



South East Cornwall Multi Academy Regional Trust

Staff Leave of Absence Policy

Date	Changes
3/9/17	Original draft circulated to LGCs and Trust Board
26/3/18	All SMART-Trust policies which unions requested further consultation on were removed from sites and previous policies reinstated to enable establishment of a JCNC and a fresh round of consultation
14/12/18	Updated draft circulated
13/03/19	Copy sent to senior staff, unions, LGC, legal and Trust Board inviting comments
01/05/19	Consultation with unions in JCNC meeting at Liskeard
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Introduction

These guidelines were originally devised by the Local Authority in consultation with recognised Trade Unions. This policy has been further developed to promote a clear and consistent approach within South East Cornwall Multi Academy Regional Trust (SMART) for the management of requests from staff for leave of absence.

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.

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, for example by making medical appointments outside of school hours, if able to do so. However, the Trust Board recognises 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 discretion, whether leave of absence is paid or unpaid unless there is a statutory entitlement to pay. CEO/Trust Board's discretion in the case of Headteachers, Central Business Unit (CBU) staff and the CEO.

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). Where an employee has enhanced terms under TUPE then the enhanced terms will continue to apply, unless modified through an agreed negotiation.

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 Local Governing Committees unless there are very exceptional circumstances and acceptable cover arrangements can be arranged by the school.

Considerations in Granting Leave

The most common requests for leave are home emergencies, serious illness/death of a partner/close 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.

Headteachers 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 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.

Emergency Leave

Where the absence of the employee is unavoidable, for example due to the illness of a dependant relative, and after due consideration by the Headteacher, or senior line manager, the employee would normally be granted immediate paid leave of absence to put in place emergency arrangements. 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 as soon as reasonably possible to inform the Headteacher of the current position, to establish the duration of leave granted and whether or not it is paid.

Under the Trust's Family Friendly Guidelines, employees are allowed up to one paid week of leave in a rolling year to assist them in managing the illness/support of dependents and relatives.

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 a Committee of three or more governors nominated by the Local Governing Committee or in the case of CBU employees and the CEO, three or more trustees nominated by the Trust Board.

Employees should note that the 15 school days of notice is a minimum period, and staff should provide as much notice as possible. However, as previously stated, other than in exceptional circumstances no leave will be granted by the Governors during term time.

Extended Leave of Absence (e.g. 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. Such periods of absence may affect the leave entitlement of relevant employees for that given year.

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 nominated Personnel Committee's discretion.

Statutory Entitlements

Maternity Leave

All employees are entitled to 52 weeks' Statutory Maternity Leave if they give the correct notice to the employer. The first 26 weeks is known as Ordinary Maternity Leave (OML) and the second 26 weeks is Additional Maternity Leave (AML). Employees are required to take 2 weeks leave immediately following the birth but do not have to take the full 52 weeks if they don't wish to. For more information, see The Trust's Maternity Leave Guidelines or contact the Trust's Human Resources Officer.

Paternity Leave

Qualifying employees are entitled to up to 2 weeks' paid Paternity Leave 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. For more information, see The Trust's Paternity Leave Guidelines or contact the Trust's Human Resources Officer.

Employees are entitled to take time off during working hours to accompany a pregnant woman to up to two appointments to receive antenatal care, lasting no more than 6 and a half hours each, provided they meet the relevant criteria.

Adoption Leave

Qualifying employees who have been matched with a child may take up to 52 weeks' adoption leave, and may be entitled to 39 weeks of statutory adoption pay. If a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave or shared parental leave. Different criteria apply depending on whether the adoption is from within the UK or from overseas. For more information, see the Trust's Adoption Leave Guidelines or contact the Trust's Human Resources Officer.

Parental Leave

Parental Leave allows a qualifying employee to take up to 18 weeks' unpaid leave for the purpose of caring for a child up to their 18th birthday. The leave can start once the child is born or adopted, or as soon as the employee has completed 12 month's service, whichever is later.

Parental leave should usually be taken in blocks of a week unless otherwise agreed. If the child is disabled, parental leave can be taken in days rather than weeks. For leave requests of under two weeks this should be considered as non-urgent leave by the Headteacher.

Parental Leave should not be confused with Shared Parental Leave which is an entitlement that allows parents to split maternity or adoption leave between them.

For more information, see the Trust's Parental Leave Guidelines or contact the Trust's Human Resources Officer.

Shared Parental Leave

Shared Parental Leave (SPL) enables mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could involve returning to work for part of the time and then resuming work at a later date. Parents can share up to 50 weeks of leave and up to 37 weeks of pay and choose to take the leave and pay in a flexible way. Eligible parents can be off work together for up to 6 months or alternatively stagger their leave and pay so one of them is always at home with their baby in the first year.

For more information, see the Trust's Shared Parental Leave Guidance or contact the Trust's Human Resources Officer.

Time Off for Dependants

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 dependant, such as illness, accident or an unexpected breakdown in care arrangements. A dependant is the partner, child or parent of the employee, or someone who lives with the employee as part of their family e.g. a grandparent. It could be someone else who depends on the employee but does not necessarily live with them. However, this does not include tenants or boarders living the family home, or someone who lives in the house as an employee, such as a live-in housekeeper. This right is intended to enable employees to make necessary longer term care arrangements for the dependant. The leave should be enough to help the employee cope with the crisis such as to deal with the immediate care of a sick child 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. For details, please refer to the Trust's Human Resources Officer.

Employees are allowed up to 5 days paid leave in a rolling year to assist them in managing the illness/support of dependants and relatives.

Examples of Other Requests for Leave of Absence

Death of a Partner or Child

- 2 weeks' paid leave;
- additional paid or unpaid leave at the discretion of the Headteacher.

Death of a Close 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, Close Relative or Close Friend

- the employee must be a 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 a nominated 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' unpaid 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. There is no qualifying period for Maternity Support Leave but you must be a person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth. There is no right to both Paternity Leave and Maternity Support Leave.

Leave of Absence for Public Duties

Leave of absence with full pay is granted to enable employees undertaking public duties, such as acting as:

- Justice of the Peace
- Member of a Statutory Tribunal
- member of a local or unitary authority (including a parish council or a county council established under the Local Government Act 1972)
- member of a police authority
- 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 members of the governing body of a further or higher education corporation;
- member of the General Teaching Council for England and Wales;
- 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;
- witness in a court hearing.

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 person's employment, whether directly or as a witness, then paid leave would be granted.

Reservists

- Volunteer military reservists for the Army, Navy or Royal Air Force are called upon to supplement the regular forces when required. There is protection of employment for those liable to be mobilised and reinstatement for those who have been mobilised. While reservists are on active service they are paid by the Ministry of Defence (MOD) rather than the employer. There is no right to accrue annual leave while away on military service but reservists will get a period of post operational leave that is paid by the MOD.

Parliamentary or Local Council Candidates

- Reasonable unpaid time off will be granted for candidates for political elections.

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 Local Governing Committee's discretion to vary this.

Approved Union Activities for Accredited Representative

- reasonable paid time off within the conditions of service (see JCNC agreement) as per the Trade Union and Labour Relations Act and Employment Relations Act.

To carry out the duties of a Staff Governor

- reasonable time, with pay, to attend meetings and training.

Governors of a School other than own School

- reasonable necessary paid time off;
- the LGC 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, paid at the Headteacher's discretion.

Graduation Ceremony

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

Selection for County/National Teams

- 1 school day's paid leave per event;
- up to 2 school days' unpaid 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.

Moving House

- One day's paid leave.

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. Headteachers 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 LGC. Headteachers should refer to the ACAS guidance on Religious Festivals, Holy Days and Religious Observances and 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.

Refusal of Time Off

Employees who think they have been unreasonably refused time off, or victimised for taking it, may complain using the Trust's Grievance Policy. Under these circumstances a separate group of governors would be used to consider any appeals.