

# SWINDON BOROUGH COUNCIL

## SCHOOL LEAVE OF ABSENCE POLICY

### 1. INTRODUCTION

- 1.1.** Unless a member of staff is sick or leave of absence has been authorised the policy of the Swindon Borough Council and the governing body of [NAME] school can be summarised as:

if a member of staff is absent from work, she/he shall not be paid for that particular day. It is expected that wherever possible matters likely to require the member of staff to be absent are dealt with during school closure periods. Nevertheless it is recognised that certain matters may be outside an employee's control.

- 1.2.** The policy will apply to all categories of employee employed by the school
- 1.3** This policy outlines circumstances in which leave of absence with or without pay may be granted to any member of staff (teaching or support) during term time. In the interests of consistency the governing body will adhere to the policy although it cannot be exhaustive and there may be individual cases outside the range of the policy or areas of clarification required with it. In such circumstances, advice will be sought from School Human Resource Officers.
- 1.4** All applications for leave of absence, with or without pay, should be made in writing to the headteacher as early as possible before the event.
- 1.5** The headteacher may approve leave of absence in accordance with the policy for periods not exceeding three days. Leave will not be approved where it would not be in the interests of the school or where granting it is in conflict with this policy.
- 1.6** Requests for leave of absence of more than three days will be subject to approval by the governing body. The governing body can reserve the right to refuse approval for leave or to withhold salary for absences which do not comply with the policy. It is essential that a full explanation for a proposed absence be supplied to the governing body.
- 1.7** Staff should not take leave, not enter into a commitment which requires leave of absence, before a decision concerning the request has been reached.
- 1.8** Requests for time off beyond those stated in the policy may be granted in exceptional circumstances at the discretion of the governing body. Any additional leave may be unpaid.
- 1.9** If leave of absence is refused by the head or the governing body there is a right of appeal to the appropriate panel of the governing body.

## **2. COMPASSIONATE LEAVE**

### **2.1 Death of a close relative:**

Headteachers have the discretion to grant up to three days' leave with pay to staff at the time of the death of a close relative, which may be extended by the governing body to six day's leave with pay in exceptional circumstances.

A close relative shall be defined as mother, father, son, daughter, brother, sister, wife, husband or partner. In addition, the provisions may also apply at the discretion of the governing body to close relatives by marriage, stepchildren and stepparents and other persons resident with the staff member as part of the family group.

### **2.2 Funeral of a near relative:**

Up to one day's paid leave can be granted by the headteacher for the member of staff to attend the funeral of a near relative. Additional days maybe granted where long distances are involved and overnight stays are required. For the purposes of granting this leave a near relative shall be defined as grandparents, uncles and aunts etc. i.e. relatives once removed.

**2.3.** In circumstances where the member of staff is the relative who has to deal with the affairs of the estate and the funeral, the headteacher may grant up to a further three days paid leave.

### **2.4. Funeral of a friend or distant relative**

One day's leave may be granted paid or unpaid at the discretion of the headteacher for a member of staff to attend the funeral of a friend or distant relative.

Where a member of staff attends a funeral of a former colleague, a pupil or others as a representative of the school the headteacher will grant up to one day's leave with pay.

## **3. Family Commitments:**

### **3.1 Time off for urgent domestic problems**

Headteachers have the discretion to grant up to three days' leave with pay to staff at the time of an urgent domestic problem which may be extended by the governing body to six days leave with pay in exceptional circumstances.

For the purposes of granting leave for urgent domestic problems, this must be for serious circumstances which are considered to be urgent and unforeseen and could not have been planned during the holiday periods.

This is usually given for a sudden illness of someone whom the member of staff has a close relationship. This may include a child who has been admitted to hospital with sudden illness. It could also include sudden and serious damage to house or property which requires immediate attention

**3.2. Time Off for Dependants** – this is a right allowing employees to take a reasonable amount of time off work to deal with certain unexpected or sudden emergencies and to make any necessary longer-term arrangements for a dependant. The leave is unpaid, and there is no service requirement. Examples may include

- 1) To assist a dependant when she is having a baby, but this does not include taking time off after the birth to care for a child.
- 2) To make longer term care arrangements for a dependant who is ill or injured:
- 3) To deal with an unexpected disruption or breakdown of care arrangements for a dependant where the normal carer of a dependant is unexpectedly absent.

In deciding what a reasonable amount of time is, the Headteacher must take into account the individual circumstances of the employee seeking to exercise the right and must consider the following:

- What are the practical things the employee has to arrange, and how long would this normally take?
- Are there any circumstances which would justify more time for the particular employee? For example, does the employee's dependant live some distance away?
- How much time has the employee taken off for similar requests on previous occasions? What was the length of these absences and when were they?

The above three considerations should then be balanced in deciding what it is reasonable.

In most cases one or two days should be sufficient to deal with an emergency.

- For example, if a child falls sick with chickenpox, the amount of time off should be sufficient to allow the employee to cope with the immediate care of the child (e.g.: a visit to the doctors and making longer term care arrangements). The right does not extend itself to allowing the employee to take two weeks off to care for the child,

The policy does not allow an employee to have unlimited amounts of time off work. In deciding whether further requests for time off for dependants is reasonable and necessary, line managers should take into account the number and length of previous absences, as well as the dates when they occurred.

- For example, if an employee's child suffers from an underlying medical condition which is likely to suffer regular relapses, such a situation no longer falls under the time off for dependants provisions as the child's illness would not have been unexpected

**3.2 Parental Leave** - is a right to take unpaid time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and to balance work and family commitments.

- Employees must have 1 year's continuous services to qualify for this provision.
- 18 weeks of unpaid leave can be taken up for children under 18 years.
- Leave may be taken straight after the birth or adoption or following a period of maternity leave.
- An employee's parental leave entitlement is an overall entitlement, i.e.: it does not start again with a new employer. For example, if a new employee joins the school, but has already exhausted their full entitlement to parental leave with a previous employer, they would have no entitlement left.
- Parental leave is an individual statutory right and cannot be transferred between parents.
- Parental leave is in respect of each child for whom the employee has parental responsibility. For example, parents of triplets are entitled to 54 weeks (3x18 weeks).

Employees will need to give the Governing Body at least 21 days notice in writing, giving the dates when the leave is due to start and finish. They would normally only be able to take a maximum of 4 weeks leave in any year.

If it is considered that the absence would unduly disrupt the school, then the Headteacher/Governing Body can postpone an employee's request for parental leave. However, it can only be postponed for no longer than 6 months after the beginning of the period that the employee originally wanted to start his/her parental leave.

For more details on Parental Leave please refer to the Parental Leave Guidance.

### **3.4 Maternity Leave**

Female employees who become pregnant have a right to take up to 12 months leave of absence from work due to the birth of their baby. They must be absent from work for at least two weeks following the birth. Entitlements to statutory and occupational maternity pay are dependent on a variety of factors and the appropriate Maternity guidance should be referred to for more information.

### **3.5 Shared Parental Leave**

This is a new right that will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date. For further information, please see the Shared Parental Leave Policy.

### **3.6 Adoption Leave**

Adoption leave mirrors the entitlements of maternity leave and is triggered by the matching of child/children to the prospective adoptive parent. For more detailed information refer to the appropriate adoption guidance

### **3.7 Paternity Leave**

Employees will need to satisfy the following condition in order to qualify for paternity leave. They must:-

- Have or expect to have responsibility for the child's upbringing
- Be the biological father of the child or the mother's husband or partner
- Have worked continuously for their employer for 26 weeks leading into the 15<sup>th</sup> week before the baby is due

They are entitled to take either one or two consecutive weeks leave around the time of birth and if they chose, additional Paternity Leave. Details of specific timings of the leave and entitlement to pay are set out in the relevant Paternity guidance.

## **4. Other Personal Reasons**

### **4.1. Religious Beliefs:**

Many religions or beliefs have special festival or spiritual observance days. Employees may request unpaid leave in order to celebrate festivals or attend ceremonies. Headteachers should sympathetically consider such requests to avoid discrimination on the grounds of Religious Belief.

It should be remembered that not all members of each religion follow all the practices and observances. Neither will every member of each religion request time off for each and every festival. In some instances, an adjustment to the working day may be all that is required to accommodate the request

While it may be practical for one or a small number of employees to be absent it might be difficult if the Headteacher receives numerous requests. In these circumstances, the Headteacher should discuss the matter with the employees

affected, with the aim of balancing the needs of the school and those of employees.

Whilst employers are encouraged to be flexible where reasonable and appropriate, employees should recognise that they also have a responsibility to be reasonable and to consider the needs of the school in which they are employed.

When making decisions about granting leave in these circumstances Headteachers should carefully consider whether their criteria for deciding who should and who should not be granted leave might indirectly discriminate.

#### **4.2. Voluntary Medical Treatments**

Generally most medical treatments would be covered by sickness absence however there may be a case when there is a request for leave for a voluntary treatment, such as IVF treatment or cosmetic surgery, where there may be no medical certificate provided (this should always be confirmed prior to any decision being made).

In the absence of a medical certificate, the governing body should weigh up all the factors when deciding how much leave to grant and whether it should be paid or unpaid.

- What the impact of any decision will have on the relationship with your employee, and indeed your employees in general. A refusal to treat the recovery time as sickness absence could have a negative effect on the employee and lead to problems in the future.
- Whether treating this case as sick leave, will be setting a precedent. If, for instance in the case of IVF, the governing body were to refuse a later request from a male employee wanting to undergo some form of voluntary treatment, you could leave yourself open to claims of discrimination.
- Treatment could be on going, in which case an employee may ask for more time off in the future. If you do allow them to claim sick pay in this instance it may set a precedent for future time off. It may be worth establishing clear guidelines, so that you are able to manage the time off and clarify what will happen (in terms of pay and leave) if more leave is required.

#### **4.3. Interviews**

Leave may be granted to attend interviews for more senior or similar positions in local government or maintained schools. Leave should be granted for the maximum of 2 days' paid leave.

#### **4.4 Moving House**

A maximum of one day's paid leave can be granted for a new member of staff to move house on first appointment to a post in Swindon.

#### **4.5. Degree ceremonies/investitures**

Up to one day's paid leave can be granted for a member of staff to attend a degree ceremony or investiture involving them or a close relative (as defined above)

#### **5. Leave for public duties**

Statutory provisions exist for time off to perform duties associated with certain public positions.

These shall be applied as follows:

##### **5.1 Parliamentary elections**

Members of staff who are adopted as parliamentary candidates will be permitted to take three weeks (15 days) unpaid leave for the duration of the election campaign.

##### **5.2 Election to a Local Authority**

Up to 208 working hours [this assumes a standard working day of 7.4 hours based on a 37 hour week, for those whose contracted working week is less than 37 hours, the allowance will be calculated pro-rata for an all year round employee, 156 hours for a term time only employee paid leave will be granted in each financial year to a member of staff who is elected as a member of a local authority (county/ borough/ district). This includes attendance at meetings and committees of the local authority but also attendance for such other appointments that may be held as a result of being an elected member of a public authority e.g. membership of a health authority.

Time off for undertaking the duties of a member of a minor authority (town or parish council) will be granted without pay for up to 208 working hours (This assumes a standard working day of 7.4 hours based on a 37 hour rate, for those whose contracted working week is less than 37 hour, the allowance will be calculated pro-rata][or 56 hours for a term time only employee).

##### **5.3 Justices of the Peace & Magisterial Duties**

Where a member of staff has been appointed as a Justice of the Peace or has magisterial duties up to 18 days paid leave per annum (all year round, 13.5 days for term time only employees will be granted for all duties associated with such a position

#### **5.4 Governors**

Paid leave of Absence will be granted for up to 50 hours per leave year (37.5 hours term time only employees) for staff to undertake duties as governors of local authority maintained schools. Staff who are members of more than one governing body will be eligible for an overall total of 50 hours per year (or pro rata for term time only employees)

#### **5.5 Other Appointments**

A member of staff who is a member of a Health Authority can be granted leave for up to 208 hours per leave year [This assumes a standard working day of 7.4 hours based on a 37 hour rate, for those whose contracted working week is less than 37 hour, the allowance will be calculated pro-rata] (or 156 hours for term time only employees).

Members of staff who are members of statutory tribunals can be granted up to 15 days paid leave per leave years (11.25 days term time only employees).

#### **5.6 Jury Service and Other Court Appearances**

The necessary leave of absence with pay will be granted to a member of staff to serve on a jury or required to attend as a witness (civil cases and criminal prosecutions). Staff should obtain a loss of earnings certificate from the court.

Headteachers may in exceptional circumstances seek a deferral of attendance of the member of staff serving on a jury for up to one year. A letter of support will be required by the Courts stating the reasons why a deferral is being sought.

#### **5.7 Trade Union Duties**

Accredited trade union stewards, officers, health and safety representatives and union learning representatives may be granted reasonable time off by reference to local agreements to carry out their duties.

#### **5.8 Reservists**

Some reservists may be mobilised in times of civil emergencies. A period of mobilisation comprises three phases: pre –deployment training, operational tours and post-tour leave. Operational tours range from periods of a few weeks up to a maximum of 12 months depending on operational reasons for mobilisation. Forces may be mobilised on a voluntary and/or compulsory basis.

The school will regard a Reservist's absence as unpaid leave and the contract of employment will continue dependent on the employee returning to work within 6 months of the end of their period of military service.



## **5.9 General**

Unpaid leave may be granted where members of staff request time off for other activities in addition to those specified above or where members of staff undertake more than one of the functions detailed.

However as school staff are contractually obliged to take holidays outside of term time this leave will only be granted in exceptional circumstances at the discretion of the Governing Body.