



Leave and Time Off Policy

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Linked with other policies:

- Data Protection
- Disciplinary
- Leave and Time Off

Signed:

Version Control

Version	Date of review/change(s)	Page and paragraphs affected	Summary of update
V1	February 2022	P3 Paragraph 1	Additional paragraph to include consideration for employees with mental health issues.

1. Introduction

Every employee will, from time to time, need to take time off work. This model policy provides opportunity for the school to establish a clear framework within which employee entitlements and employer discretions relating to leave and time off can be clear.

Through the implementation of this policy, the Directors will be mindful of the employer obligation to seek to maintain and protect the mental health and wellbeing of all staff as far as is reasonably practicable

2. Record keeping

Clear records of all leave granted and taken must be kept by the school including copies of any related authorisation and details of the type of leave.

3. Impact on pay

Wherever an employee is taking time off and there is an impact on pay (e.g. for unpaid leave situations or those periods of leave that may attract loss of earnings compensation), the Headteacher must ensure that the Finance Director is notified using the appropriate form. Details of appropriate forms are given in the text of this document.

4. Abuse of this policy

Any employee found to have abused the provisions of this policy will be investigated under the Disciplinary procedure with appropriate action being taken.

5. Annual leave

For employees who do not work all year round and are paid an average salary, the average salary calculation includes payment for the appropriate number of annual leave days. Leave is effectively taken during weeks when the employee is not expected in school. This also takes into consideration any public or bank holidays owed. Salary is paid in 12 equal monthly instalments to avoid lengthy gaps in payment during long school closure periods.

Employees of the School will be entitled to take time outside of school term-time as holiday.

There are no specific provisions for annual leave for teaching staff.

6. Casual support staff/Hourly paid employees

Holiday pay entitlement will be paid in August.

7. Disability leave

7.1 Disability leave is reasonable paid time off work for a reason related to an employee's disability. It can usually be planned in advance and is for a fixed period of time. Employees should make appointments outside working hours but where this is not possible disability leave may be an option. A failure to allow reasonable time off could be deemed discriminatory.

Examples of disability leave include:

- Hospital or doctor appointments
- Hearing aid tests
- Training with a guide or hearing dog
- Counselling/therapeutic treatment
- Recovery time after a blood transfusion or dialysis treatment
- Physiotherapy
- Servicing of necessary equipment or disability aids
- Cancer treatment
- Other reasons connected with rehabilitation, assessment and treatment
- While reasonable adjustments are made in respect of the individual's disability it is not appropriate for an employee to remain at work or be redeployed. This decision will be based on medical advice. (The time off will not be taken into account when considering possible dismissal on the grounds of medical incapability)
- A reasonable extension to a phased return period based on medical advice.

Disability leave is an example of a reasonable adjustment under the Equality Act 2010. The intention is to avoid employees taking annual leave due to their disability or having a poor attendance record. Not all disabled employees will need to take disability leave.

Disability leave is not sickness absence that is related to a disability. When an employee is not well enough to attend work, this must be recorded as sickness absence.

7.2 Eligibility

Employees who consider that they have a disability as defined by the Equality Act can apply to their Headteacher for disability leave when they need it by using the Leave Application Form.

The Equality Act defines disability as “a physical or mental impairment, which has a substantial and long-term adverse effect on ability to carry out normal day-to-day activities”. Substantial and adverse means more than minor or trivial, and long-term means that it has lasted or is likely to last for at least a year or for the rest of the life of the person affected. Normal day-to-day activities include everyday things like eating, washing, walking and going shopping. A normal day-to-day activity must affect one of the “capacities” listed in the Act, which includes; mobility, manual dexterity, speech, hearing, sight and memory.

Read more information on the Equality Act 2010 on the ACAS website.

7.3 Notification

Employee responsibilities: -

- Discuss the request for disability leave with the Headteacher, and wherever possible in advance.
- Complete a Leave Application Form and give to the Headteacher.

Headteacher responsibilities: -

- Explain the availability of disability leave when informed of the employee's disability.
- Assess whether any request is reasonable. This will depend on the circumstances (e.g. the nature of the disability, personal management strategies, available appointments, etc).

- Explore other reasonable adjustments with the employee that may be necessary.
- Inform the Finance Director of the disability leave using the usual leave notification process.

Note: Under the Equality Act, disability leave can be deemed a reasonable adjustment for an employee with a disability. All employers therefore have a statutory duty to make provision for disability leave in appropriate circumstances. Disability leave will always be with normal pay.

8. Emergency dependant leave

8.1 A statutory entitlement exists for all employees to have the right to take reasonable time off work to deal with an emergency involving a dependant. There is no qualifying period - employees have this entitlement from their first day of employment.

The statutory entitlement only provides time off and such time off cannot be denied. There is, however, no requirement for emergency dependant leave to be with pay.

Employees should appreciate that emergency dependant leave can be difficult to cover and will have an impact on the smooth running of the school. It should therefore only be used in genuine emergency situations.

8.2 Taking time off

Employees can use emergency dependant leave to deal with an unexpected or sudden problem and make any necessary longer-term arrangements:

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

It should be noted that certain circumstances, including some of those listed above, may be covered by other provisions of this policy. Emergency dependant leave provides a statutory entitlement for employees (without pay) whereas those other provisions will require a request from the employee and authority from the Directors and Headteacher but may provide leave and pay, and potentially for longer periods.

8.3 Definition of dependant

A dependant is the partner, child or parent of an employee, or someone who lives with an 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 dependant 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.

8.4 Amount of leave

There is no set limit to the amount of time off which can be taken. In most cases, the amount of leave will be one or two days at the most, but this will depend on individual circumstances, although employees may be able to take longer periods of leave under other arrangements (see Compassionate leave for bereavement and Parental leave).

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 two weeks leave to look after a sick child.

8.5 Notification

Employees must tell their employer, as soon as is practicable, the reason for their absence and how long they may be away. There may be exceptional circumstances where an employee returns to work before it was possible to contact the employer, but they should still tell the Headteacher the reason for absence immediately on returning. It is not necessary to give notice in writing.

8.6 Protection from dismissal and detriment

Employees are protected from being penalised or dismissed because they have taken, or have sought to take, time off under this right. For example, someone who is moved to a lower salary grade because they have exercised this right would be able to make a complaint that they have suffered a detriment. It is unfair to dismiss or select for redundancy any employee on the basis that they have taken, or have sought to take time off under this right.

If an employee is unreasonably refused time off under this right, suffers a detriment or is dismissed for taking, or seeking to take, time off under this right, the matter should be considered under the school's grievance procedure.

Note: Emergency dependant leave is a statutory entitlement for all employees. The statutory entitlement is to time off without pay.

9. Compassionate leave on bereavement

9.1 The time immediately after the death of a close relative will be difficult for most employees. The closer the relationship between the employee and the person who has died, the greater the need for the relevant managers to adopt a sensitive approach. Compassionate leave for bereavement may be granted at the discretion of the Headteacher to employees who have suffered the death of a close relative.

9.2 The following factors should be considered:-

- The relationship of the employee to the person who has died - a formal family relationship is not necessarily an accurate reflection of the closeness of a family tie.

- Personal responsibilities - for example, the employee may have responsibility for arranging the funeral, as executor for the will, etc.
- Geographical location of the funeral and the travelling time involved.
- The recovery time needed before the employee can cope with the demands of their job.

9.3 Standard discretionary entitlement – NB these are recommended, please take note of paragraph 9.2 above when determining the amount of time in each individual case. Please also note section 10 below states specific leave entitlement for parents who have lost a child.

- One day of paid leave to attend the funeral of a spouse, partner, parent, guardian, child, brother, sister, grandparent or grandchild.
- Half a day of paid leave to attend the funeral of an aunt, uncle, cousin, mother/father-in-law or brother/sister-in-law.

9.4 Further possible discretionary entitlements

Up to two weeks paid leave can be granted by the Headteacher depending on the circumstances outlined in 9.3 above. Any leave approved beyond this would be unpaid except in the most exceptional circumstances.

If the employee is unable to return to work beyond the allowed compassionate leave period because they are unfit to do so, absence should be deemed sick leave and the relevant parts of the Absence management model policy P313 and procedure P313a should be followed.

Employees may request leave to accommodate religious observances following bereavement. This can require extended periods of leave or leave to be taken at very short notice. Requests should be viewed sympathetically although there is no provision in the policy for such leave to be with pay.

10. Compassionate leave - Parental bereavement

10.1 Entitlement

Leave

The Parental Bereavement Leave and Pay Regulations 2018 (effective from 6 April 2020) gives a statutory right to two weeks' leave to all employed parents if they lose a child under the age of 18 or have a stillbirth from the 24th week of pregnancy. This right applies from day one of employment.

Pay

Two weeks will be paid at full pay and applies from day one of employment.

10.2 Application guidance

The entitlement is available to 'parents in fact' which means it applies to birth parents and also adults with parental responsibility e.g. adoptive parents, foster to adopt parents, legal guardians and foster parents (emergency foster care may not be covered).

The two weeks can be taken as either a single block of two weeks, or as two separate blocks of one week each taken at different times during 56 weeks after the child's death. This means the parent could use their leave at the time they feel they need it most e.g. the anniversary of the child's death.

If more than one child has passed away the parent is entitled to separate entitlements for each child.

10.3 Informing payroll

The Headteacher will inform the Finance Director who will record the absence in the correct way.

10.4 Notice

If the parent takes the leave within the first 56 days of their bereavement there is no need to give notice, other than as soon as they are able, preferably no later than when they are due to start work on the first day of leave. Where leave is required more than 56 days after the bereavement a week's notice to the Headteacher/Line manager is required. However, Headteachers and Line managers will keep in mind the sensitivity of the situation when less notice is given.

10.5 Cancelling leave

Where the parent wishes to cancel the leave, if this is within the first 56 days of the bereavement no notice is required other than as soon as they are able. If it is more than 56 days after the bereavement, a week's notice of cancellation to the Headteacher/Line manager is required. However, Headteachers and Line managers will keep in mind the sensitivity of the situation when less notice is given.

10.6 Returning to work

An employee will have the right to return to the same job unless the bereavement leave follows immediately on from maternity, adoption, paternity or shared parental leave (taken in relation to a child who has passed away) and their total time on leave is greater than 26 weeks. In these circumstances, the employee will have the right to return to the same job, unless it is not reasonably practical. If it is not reasonably practicable the employee will have the right to return to a suitable and appropriate job on the same terms and conditions.

This rule also applies if your leave includes more than four weeks of ordinary parental leave (taken in relation to any child) regardless of the length of the leave.

11. Other compassionate leave

11.1 Medical appointments

Wherever possible, employees should make medical/dental appointments for themselves or their dependents outside of school hours (normal working hours – outside of directed hours for teachers) or in school closure periods.

Where possible, the employee should ensure there is sufficient time outside school hours or in school closure periods to allow for recovery. If the Headteacher is satisfied that this has not been possible, the usual sick leave and sick pay arrangements will apply provided the school's sickness absence procedure is followed. If the employee is unfit to work due to complications resulting from

surgery/treatment, or the surgery/treatment results in injury, the usual sick leave and sick pay arrangements will apply provided the school's sickness absence procedure is followed.

11.1.1 Transgender procedures

The Equality Act 2010 makes it unlawful for an employer to discriminate against an employee, job applicant, or contractor on the grounds they propose to start, or have completed a process to change their gender. An individual does not need to be undergoing medical supervision to be protected by the Act, nor do they have to complete the process of changing their identity. The individual cannot be treated any less favourably than someone who is absent for some other reason. Employers have a duty to ensure that an employee in these circumstances does not suffer harassment once they return to work. Confidentiality is therefore important and the Headteacher should discuss with the employee what information will be given to colleagues about the reason for absence.

11.1.2 Discrimination and fertility treatment

Employers are not legally obliged to allow employees time off from work to undergo fertility treatment. Women who are undergoing fertility treatment are, however, protected under the Equality Act 2010. If they are dismissed or treated differently because they are undergoing surgery or other treatment, or have undergone fertility treatment, this is likely to constitute unlawful discrimination.

If an employee is ill as a result of treatment, e.g. if they suffer from stress or some other complication, then they will be entitled to take sick leave, and receive sick pay if they are unfit for work.

11.1.3 Further information

Occupational Health will be able to advise on specific cases. Advice regarding medical appointments can also be sought from the school's HR provider. Please note there are statutory entitlements for employees with pregnancy related absence.

11.2 Other personal leave

Paid leave of absence can be granted for a reason the Headteacher supports such as moving house, representing county or regional teams in sporting or cultural events, examination/study leave, service as an examiner and meetings of examination panels. There may be other reasons leading to paid leave which the Headteacher/Directors support.

Some occasions may lead to the Headteacher allowing a day's unpaid leave. These could include graduation/public honour of self, spouse or child or the reading of a will after death (more likely where the deceased is a friend and not a family member in which case leave is likely to be granted under 3.1 above). There may be other reasons leading to unpaid leave which the Headteacher/Directors support.

11.3 Compassionate leave for other domestic circumstances

There may be some circumstances where emergency dependant leave would normally apply but where the Headteacher/Directors believe it is appropriate to allow time off with pay. Where this is

the case, the Headteacher/Directors have discretion to the limits outlined for compassionate leave on bereavement under 9 above.

All leave of absence on compassionate grounds should be minimised and, wherever possible, timed to be outside school hours or in school closure periods.

Note: There is statutory provision for emergency dependants' leave – leave without pay – as outline in 8 above. Anything beyond that statutory emergency dependants' leave provision is discretionary and can be determined locally by the school but it is good employment practice to have a clear framework for compassionate leave and to apply this consistently.

12. Time off for religious observance

Many religions or beliefs have special festival or spiritual observance days. Whilst there is no legal obligation to approve such requests for time off for religious observance, the Headteacher will give due consideration where it is reasonable and practical for the employee to be away from work.

Read detailed guidance on religious festivals on the ACAS website. Consideration for religious observance may not be limited to time off and some employees may wish to worship or pray at particular times of the day or fast for periods of time. All reasonable steps should be taken to accommodate such wishes. Again, further information can be found through ACAS but in most situations a meaningful discussion between the employee and the Headteacher will achieve a satisfactory arrangement for employee and employer.

13. Travel difficulties in bad weather

The Headteacher may authorise staff not to attend school when adverse weather conditions make travelling difficult or dangerous. Headteachers should ensure that communication methods are robust to ensure that all staff and pupils are aware of the decision to open or close.

Where such absence is authorised, the employee would receive normal pay but the Headteacher will be entitled to allocate work that the employee can carry out at home during this time.

If an employee is absent without the necessary authority from the Headteacher, it will be treated as unpaid leave.

Note: There is no statutory entitlement to time off as a result of inclement weather. In most situations, a decision will be made as to whether the school will be closed as a result of bad weather. If the school remains open, staff should make all reasonable efforts to get to work.

14. Time off for interviews

An employee will be allowed reasonable time off with pay to attend interviews.

The employee must provide as much notice as possible to the Headteacher of their wish to take time off to attend an interview process and, wherever possible, should mitigate the amount of leave required.

The Headteacher/Directors may limit the amount of time an individual takes for interviews, particularly if the number of days lost is significant and the ability for appropriate cover to be found is limited.

An employee who has been given notice of dismissal on the grounds of redundancy will be allowed reasonable time off for interviews. If they have continuous employment of two or more years, they will also be entitled to reasonable paid time off to look for other employment or to arrange training for future employment.

15. Time off work for public duties

15.1 Under current employment legislation employers are required to grant reasonable time off to employees engaged on certain public duties. A reasonable amount of time off must be allowed to employees who are:

- Justices of the Peace (Magistrates);
- a local councillor;
- members of Statutory Tribunals;
- members of a health authority;
- members of School Governing Bodies, Academy Trusts, Higher Education Corporation or Local Authority Education Establishments;
- members of the Environment Agency;
- members of the prison independent monitoring boards (England or Wales);
- member of a Water Customer Consultation Panel;
- a trade union member (for trade union duties)

The amount of 'reasonable time off' must be agreed with the Headteacher beforehand based on:

- How long the duties might take
- The amount of time the employee has already had off for public duties
- How the time off will affect the school and its pupils

Any reasonable time off for public duties agreed with the Headteacher will be unpaid.

16. Jury service

16.1 All employees are entitled to paid time off to undertake jury service. All employers have a legal obligation to allow an employee to serve as a juror, if they are called up, for as long as is necessary.

The employer will continue to pay the employee. The employee must claim juror's allowance from the court and this will then be deducted from their pay. The juror's allowance compensates for the employee's loss of earnings. Therefore, if the employee attends court for longer than their normal working hours no additional payment will be made.

During the period of jury service, the employee may be released early. If this happens, the employee should contact the Headteacher to discuss whether it is practicable to return to work for the rest of the day.

16.2 Notification

Employee responsibilities:

- Notify the Headteacher of dates as soon as the jury summons is received.

- Complete the Leave Application Form and loss of earnings certificate form when the summons is received.
- Complete a Return to Work Interview once the jury service has been completed or if it is cancelled.
- Claim juror's allowance.
- Contact the Headteacher concerning working arrangements if released early during jury service.

Headteacher responsibilities:

- Agree working arrangements whilst the employee is absent.
- Ensure that the confirmation form is completed.
- Access funds to support the cost of cover.

Note: Individuals are required by law to undertake jury service if called and employers are required by law to allow paid time off for employees who are called.

Funding consideration – Employees are entitled to claim loss of earnings from the court and must do so. The employee will continue to receive normal pay throughout their jury service, but this will be adjusted in light of any monies received from the court as detailed above.

17. Court attendance

17.1 Court attendance related to the employment

If an employee is called as a witness on behalf of the employer, they will be paid as normal to attend court. The employee may be able to claim the appropriate allowance for loss of earnings from the court and follow the process as outlined at 16.2. That amount will then be deducted from their pay. If the court sits outside of the employee's normal working hours the Headteacher will discuss how that should be managed. The Headteacher may, for example, approve time off in lieu, work to rearrange working days or agree for the employee to be paid additional hours.

17.2 Compulsory court attendance not related to the employment

If an employee is called as a witness and this is not related to their work, they will be granted paid leave to attend court. They may be able to claim the appropriate allowance for loss of earnings from the court and follow the process as outlined in at 16.2. That amount will then be deducted from their pay. If the employee attends court for longer than their normal working hours, the school will not make any additional payment.

17.3 Voluntary court attendance

Where attendance at court is of a personal matter to the employee and is voluntary, the Headteacher will seek to accommodate time off through the use of annual leave (where it is an option), time off in lieu (where it is practicable) or unpaid leave.

Note: Individuals who are summoned to appear as a witness are required by law to do so and employers are required by law to allow paid time off for employees who are summoned. This does not apply to voluntary court attendance.

Funding consideration – Employees are entitled to claim loss of earnings from the court and must do so. The employee will continue to receive normal pay throughout their service as a witness but this will be adjusted in light of any monies received from the court as detailed above.

18. Volunteer reserve forces

18.1 The British Volunteer Reserve Forces (VRF) makes a valuable contribution to our defence, our communities and the workplace. The VRF consists of the Royal Naval Reserve, the Royal Marines Reserve, the Territorial Army, and the Reserve Air Forces.

Reservists may be called up and ‘mobilised’ to support defence strategy in conflict operations and to assist in disaster relief across the globe.

18.2 Mobilisation is the process of calling reservists into full-time service with the regular forces, in order to make them available for military operations. The maximum period of mobilisation will depend on the scale and the nature of the operation and is typically no longer than 12 months.

This section outlines to employees and managers what happens when employees require time off to fulfil reservist duties.

18.3 Eligibility

There are two main types of reservist covered by the relevant legislation: -

- Standard volunteer reservists – individuals recruited into the VRF.
- Regular reservists - ex-regular servicemen who retain a liability to be called up and mobilised.

18.4 Entitlement

Once a call-up notice to mobilise a reservist has been issued, the employer is legally required to comply with it under the Reserve Forces Act 1996, subject to deferral, revocation and certain exemption provisions.

19. Retained firefighters

19.1 This section refers to retained firefighters only. A retained firefighter is one that only attends the fire station when they are called to an emergency callout (with the exception of attendance for training or pre-arranged duties), meaning that they do not work full time at a community fire station.

19.2 Arrangements

The school will consider the amount of time it allows for retained firefighter duties on a case by case basis, taking into account the role of the employee and the impact of them leaving the establishment at short-notice could have.

Any leave granted by the school is to be agreed between the employee and the Headteacher and would be unpaid.

19.3 Responsibilities

The employee:

- at the earliest opportunity upon appointment to the school, will notify the Headteacher that they are currently employed as a retained firefighter;
- will advise the school that they are intending to work as a retained firefighter if they are not currently employed as one;

Where and if relevant;

- will notify the Fire Service of when they will be available to be 'on call' following discussion with the Headteacher and in line with this policy;
- will inform the Headteacher as soon as call out notice is received, if time off for duties is allowed;
- will inform the school at the earliest opportunity if the emergency call-out is resolved during the normal working day and seek to determine whether their attendance is required for the remainder of the day.

The Headteacher:

- will meet with the employee to discuss their intention to join the Fire Service/current arrangements they have with the Fire Service (if they are a new employee), and the school's policy on time off for these duties;

Where and if relevant:

- will ensure that cover is readily available if necessary;
- will meet with the employee to discuss handover arrangements (if time permits);
- will complete Staff Return Form to ensure that the employee is paid correctly considering any unpaid leave.
- will consider, with due fairness, any request for leave to undertake their retained firefighter duties.

19.4 Training

The same requirement will exist for requests for time off for training as outlined above in relation to time off for call-outs. There is no entitlement to time off but if the school allows unpaid leave for call-outs, discretion could be exercised to allow unpaid leave for training. Equally, annual leave (where it is an option) could be considered but would still be dependent on approval by the Headteacher.

Note: There is no statutory entitlement to leave to undertake retained firefighter duties. Any unpaid leave required to undertake such duties is to be approved at the discretion of the school. Retained firefighters are able to advise the Fire Service when they are available to be on-call, meaning they can do so outside of their normal working hours with the school.

20. Strike Action

20.1 Strike action can only legitimately be taken following a process that meets the necessary legal requirements (i.e. following a member ballot, etc).

20.2 A deduction from pay will only be made if an employee was due to work that day. This deduction is not a penalty for taking strike action. Strike action is a breach of contract and employers are therefore entitled to claim damages as a result.

Where an individual takes a full day of strike action, a day's pay will be deducted on the basis of annual salary (FTE for part time staff)/number of working days in the school year.

21. Family friendly entitlements and responsibilities

The school provides the statutory maternity, adoption, surrogacy, shared parental leave and paternity schemes. Further details can be provided by the Headteacher as appropriate.

22. Parental leave

The Maternity and Parental Leave Regulations 1999 introduced an entitlement to a period of unpaid leave, for employees to look after their children, or make arrangements for their welfare.

22.1 Entitlement

Employees are entitled to 18 weeks' unpaid parental leave if:

- they have at least one year's continuous service with the school or a related employer
- they have a child under the age of eighteen or have a child who was adopted within the past eighteen years and is under the age of eighteen
- they have, or expect to have, parental responsibility for the child.

A "week's leave" is defined in 22.4 below.

An employee can only take a period of parental leave before:

- the child's eighteenth birthday
- the eighteenth anniversary of an adopted child's placement with them or their child's 18th birthday, whichever is earlier

An employee can take a period of leave immediately after the end of normal maternity, paternity or adoption leave.

The parent does not have to be living with the child to qualify. The right applies to a single child. Therefore, if an employee has twins, they are entitled to 36 weeks' parental leave. Parental leave cannot be transferred between parents.

22.1.1 Provisions

Employees can take a maximum of four weeks' leave in any year in respect of any individual child. Therefore, an employee with twins could take up to eight weeks in any one year.

Periods of leave must be taken in multiples of one week – unless the child is disabled, in which case it may be taken as individual days.

22.1.2

22.2 Purpose of parental leave

An employee must be taking the leave to care for the child. This means looking after the welfare of a child and can include making arrangements for the good of a child.

For example, an employee might take parental leave to:

- spend more time with the child
- accompany the child during a stay in hospital
- visit new schools/academies
- help settle the child into new childcare arrangements
- enable a family to spend more time together, e.g. taking the child to stay with grandparents.

Caring for a child does not necessarily mean the employee has to be with the child 24 hours a day. If it is found that the employee is using the parental leave for some other purpose, e.g. to do other work, this could be dealt with using the disciplinary procedure.

22.3 Process for parental leave

Employee responsibilities:

- A Leave Application Form should be completed and passed to the Headteacher (unless the member of staff making the request is the Headteacher in which case the request is made to the Directors) giving 21 days' notice before the intended parental leave start date. NB. If the employee is having a baby or adopting, the notice is 21 days before the week the baby or child is expected.
- If requested, provide the Headteacher with appropriate evidence of eligibility.

This may be evidence that:

- the employee is the parent of a child
- the employee has parental responsibility for the child
- the child is below the age at which the right to parental leave ceases

The evidence could be:

- the child's birth certificate
- papers confirming a child's adoption or the date of placement for adoption

Headteacher responsibilities:

- Check the employee's eligibility – the request for evidence must be reasonable, e.g. it may not be reasonable to check on the employee's entitlement on every occasion on which leave is asked for.
- Assess whether to approve the request or postpone it. Parental leave cannot be refused, only postponed, and can only be postponed where the needs of the business or quality of the service so requires. Headteachers should discuss the matter with the employee and confirm the postponement arrangements in writing (Leave Application Form can be used for this), no later than seven days after the employee's notice to take leave. Headteachers may be required to justify their decision then or at a later date. If refused, leave must be allowed within six months of the start date of the leave originally requested.

Note: When an employee gives 21 days' notice prior to the expected week of childbirth, to take parental leave immediately after the birth of a child, then the leave cannot be postponed. In the case of adoption, the employee needs to give 21 days' notice of the expected week of placement, or

in rare cases where this is not practical, an adoptive parent should give notice as soon as is reasonably practical.

22.4 Definition of a week's leave (for parental leave)

One week's parental leave is equal to the length of time that an employee is normally required to work in a week.

This means that a week's leave for an employee who usually works from Monday to Friday is equal to five days. For an employee who usually works Mondays and Tuesdays only, a week's leave is equal to two days.

If an employee's working pattern varies from week to week, an average working week must be calculated as a fraction of the period for which the employee is required to work in a year. For example, an employee's contract states they work three days a week for 30 weeks, four days a week for 18 weeks, and two days a week for four weeks. To calculate the number of days leave in their average week, divide the total number of working days in these periods by 52.

If an employee takes leave in blocks of less than one week, a week is only deducted from their overall entitlement to 18 weeks when the short periods of leave add up to what would be a normal or average working week.

22.5 Moving between employments

The 18 week entitlement applies to an individual child, not to an individual employment. Therefore, if, for example, an employee has taken eight weeks' parental leave with their previous employer, they are only entitled to take another ten weeks in their subsequent employment(s).

22.6 Record keeping

There is no requirement in law to keep formal records of an employee's parental leave but it is wise to do so.

One record should be kept per employee for each child concerned. Leave should not be aggregated or recorded jointly between parents, or where an employee is entitled to leave for more than one child.

Copies of any relevant documentation should be kept with the record on the employee's file.

22.7 Notifications

The Headteacher should notify the Finance Director of any periods of unpaid leave, using the Staff absence return form in order that deductions from pay can be made.

22.8 Returning to work

If the parental leave was for four weeks or less, the member of staff has a guaranteed right to return to the same post as before. If the leave was for a period longer than four weeks, they are entitled to return to the same post, or if that is not reasonably practicable, to a similar post which has the same (or better) status, terms and conditions as the old post.

If the parental leave is for four weeks or less and it follows additional maternity leave, the staff member is entitled to return to the same post as they would have been entitled to return to after their additional maternity leave period.

If the parental leave is for a period longer than four weeks and it follows additional maternity leave, the staff member can return to the same post as they would have been entitled to return to at the end of their additional maternity leave, unless it is not reasonably practicable for the post to be kept open. In these circumstances they are entitled to a similar job which has the same (or better) status, terms and conditions as the old post.

23. Data Protection

When managing an employee's leave and time off, the school processes personal data collected in accordance with its Data Protection policy. Data collected from the point at which an employee informs the school that they plan to take leave or time off (for any reason referred to in this policy) is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their leave or time off. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.