement with the recognised trade unions, the following arrangements should apply.

Who Can Take Parental Leave?

Employees who have a baby or adopt a child on or after 15th December 1999 and who have completed 1 year's qualifying service with Cornwall Council by the time they want to take the leave. Mothers, fathers, partners and adopters can take parental leave.

Key elements of parental leave entitlement:

- 18 weeks' parental leave for each child
- the employee will remain employed while on parental leave; some terms, such as contractual notice and redundancy terms will still apply;
- there is no right to be paid during a period of parental leave;
- at the end of parental leave, an employee is guaranteed the right to return to the same job as before, or, if that is not practicable, a similar job which has the same or better status, terms and conditions as the old job; where the leave taken is for a period of 4 weeks or less, the employee will be entitled to go back to the same job;

- parental leave may be taken in blocks or multiples of 1 week;
- employees must give 21 days' notice of their intention to take parental leave;
- no more than 4 weeks' leave may be taken in a year per child;
- parental leave may be postponed by the employer for up to 6 months where business cannot cope (such decisions must be approved by a Chief Officer or in the case of school based staff, the governors);
- leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption.

Parents of disabled children will have the flexibility to take leave a day at a time or longer if they wish. A disabled child is a child for whom disability living allowance is awarded.

Where the conditions of service of an employee provides for them to receive either an entitlement to paternity leave or adoption leave, that leave shall continue to be granted on the basis of the existing conditions of service. However, such leave shall be deemed to be parental leave for the purposes of determining an employee's entitlement under the regulations.