



**South East Cornwall Multi Academy Regional Trust**

# **Staff Leave of Absence Policy**

<b>Date</b>	<b>Changes</b>
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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26/06/19	Version sent for final check prior to Trust Board
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June 22	Policy consultation with Trustees, governors and JCNC
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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.

Teachers and other term-time employees are normally expected to take holidays and other leave outside of term time. However, the Trust Board recognises that there may be circumstances where an individual may need to be absent during the school term. The purpose of this policy is to provide school staff with an understanding of the options relating to paid and unpaid leave of absence that may be available to them during term time.

Leave will not automatically be granted and the Headteacher will make decisions based on the circumstances of each individual case and the operational needs of the school.

This policy applies to teaching and support staff. It should be read in conjunction with other relevant documents, e.g. the Burgundy Book and NJC terms and conditions (Green Book). Where an employee has enhanced terms under TUPE then the enhanced terms will continue to apply, unless modified through an agreed negotiation.

## 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.

## Roles and Responsibilities

The Governing Body has responsibility for establishing the Leave of Absence policy, for ensuring that it is followed and for monitoring staff absence rates.

The Headteacher and Operations Manager are responsible for implementing this policy within their school. The authority to make decisions under this policy rests with the Headteacher (of Chair of Governors in the case of applications for leave of absence from the Headteacher).

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, Trust Shared Services (TSS) staff and the CEO.

## 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. We would generally look favourably on new staff who have prior commitments requiring time off during the school term.

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. In such instances, the employee should contact the school as soon as reasonably possible to inform the Headteacher of the current position, to establish:

- the duration of leave granted
- whether the leave is considered to be exceptional, extended or not in line with precedent

- if an independent opinion is required, in which case it can be passed to a panel of governors for consideration including whether leave should be paid, unpaid or is designated as unauthorised.

## **Dependant and Relative Support**

Under the Trust's Maternity, Paternity, Adoption and Shared Parental Leave Guidance, employees are allowed up to one paid week of leave (pro rata) in a rolling year to assist them in managing the illness/support of dependents and relatives. Also, see Statutory Entitlements section.

# Flowchart 1 - Emergency Leave

## Emergency Leave (unplanned and so requested after the event)

On the day	An unexpected emergency situation occurs. If you have not yet left for work, follow the normal procedure to inform school of your absence. If you are in work, inform your Head or SLT before leaving.
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As soon as possible	When you are next able to: Download the Leave of Absence Policy from SMART's <a href="https://www.smart-trust.net/information/policies">Website</a> at <a href="https://www.smart-trust.net/information/policies">https://www.smart-trust.net/information/policies</a>
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No later than your next day in work	Complete the form in Appendix 1 of the policy for 'Absence request' and send it to your operations manager or Head.
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Within 10 school days	Head/Ops Manager/HR Officer checks you have interpreted the policy correctly.
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Paid leave agreed	Unpaid leave agreed	Leave refused
Authorised paid absence	Authorised: pay will be deducted from your next pay slip	Unauthorised: A date will be set for you to meet with a member of SLT

This is a formal meeting so you can invite a companion. There are three possible outcomes:

1. Further support
2. Future targets agreed
3. Dealt with under the disciplinary policy



## 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 but less than 1 month, a written application should be sent to the Headteacher. Please refer to appendix A for the request form. The employee should give at least 15 school days' notice before the absence is to be taken. Such requests should be considered by a Panel of three or more governors or in the case of TSS 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. Leave that is granted is unpaid unless otherwise specified.

### **What are exceptional circumstances?**

Only exceptional circumstances warrant a leave of absence. Governors will consider each application individually taking into account the specific facts and circumstances and relevant background context behind the request. 'Exceptional circumstances' are one-off events which are unavoidable.

## Flowchart 2 – Absences requested in advance

**Absences requested in advance**  
*(Non urgent, statutory entitlements, extended leave and other requests)*

<p>At least 4 weeks before the date you are requesting absence on</p>	<p>Download the Leave of Absence Policy from SMART's <a href="https://www.smart-trust.net/information/policies">Website</a> at <a href="https://www.smart-trust.net/information/policies">https://www.smart-trust.net/information/policies</a> and complete the form for 'Absence request' that you will find in the policy and send it to <a href="#">your operations manager/Head/HR Officer</a>.</p>
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<p>Within school 15 days</p>	<p>Head/Ops Manager/HR Officer checks you have interpreted the policy correctly. If they believe your request is 'exceptional', 'extended' or not in line with precedent they can pass this to a governor panel for agreement. The Ops Manager/Head/HR Officer will send a copy to the Trust HR officer for their HR opinion.</p>
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Paid leave agreed	Unpaid leave agreed	Leave denied
Authorised paid absence	Authorised unpaid absence	You will be required to attend work

If you are absent on a day you have been denied leave, a formal meeting will be arranged with SLT on your return to discuss this, and disciplinary action may be taken



If you are unhappy with the decision taken, you may raise a grievance through the Staff Grievance Policy, which you can find on the SMART Trust website.

## **Extended Leave of Absence (e.g. at least half a term in duration)**

Requests for an extended period of leave as defined as between one month and one calendar year including leave for academic sabbaticals, exchanges and voluntary work should be by written application to the Headteacher giving at least a full term's notice. A panel of Governors should consider the request. Examples of acceptable reasons for extended leave of absence may include travel, study or to manage an extended period of family need. Governors should evaluate the benefit to the Trust when considering requests for extended leave of absence. 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 panel of Governors' 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), which can be taken as two separate one-week blocks (if they so wish). 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 Guidance 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 Guidance 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 18<sup>th</sup> 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 Guidance 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.

## **Carer's Leave**

The Carer's Leave Act 2023 makes provisions for employees with caring responsibilities. Any employee who balances work with unpaid care is entitled to unpaid time off to care for, or arrange care for, a dependant with long-term care needs. The act defines dependants with long-term care needs as a dependant who has:

- a physical or mental illness or injury (which needs more than 3 months of care)
- a disability (as defined in the Equality Act 2010)
- care needs because of their old age.

A dependant does not have to be a family member, it may be someone who lives in their household (not tenants, lodgers or employees), or a person who relies on them for care.

Employees can take up to 1 week of carer's leave every 12 months, with a week meaning the length of time they normally work over seven days. The leave can be taken as a whole week off, or individual days or half days throughout the 12-month period. No evidence is required to support a request. Employees need to provide notice that they want to take carer's leave, either twice as many days as the period of leave required, or 3 days, whichever is the greater. For further details, please refer to 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 dependent, 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 (pro rata) in a rolling year to assist them in managing the illness/support of dependants and relatives.

## **Examples of Other Requests for Leave of Absence**

### **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
- where the employee is not the main carer, please see the Compassionate Leave clause below.

### **Death of a Partner or Child**

- 2 weeks' paid leave;
- additional paid or unpaid leave at the discretion of a Governor Panel.

### **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 South-West region;
- an additional 5 school days' unpaid leave if appropriate decided by a Governor Panel.

### **Funerals**

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

### **Compassionate Leave**

- in circumstances, not covered by any of the above, at the discretion of a Governor Panel;
- up to 2 weeks' paid leave;
- up to 6 weeks' 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.

### **Significant Personal/Family Events**

- unpaid special leave can be granted by a Governor Panel for staff wishing to attend ceremonies or significant events in their lives or those of relatives or close friends (e.g. university graduation of a child/stepchild, wedding/civil partnership ceremony of a sibling). It is expected that the majority of such requests will concern only one day but the Governor Panel will consider granting more unpaid leave in cases where substantial travel is involved, subject to the staff member giving adequate notice.

### **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 at a Governor Panel 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 paid time off to attend meetings and training.
- additional unpaid leave at the discretion of a Governor Panel 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 the South-West region 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 for graduating employee;
- up to 2 additional school days' unpaid leave if required to travel out of the South-West region.

### **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 a Governor Panel.

### **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**

- 1 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 a Governor Panel. 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 Panel of governors would be used to consider any appeal. Unauthorised absence will be dealt with under SMART's Disciplinary Policy.

## **Further guidance**

Management guidance on how to apply this policy in practice is available from SMART's HR Officer.

## Appendix A – Leave of Absence Request Form

All requests for absence should be sent to the Headteacher or Operations Manager with a copy to the Head of Department if applicable.

Your Name:	
Department/Class	
Date(s) of absence requested	
Total number of days absence requested	
Please give clear reasons for absence request below (include any relevant documentation with your request i.e. appointment letters)	
Date form completed	

<b>Notes for school use (e.g. attendance records)</b>	
<b>Recommendation of Headteacher/Operations Manager</b>	
<b>HR Comment (if applicable) for Governor Panel</b>	
<b>Decision</b>	
<b>Approved/Not approved</b>	
<b>Signature:</b>	
<b>If approved, number of days paid/unpaid</b>	
<b>Date</b>	