



POLICY & PROCEDURE FOR DISCRETIONARY & STATUTORY LEAVE OF ABSENCE

**FOR ALL SCHOOLS BASED STAFF IN LOCALLY
MANAGED SCHOOLS & ACADEMIES**

SEPTEMBER 2024

Author: Schools HR **Advisory** Service

Version: 2

Date: **September 2024**



Document Control

Document Title:

Summary

Publication Date	January 2024
Related Legislation / Applicable Section of Legislation	Equality Act 2010 Employment Rights Act 1996. Carers Leave Act 2023 Maternity and Parental Leave Regulations 1999 The Paternity Leave (Amendment) Regulations 2024 Shared Parental Leave Regulations 2014
Related Policies, Strategies, Guideline Documents	Occupational Health Service/Access to Work Service
Replaces	Discretionary Leave Policy 2021
Joint Policy (Yes/No)	No
Name of Partner(s) if joint	N/A
Policy Owner (Name/Position)	Schools HR Advisory Service
Policy Author (Name/Position)	Schools HR Advisory Service
Applies to	All school based staff of Community and Voluntary Controlled schools and where adopted by Voluntary Aided schools, Foundation schools and Academies

Review of Strategy

Last Review Date	August 2024
Review undertaken by	Gill Windsor School Business Consultant (Schools HR Advisory Service)
Next Review Date	August 2027 or in the event of legislative changes

Document Approvals

This document requires the following approvals.

Name	Title	Date formally noted	Version Number
JCNG	Policy & Procedure for Discretionary Leave & Statutory Leave Entitlement		
Teacher Associations	Policy & Procedure for Discretionary Leave & Statutory Leave Entitlement		

CONTENTS	PAGE
Introduction	5
Scope	
Purpose	
Equality	
Delegated Decision Making	
General Guidance	6

SECTION 1 – CHILDREN AND OTHER CARE RESPONSIBILITIES	
1. Ordinary Parental Leave	8
1.1 Definition of a Parent	8
1.2 Employee Eligibility for Leave	8
1.3 Children Which Qualify	9
1.4 Evidence of Employee Responsibilities	9
1.5 Notice to be Given by the Employee	9
1.6 How Leave is Taken	9
1.7 Definition of a Week	9
1.8 Postponement of Leave	10
1.9 Return to Work	10
1.10 Records	10
2. Paternity Leave	11
2.1 Eligibility for Leave	11
2.2 Leave Entitlement	12
2.3 Notification of Paternity Leave	12
2.4 Pay During Paternity Leave	13
2.5 Late Notice	13
2.6 Contractual Terms	13
2.7 Antenatal Appointments	14
3. Shared Parental Leave	15
3.1 Shared Parental Leave	15
3.2 Eligibility for Shared Parental Leave	15
3.3 Requesting Shared Parental Leave	16
3.4 Considering a Request for Shared Parental Leave	16
3.5 Shared Parental Pay	17
4. Carers' Leave	18
5. Dependents' Leave	20
6. Foster Carers Leave	21
7. Urgent Family Business	21
SECTION 2 – BEREAVEMENT	22
8. Bereavement Leave	22
8.1 Eligibility for Leave	22
8.2 Parental Bereavement Leave	23
SECTION 3 – MEDICAL APPOINTMENTS	24
9. Medical Appointments	24

SECTION 4 - RELIGIOUS OBSERVANCES	26
10. Religious Observances	26
SECTION 5 – JOB INTERVIEWS	28
11. Job Interview	28
12. School Observations	28
SECTION 6 – PUBLIC DUTIES AND OTHER WORK COMMITMENTS	29
13. Time off to Facilitate other Statutory Public Duties	29
14. Other Public Duties i.e. Governance Duties	30
15. External Examiner/Moderator	30
16. Consultant, Speaker or Lecturer	31
SECTION 7 – OTHER REQUESTS	32
17. Moving Home	32
18. Examination Leave	32
19. Unpaid Leave	33
20. Urgent Request for Leave	34
21. Transport Disruption	34
SECTION 8 - NOTES	34
22. Additional Guidance in Relation to Extended Discretionary; Leave Requests	34
23. Deduction of Pay for Teaching and Support Staff	35
MANAGERS' HANDBOOK	36
Appendix A - Parental Leave Record	37
Appendix B - Discretionary Leave Request Form	38
Appendix C - Shared Parental Leave Declaration to be Completed	40
Appendix D - Request for Discretionary Leave Outcome Letter	41
Appendix E - Discretionary Leave Request - Invite to Appeal Hearing	42
Appendix F - Schedule for Appeal Hearing	43
Appendix G - Discretionary Leave Request - Outcome of Appeal Hearing	45

INTRODUCTION

Scope

The Local Authority have consulted with the recognised Teacher Associations/Trade Unions on this procedure which shall be recommended for adoption by the Governing Boards of all schools with delegated powers of Local Management.

Purpose

The guidance has been drawn up to help Headteacher's and Governors to operate an equitable and fair decision making process when dealing with requests from staff for discretionary leave.

The guidance notes are presented in the following format:

- i) A quick reference table showing the main reasons for absence and an appropriate response; and
- ii) More detailed guidance running alongside to be taken into account when reaching your decision.

Please note that the allowances given are for a full time member of staff. Part time staff would receive allowances pro-rata to the hours they work.

Equality and Diversity Considerations

Headteacher's/Governing Board are responsible for ensuring that they operate the procedure in line with the Council's/Schools Equality and Diversity policy to provide equality of opportunity for all employees.

The Council/School is committed to ensuring that no-one is discriminated against, disadvantaged or given preference, through membership of any particular group, particularly based on age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. This procedure will be applied equally to all employees irrespective of their background or membership of a particular group.

In addition, in line with the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) Part 3, the Council/School is committed to ensure that employees are not disadvantaged or discriminated against by virtue of their trade union membership in the application of this policy.

The school will regularly review this procedure's impact on any equality and diversity issues, and will identify any inequalities by monitoring and will take appropriate action where necessary.

Delegated Decision Making

All decisions concerning whether leave of absence, with or without pay, should be permitted are the responsibility of the Governing Board.

Employment law and nationally agreed conditions of service, which must be followed, confine some decisions about leave and pay. In other cases, locally negotiated agreements may exist and these must also be followed unless School Governing Boards have negotiated their own

agreements with all relevant trade unions. However, not all areas are covered by such agreements and some remain entirely at Governors' discretion.

Where statutory, national and local agreements exist, these are clearly shown in the tables and the information given is current at the date of issue.

It is recommended that the Governing Board delegate the responsibility for decision making to the Headteacher alone. An employee will have the right of appeal to a relevant committee of the Governing Board if they disagree with the Headteacher's decision.

It is recommended that any requests for discretionary leave from the Headteacher is delegated by the Governing Board to the Chair of Governors who act as the decision maker. A Headteacher will have the right of appeal to a relevant committee of the Governing Board if they disagree with the Chair of Governors decision.

The relevant committee should be appropriately called and clerked as minutes may be required in future proceedings.

GENERAL GUIDANCE

When considering discretionary leave the progress and wellbeing of the pupils must be the primary consideration. However, Governors will need to balance the needs of the pupils against the need to maintain high morale when considering requests for leave of absence.

Staff can be expected to utilise the flexibility that the holiday periods bring to accommodate many of the situations mentioned in the accompanying tables. This is not the case with other staff who have more restricted annual leave entitlements.

Any member of staff, regardless of their working pattern, may find it necessary to apply for leave of absence (paid or unpaid). Each individual case must be considered on its own merits. A high level of consistency is important when reaching a decision if staff are to be treated equitably.

Staff should ensure that they submit any request for discretionary leave at the earliest opportunity to in order that all decision making processes can be completed prior to the requested date.

A sympathetic consideration of requests for leave of absence on compassionate grounds and where staff are not in a position to control or influence the timing of important activities, should be taken.

Employee should be made aware that their failure to make a request in accordance with the schools agreed procedures will result in an automatic refusal of the discretionary leave request and an investigation, in accordance with the school's Disciplinary Procedure, should the leave subsequently be taken.

Likewise any employee who requests discretionary leave but has the request declined, but subsequently chooses to take the leave without authorisation, will have the matter dealt with as a breach of contract on their return to work. This will result in an investigation taking place in accordance with the school's Disciplinary Procedure and **may** be considered as gross misconduct which could result in the employee's dismissal from their post at the school.

It is recognised that on occasion, there may be situations that result in an employee being unable to meet the requirements of the schools process for requesting discretionary leave. All endeavours should be made to meet these requirements. If there is no reasonable explanation for failing to meet the requirements then the request may be refused and an investigation undertaken if the leave is subsequently taken without authorisation.

An employee who wishes to exercise a right of appeal against a refusal of their discretionary leave request must do so by letter within 7 calendar days of the original decision being communicated to them. The letter should be sent to the School Based Clerk to Governors fully outlining the grounds of appeal.

An appeal will normally be heard by a relevant Committee of the Governing Board within 28 calendar days of receipt of the employee's written notice of appeal.

At an appeal hearing, the case for the school will normally be presented by the person responsible for deciding on the outcome (Headteacher, **Chair of Governors** or where the decision has been reached by a Committee, **(were delegated authority has not been given to the Headteacher)**, the Chair of the Committee will respond on behalf of the Committee), which is the subject of appeal. As part of their case they will explain the reasons for their decision. An appeal hearing will **NOT** be a re-hearing of the case but a review of the decision made by the Headteacher, **Chair of Governors** or Relevant Committee.

It is the responsibility of each member of staff to ensure that arrangements for attendance at routine medical appointments, etc. are made at times that will cause minimum disruption to their school commitments. Only specialist or emergency treatment would normally warrant discretionary leave.

The accompanying tables cover most situations but if an unusual request is made which is not covered, or the question of longer term leave arises, the help and advice of the Schools HR Advisory Service is recommended.

A discretionary leave request form is included at Appendix B of the Management Handbook. It is suggested that this is adopted by schools for use in respect of any requests being made by employees.

This policy does not preclude the consideration of other individual requests for discretionary leave which do not appear to fall clearly within the definitions in this policy. Approval for such requests will be by the Headteacher **or in the case of the Headteacher, the Chair of Governors** (where delegated authority exists) or the Resources Committee of the Governing Board where delegated authority has not been given to the Headteacher.

Where discretionary leave is unpaid it is the schools responsibility to notify Operational HR Team/or payroll provider of this on the weekly staffing returns.

SECTION 1 – CHILDREN AND OTHER CARE RESPONSIBILITIES

1. ORDINARY PARENTAL LEAVE

Employment Rights Act 1996, Maternity and Parental Leave etc. Regulations 1999 (“the 1999 regulations”) and The Maternity and Parental Leave etc. (Amendment) Regulations 2014 (“the MPLA Regulations”)

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
To enable parents to care for their young child/children by making it easier to reconcile work and family life	Each parent can claim up to a total of 18 weeks up to the child's 18 th birthday	Statutory	Unpaid

1.1 Definition of ‘Parent’

Those with responsibility for a child. Under the meaning of the Children Act 1989 this includes:

- the mother of the child
- the father of the child, if he was married to the mother at the time of the birth or he is registered as the child's father on the birth certificate.
- the father (if not covered by the above) if he has acquired parental responsibility under the Children Act 1989. This is done either by a court order or an agreement between the mother and father which complies with certain legal requirements.
- a guardian appointed under Section 5 of the Children Act 1989
- adoptive parents or foster parents
- have legal parental responsibility for a child under 18 for example Grandparents who have either adopted a child or by a residence order being made in favour of them.
- A step-parent can have parental responsibility if it has been approved by both biological parents. If an employee is separated from the other parent or do not live with the child, the employee still has the right to parental leave if parental responsibility for the child has been maintained.

1.2 Employees' Eligibility for Leave

An employee must have no less than one year's continuous service with an organisation covered under the Education (Modification of Enactments Relating to Employment) Order 2003 to qualify for this leave. Even if leave started with another employer, the employee still has to complete one year's continuous service under the Order before taking the balance of their leave entitlement.

With the one year's continuous service qualification, an employee **with parental responsibility for the child** is entitled to 18 weeks for each of their children, up to their 18th birthday. For employees who work part time, the leave will be pro rata to the hours worked.

Each parent is eligible for the leave entitlement in respect of each child including each child of a multiple birth.

Employees with parental responsibility must be named on one of the following:

- the child's birth certificate
- the child's adoption certificate
- a parental order, for surrogacy
- a legal guardianship

Step-parents can also have parental responsibility where it's agreed between all parents. Or they can only acquire parental responsibility for a child in very specific circumstances e.g. adoption, parental responsibility order.

If someone is separated from the other parent or does not live with their child, they still have the right to parental leave if they have parental responsibility for their child.

1.3 Children which qualify

The entitlement is for 18 weeks' leave for each child and adopted child, up to their 18th birthday.

1.4 Evidence of Employee responsibilities

The Headteacher may request evidence of parental responsibility. Examples may include evidence of: of the child's date of birth, the employee's relationship to the child, papers confirming the child's adoption or date of placement and, if applicable, the child's entitlement to a disability living allowance.

1.5 Notice to be given by the employee

21 days' written notice of intention to take leave must be given to the Headteacher, specifying when the leave is to begin and end.

If the employee meets the qualifying conditions and gives the required notice, the employee is entitled to take the leave. It cannot be refused, but it can be postponed under certain circumstances (see 5.9).

A discretionary proforma entitled 'Application for Discretionary Leave' is provided for the first time an individual applies in your school to help collect the required information. (See Appendix B).

1.6 How Leave is to be taken

Leave must be taken in blocks of weeks with a maximum of 4 weeks per academic year per child. Leave for a disabled child can be taken in blocks of days if they are in receipt of Disability Living Allowance or Personal Independence Payment.

1.7 Definition of a Week

Where an employee's working pattern does not vary, a week is the period which they normally work.

Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not others, a week is the total of all periods in which they work, divided by 52.

1.8 Postponement of Leave

A Governing Board, or the Headteacher where delegated, has the power to postpone the leave for up to six months if it can demonstrate a significant reason that to take leave at a particular time would be 'unduly disruptive'. An example of this would be leave taken during the run up to and sitting of National Tests.

However, if the planned leave is for the birth of the child or for immediately after the child is born or placed for adoption, it cannot be postponed provided that notice requirements have been met.

If postponement is to be enacted, the Governing Board or the Headteacher must give the reason for postponement to the employee within 7 working days of having received the request and they must provide a new start date within 6 months of the requested start date. The Governing Board or the Headteacher cannot change the amount of leave being requested.

If an employee asks to start their parental leave on the day of birth or adoption before paternity leave the employer cannot postpone the parental leave.

If no agreement can be reached, the Governing Board or the Headteacher reserves the right to determine the dates.

1.9 Return to Work

If the parental leave taken is for 4 weeks or less, the employee has the right to return to the same job as they left at the start of the leave and to retain pension rights.

The employee remains under contract during the leave (except for remuneration) and cannot suffer any detriment as a result of taking or seeking to take the leave.

An employee who wishes to exercise a right of appeal against a refusal of their discretionary parental leave request must do so by letter within 14 calendar days of the original decision being communicated to them. The letter should be sent to the School Based Clerk to Governors fully outlining the grounds of appeal.

Employees have recourse to an Employment Tribunal if time off is not granted.

1.10 Records

Accurate records of leave taken must be kept in schools as entitlements can be transferred from one employer and also from one school to another. It is suggested that a leave record sheet should be filled in for each child as this will be easier to keep track of when the various entitlements start and finish. A suggested format for this is given (Appendix A).

2. PATERNITY LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Statutory Paternity Leave allows employees to care for their partner and new child following either the birth, the placement of a child or as an intended parent (surrogacy arrangement)	Service eligibility requirements apply	Local Agreement plus Statutory Paternity Pay and Leave	1 week with full pay followed by one week on Statutory Paternity Pay if over Lower Earnings Limit (School)

The Maternity and Parental Leave Regulations (Amendment) 2002 provides for rights to take up to two weeks' paid paternity leave following the birth of a child or the placement of a child for adoption **or having a baby through a surrogacy arrangement**. This is separate from, and in addition to, Parental Leave and Shared Parental Leave.

2.1 Eligibility for Leave

An employee must satisfy the following conditions in order to qualify for paternity leave:

- the employee is the biological father
- **husband or partner of the mother (or adopter)**
- the employee's partner is having the baby, adopting the child or having the child through surrogacy
- the child's adopter

An employee must give the correct notice and be an employee with 26 weeks' service with Rochdale Council by the end of the 15th week before the expected week of childbirth. (An employee will be deemed to have satisfied the 26 weeks' service qualification if they would have satisfied it but for the fact that):

- the child was born before the 15th week before the EWC; or
- the child was stillborn after 24 weeks of pregnancy or has died).
- or the end of the week you are notified you are matched with your child

If the employee is in a same-sex relationship, leave is still called paternity leave. One partner can take paternity leave and the other can take maternity leave or adoption leave.

If the employee is expecting child by surrogacy one partner is entitled to take adoption leave and the other partner is entitled to take paternity leave.

2.2 The Leave Entitlement

If the baby is due before or on 6 April 2024, or before 6 April 2024 for adoptions

An employee has the option of taking either one week or two consecutive weeks' leave, but must be completed either within 56 days (or 8 weeks) of the actual date of the birth of the child (or the EWC if the birth was earlier than the EWC), or placement with the adopter.

Whether taking one or two weeks, the leave must be taken in a single block. A week means any period of 7 days and may not be taken in odd days. The leave can start on any day of the week but not before the baby is born or placed. Leave must finish within 56 days of the baby's birth/placement.

Only one period of leave will be available to employees irrespective of whether more than one child is born as a result of the same pregnancy or children placed together as part of the same placement.

If the baby is due after 6 April 2024, or on or after 6 April 2024 for adoptions

Employees can take either 1 or 2 weeks' leave. If the employee is taking 2 weeks they can either be taken consecutively or separately. The amount of time is the same even if they have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- a specified number of days after the birth
- a set date which is after the date of birth

Leave must finish within 52 weeks of the birth (or due date, if the baby is early).

Where an employee is entitled to paternity leave and adoption leave, he or she cannot exercise both statutory rights, but may choose to exercise whichever is the most favourable.

2.3 Notification of Request for Paternity Leave

The employee is required to inform the School of their intention to take paternity leave and then to send the completed Form Paternity 1 to the Operational HR Service, Shared Services, Number One Riverside, Smith Street, Rochdale as soon as possible and in any case no later than the end of the 15th week before the baby is expected or within 7 days of being told by the adoption agency that you have been matched. **They must tell the school when they want their leave to start, and how much leave they want to take, at least 28 days before.**

Notice does not have to be in writing unless you request it.

If a school uses an alternative HR/Payroll; they should be contacted and duly notified.

The notification will state:

- the week the baby is due
- **how much leave they wish to take**
- the date they wish their leave to start

- a declaration that they are in an enduring relationship with the mother, will be responsible for the child's upbringing and will be taking time off to support the child's mother or to care for the child.

It is permissible for an employee to request a period of parental leave to be added to Paternity Leave to give a longer period to support mother and child.

2.4 Pay during Paternity Leave

Paternity leave

Income during maternity leave can come from two sources:

Occupational pay – Local Agreement

Staff will receive 5 days' leave with normal pay (subject to the criteria being met).

State benefits in the form of Statutory Paternity Pay (SPP) available to an employee who:

- meets the qualifications for paternity leave;
- has 26 weeks' service with Rochdale Council at the 15th week before the EWC; and
- has earnings above the Lower Earnings Limit.

More detailed information about pay can be obtained from [School HR Advisory Service](#).

2.5 Late notice

[You can delay the leave or pay start date if the employee does not have a reasonable excuse for giving you the wrong amount of notice. To delay it, write to them within 28 days of their leave request.](#)

2.6 Contractual Terms

The terms and conditions of the employee's contract of employment continue throughout Paternity Leave and Additional Paternity Leave with the exception of remuneration. This exception is because separate paternity pay arrangements apply.

Employees are entitled to return to the same job following Paternity Leave and Additional Paternity Leave on terms and conditions no less favourable than those which would have applied had they not been absent.

Employees will be protected from suffering unfair treatment or dismissal for taking or seeking to take Paternity Leave.

An employee who wishes to exercise a right of appeal against a refusal of their paternity leave request must do so by letter within 14 calendar days of the original decision being communicated to them. The letter should be sent to the School Based Clerk to Governors fully outlining the grounds of appeal.

Employees who believe that they have been treated unfairly will be able to complain to an employment tribunal.

2.7 Antenatal Appointments

The Children and Families Act 2014 (Part 8 Section 127) allows fathers to be, and partners of pregnant women, to take unpaid time off work to attend antenatal appointments with the expectant mother. There is no qualifying period for this entitlement.

In relation to any particular pregnancy, an employee is only entitled to take time off to accompany a partner on two occasions. The maximum time allowed is capped at 6 hours and 30 minutes per appointment but it is expected that no more than half a day, including travelling and waiting time, would be required.

The employee will be required to complete a request form which can be found at appendix B, by completing this form the employee is verifying that they meet one of the following criteria:

- The employee has a qualifying relationship with a pregnant woman or her expected child
- That the purpose in taking time off is to accompany the pregnant woman to an antenatal appointment
- That the appointment is made on the advice of a registered medical practitioner, registered midwife or registered nurse
- The date and time of the appointment

This declaration should be provided at least 7 calendar days prior to the appointment.

3. SHARED PARENTAL LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Shared Parental Leave	There is a statutory application process which must be followed Up to 50 weeks (the child's mother or adopter must have started working again)		For Shared Parental Leave any relevant payment to the child's mother must have stopped, with at least two weeks of the 37 week payment period remaining. Shared Parental Leave Pay is only payable for 37 weeks

3.1 Shared Parental Leave

If they wish, two parents can share 50 weeks shared parental leave. How much is shared is dependent upon how much the birth parent or primary adopter has already **taken under maternity or adoption leave**.

Shared Parental Leave can be taken as follows:

- The birth parent or primary adopter returns to work early and take shared parental leave at a later date
- The birth parent or primary adopter return to work and the partner takes shared parental leave
- Both parents take shared parental leave at the same time
- Both parents take shared parental leave but use the leave at different times

3.2 Eligibility Shared Parental Leave

To qualify for Shared Parental Leave:

If your employee is the birth parent or primary adopter they must have either ended their maternity/adoption leave or given notice to curtail or **end** their maternity/adoption leave.

By law, the birth parent must still take at least 2 weeks maternity leave.

The parent who is to take shared parental leave must:

- **be sharing responsibility with the other parent from the day of the child's birth or adoption placement**
- **be legally classed as an employee**
- **pass the 'continuity of employment test' and their partner must pass the 'employment and earnings test'**

They must have worked for the employer for at least 26 weeks by the end of the 15th week before their baby is due or their adoption match date and still be working for the same employer a week before the start of each block of leave they take.

If your employee is the other parent, to qualify for Shared Parental Leave they must:

- Be the child's other parent
- Be legally classified as an 'employee'
- Been employed for at least 26 weeks of 66 weeks by the end of the qualifying week for maternity leave (the 15th week before the baby is due) or the week they are matched with a child for adoption in the UK
- Earned an average of at least £30 a week in any 13 weeks of those 66 weeks

Headteacher's can refuse requests for Shared Parental Leave, however it is recommended that you contact the School's HR **Advisory** Service for advice prior to declining the request.

Employees will be protected from suffering unfair treatment or dismissal for taking or seeking to take Shared Parental Leave. Employees who believe that they have been treated unfairly will be able to complain to an employment tribunal.

Further information on eligibility for the increased entitlements, is available from the Schools HR Advisory Service.

3.3 Requesting Shared Parental Leave

When requesting Shared Parental Leave the employee must confirm the following:

- How much maternity or adoption entitlement has already been used by their partner
- How much leave and pay is left over from the maternity or adoption entitlement
- How much leave the parent wants to take
- When they want to take the leave
- Provide at least 8 weeks' notice for their intention to take the leave
- A signature from both parents confirming that the information given is true and accurate (Appendix B & C)

3.4 Considering a Request for Shared Parental Leave

By law each eligible employee has up to 3 notices they can give their employer. Employees have a right to request leave in both a continuous (a full block of time off work) and a discontinuous manner (where blocks of time off work are mixed with time back at work). They can also change the dates of any booked parental leave.

a) Continuous Request

A continuous request allows for up to 3 blocks of Shared Parental Leave.

An employer cannot refuse a continuous leave notice.

b) Discontinuous Request

A discontinuous leave request is for when a parent wishes to take blocks of Shared Parental Leave on and off throughout the year. Before deciding upon this type of leave it is imperative that there is a discussion with between the Headteacher and the employee to establish a best fit that would support the needs of the individual and the school.

A Headteacher has the right to refuse a discontinuous request for Shared Parental Leave **if** it is detrimental to the organisation and an alternative suggestion can be made.

An agreement should be made within 14 calendar days of the request and if an agreement cannot be reached the employee can either withdraw the request or take continuous leave instead.

As discussed previously, an employee is entitled to give 3 notices **of** their intention to take Shared Parental Leave within the first year of birth or adoption.

If an employee withdraws their request on or before the 15th calendar day, after it was originally made, it would not count as one of the 3 notices to book leave. If it is withdrawn after the 15th day it would count as notice and the employee would be using a total of 2 notices.

If the employee lets their discontinuous leave request become continuous leave, within 19 calendar days of their original request they can either:

- choose when the continuous leave will start (it cannot start sooner than 8 weeks from the date of the original leave request)
- let the continuous leave start when the discontinuous leave would have started

The employee should put the option they choose in writing to the Headteacher.

3.5 Shared Parental Pay

Eligible parents can get up to 37 weeks of statutory shared parental pay. Employees can claim shared parental pay for any remaining weeks after the birth parent or primary adopter stops their:

- Maternity Pay
- Adoption Pay
- Maternity Allowance

The birth parent or primary adopter can take up to 39 weeks of statutory maternity or adoption pay. They must take a minimum of 2 weeks' pay after the birth or adoption. After this they can end their pay so the remaining can be shared between the 2 parents. This leaves up to 37 weeks of pay to be shared.

For example, if a birth parent stops their maternity pay after 30 weeks, they or their partner could get shared parental pay for the remaining 9 weeks. To claim shared parental pay, the employee or worker must tell their employer in writing, for example a letter or email.

Statutory shared parental pay is either of the following, whichever is lower:

- £184.03 a week from April 2024 (reviewed annually)
- 90% of the employee's average weekly earnings

4. CARERS' LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Support for a dependent who requires long term care	Up to 5 days in an academic year Pro rata for part time staff		Unpaid

An employee is entitled to take time off to help a dependent who needs long term care. The right to take carer's leave applies from the first day of work.

An employee's dependent can include their husband, wife, civil partner or partner, their child, their parent. A person who lives in their household (not tenants, lodgers or employees) or a person who relies on them for care such as an elderly neighbour

A 'dependant' is defined as someone who has a:

- Disability as defined under the Equality Act 2010
- An illness or injury that is likely to need care for at least 3 months
- A care need related to old age

Employees can choose to take leave as:

- Half days – this is the minimum they can take
- Full days
- A whole week

If an employee cares for more than one dependent in these circumstances they can still only take one week of carer's leave however, they can use the week of leave for more than one dependent.

Minimum notice requirement in relation to carer's leave

Number of days requested	Minimum notice required
Half a day to 1 day	3 days' notice
1.5 to 2 days	4 days' notice
2.5 to 3 days	6 days' notice
3.5 to 4 days	8 days' notice
4.5 to 5 days	10 days' notice
6 days (if an employee works 6 days a week)	12 days' notice

There is no requirement for an employee to put their request for carer's leave in writing nor do they need to give their employer evidence of their dependant's care need.

If an employee needs to take time off at short notice to care for a dependent then a request can be submitted to the Headteacher under dependents leave rather than carers leave.

Employers cannot refuse an employee's request for carers leave but they can ask them to take it at a different time if the absence would cause serious disruption to the organisation of the school.

If the employer needs to delay the leave they must:

- agree another date within 1 month of the date the employee originally requested leave for
- explain in writing why they need to delay the leave – they must do this within 7 days of the request or before the leave starts, whichever is the earlier

If the employee needs to cancel their request for carer's leave, they should do this as soon as possible. It's good practice for the employer to consider this but they do not have to agree to it.

5. DEPENDENTS' LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
1. To make arrangements for the provision of care, in relation to unforeseen and emergency matters: - to deal with an emergency for a dependant - for a dependant who has fallen ill or been injured, or where an existing condition has deteriorated; or - in the event of unexpected disruption or termination of arrangements for care of a dependant	Up to 2 days per academic year to make arrangements for on-going care but see Section 22 for exceptional circumstances	Minimum legal requirement plus local for paid leave for both Teaching & Support Staff	Paid for 2 days only per academic year thereafter unpaid (School)
2. The facility to have time off to deal with a routine incident which involves a child of the employee and which occurs unexpectedly at a time when an educational establishment is responsible for that child. (This includes unexpected availability of a child-minder or regular carer)	As necessary	Minimum legal requirement	Unpaid

5.1 Definition of a Dependent (Section 57 (A) of the Employment Rights Act 1996)

'A Dependant' is defined as a spouse, partner, child, grandchild, parent who depends on the employee for care or person living in an employee's household, other than as an employee, tenant or lodger. However, when it comes to making arrangements for the provision of care as set out in 1 in the box, 'dependant' can be defined as any person who reasonably relies upon the employee to make arrangements for the provision of that care.

5.2 Considering Requests for Dependent Leave

If the employee only needs an hour or so to make necessary arrangements, they may ask to make the time up later, rather than take a full day or half day's leave. This should be considered on the merits of each case.

The employee must request the leave as soon as reasonably practicable and must give the reason for and likely length of that absence. **In exceptional circumstances it may be** permissible for this to be done after the absence if it could not reasonably have been done beforehand.

When considering requests for this leave, Headteacher's should take into account the availability of other carers within the family unit and as appropriate the amount of the remaining holiday entitlement of the member of staff making the request.

In exceptional circumstances, **dependent** leave may be extended up to a maximum of 5 days per annum at the discretion of school management. Should additional time be required staff could apply for parental leave (see section 3) or extra unpaid leave (see section 22).

The employee will have recourse to an Employment Tribunal if reasonable time off is not granted.

If it proves impossible to make alternative arrangements, for example, in the case of a terminally ill relative or very sick child, then up to 30 days unpaid leave may be granted subject to leave entitlement. (See Section 22)

6. FOSTER CARERS

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
- Assessment and initial training prior to approval as a foster carer, - Attendance at panel for approval, - Settling in a new child to their home, - Child review meetings, annual foster carer review meeting and training.	Requests subject to approval of Headteacher	None	Up to 5 days paid and 1 month unpaid leave

An employee's Headteacher can approve the leave in line with the policy taking into account individual circumstances of each case and operational requirements of the school.

7. URGENT FAMILY BUSINESS

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Urgent family business (e.g. house burglary, explosion, fire)	Nominally 1 day per incident. May be extended if necessary	None	1 day per incident Paid thereafter Unpaid (School)

This is to allow staff time to meet with the police, arrange emergency housing for the family etc. It is only intended to cover emergencies, not general visits to solicitors, sick relatives etc.

SECTION 2 – BEREAVEMENT

8. BEREAVEMENT LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Parental Bereavement Leave (Jack's Law) Death of a child under the age of 18 or is stillborn after 24 weeks of pregnancy (where an employee has parental responsibility)	Up to 2 Weeks paid leave	National for both Teaching & Support Staff	Paid (School)
In considering requests for discretionary leave for bereavement, Headteacher's should discuss the following points with the employee to enable an informed decision to be made: • Their relationship to the deceased (relative) • Any caring responsibilities to the deceased (sole or shared with another family member) • Any legal responsibilities (Executor of will etc.) • Geographical issues (residence of deceased, location of funeral) • Working arrangements of employee (fixed hours, WLB, flexi etc.)	The <u>maximum</u> number of paid leave days for bereavement is up to 10 days with requests in excess of 5 days being approved by the Chair of Governors Headteacher's are advised that a minimum of 3 days would ordinarily be a reasonable amount, to include the day of the funeral itself.	Local for both Teaching & Support Staff	Paid
Close Friend	1 day per academic year subject to the needs of the school		Unpaid

8.1 Eligibility for Leave

An employee has the right to time off if a dependent dies for example; their parent, partner, son/daughter or someone else related to them.

Each individual case should be sensitively explored and considered on its merits, taking into account such factors as existence of other relatives to assist with funeral arrangements; closeness of family and relationship and circumstances of the bereavement.

8.2 Parental Bereavement Leave

Employees are entitled to two weeks leave **with pay** if their child dies under the age of 18 or if a baby is still born after 24 weeks of pregnancy. Those eligible would be one of the following:

- biological parent
- adoptive parent, if the child was living with them
- person who lived with the child and had responsibility for them, for at least 4 weeks before they died
- 'intended parent' – due to become the legal parent through surrogacy
- partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

If an employee or their partner has a stillbirth or miscarriage

If a child is stillborn after 24 weeks of pregnancy, the:

- birth mother can get up to 52 weeks of statutory maternity leave or pay
- birth father can get up to 2 weeks of paternity leave or pay
- partner of the birth mother or adopter can get up to 2 weeks of paternity leave or pay

Both parents would be entitled to 2 weeks of parental bereavement leave after they finish their maternity or paternity leave.

While the legal name for the time off is 'statutory maternity' and 'statutory paternity' leave, some employees might not want to call the time off 'maternity' or 'paternity' leave if their baby has died. Employers should be sensitive to the employee's preference and be led by them when having conversations about leave.

If a miscarriage happens in the first 24 weeks of pregnancy, there's no entitlement to statutory maternity, paternity or parental bereavement leave.

SECTION 3 – MEDICAL APPOINTMENTS

9. MEDICAL APPOINTMENTS

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Ante-natal care appointments where advised by a doctor, mid-wife or health visitor	As necessary	Legal requirement	Paid (School)
Hospital appointments (including outpatients/x-rays/tests/clinics and minor surgery at GP practices) where the time or the appointment cannot be chosen to fall out of working hours	As necessary to a maximum of 12 hours in any one academic year Pro rata for part time employees Over 12 hours in any one academic year	Local for both Teaching & Support Staff	Paid (School) Unpaid
Appointments for Cancer Screening	As necessary	Local	Paid (School)
Blood Donor Sessions	Subject to the needs of the school	Local	Paid
Long term courses of clinical treatment (e.g. IVF/Chemotherapy/Radiotherapy)	Dependent upon the duration of treatment. Long term may need to be dealt with via Annual Leave/Time Off in Lieu or Sickness Absence provisions	Local	Initially With Pay

Employees should note that proof of appointments must be available to present to the Headteacher or an appropriate responsible person acting on behalf of the Headteacher. The date, time and venue of the appointment should be visible, although it is not necessary for employees to disclose the purpose of the appointment should they not want to do so.

Employees should note that wherever possible routine doctor/dentist/practice nurse etc. appointments should not be booked to take place during normal working hours and employees

are required to make these type of appointments outside of their normal working hours. Discretionary leave may be approved for emergency appointments or for conditions classed as a disability under the Equality Act 2010.

Emergency treatment cannot by its very nature be defined as a regular occurrence. However, should an employee need to attend a hospital/urgent care centre for emergency treatment then provided that they gain prior approval from the Headteacher and return to work then that time will be authorised with pay.

If immediate emergency treatment is required, i.e. through the ambulance services, then the Headteacher or the appropriate responsible person acting on behalf of the Headteacher should assume responsibility for recording the absence on the authorised absence record. If as a result of the emergency treatment the employee does not return to work during the day/shift then that absence will be treated as sick leave.

Appointments for short to medium term courses of clinical treatment (e.g. physiotherapy; chiropody; podiatry; private or NHS counselling etc.) should be made in the employee's own time.

Discretionary leave should not normally be requested for visits to doctors, dentists, opticians, etc. which should be taken out of school hours (or core time for those support staff working Flexitime).

Discretionary leave should be used for medical or screening appointments (this includes cancer screening for both men and women) where the member of staff has no choice but to attend during working hours.

Before approving the absence always ask staff whether they have tried to seek an appointment outside the school day, and if preferred you may request to see proof of the appointment. The member of staff should provide evidence of appointment prior to attendance.

SECTION 4 – RELIGIOUS OBSERVANCES

10. RELIGIOUS OBSERVANCES

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Attendance observance of a principal religious festival	A maximum of 2 days per academic year	None	1 day with pay and 1 day without pay (unless deemed as a statutory holiday) in any one academic year

There are no local agreements to cover this area, therefore there is no specific entitlement.

The Equality and Human Rights Commission advises that an employee has the right to manifest their religion or belief in a work environment. Where this religion or belief conflicts with existing work requirements, there is a need for the employer to consider whether reasonable accommodation / adjustment can be made to adapt these requirements to enable such needs to be met. This would cover time off for religious observance (prayer times or religious holidays). The definition of religion or belief is as follows:

Religion

- Must have a clear structure and belief system

Belief

- Must be an important and significant aspect of human life and behaviour

Having no belief is also protected.

The Equality Act 2010 states discrimination based on race or religion / belief is an unlawful prohibited conduct. Therefore, work requirements would generally be unlawful if they have a disproportionately adverse effect on a particular racial, religious / belief group and cannot be shown to be justifiable.

School holidays are based around the major Christian festivals. Christians would not be granted more than these. A maximum of two days discretionary leave for staff of other religious faiths may be allowed to enable them to observe their main religious festivals e.g. Eid, Diwali, Indian or Chinese New Year and Passover.

Requests for regular (weekly) leave of absence should be approved if it is possible to manage the member of staff's absence and an alternative work pattern is possible. Refusing such a request would be justifiable if it could be demonstrated that the absence would have an adverse effect on pupil entitlement

SECTION 5 – JOB INTERVIEWS

11. JOB INTERVIEWS

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Job Interview (NB in a redundancy situation the Change Management Policy will override this situation)	As necessary but for Public Sector appointments only	Local for both Teaching & Support Staff	5 days Paid (School) in any academic year thereafter Unpaid (School)

Many interviews span more than one day and a member of staff seeking alternative employment may have two or three interviews.

Headteacher's are recommended to be 'reasonable' about such requests.

If a member of staff's absence is excessive and becomes unreasonable and/or unmanageable, then it would be appropriate to bring this to **their** attention and ask them to be more selective in their applications. They should also be encouraged to seek feedback after unsuccessful interviews and be given the opportunity to talk this through.

The member of staff will need to provide evidence of attendance of the interview/observation to the Headteacher prior to attendance. If the member of staff is unsuccessful at any point during the process they will be expected to return to work

In a redundancy situation, staff are automatically allowed time off for seeking redeployment and for finding out about jobs.

12. SCHOOL OBSERVATIONS

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Visits of necessary observation to another school (e.g. as part of an interview or result of securing a new job)	At Governors' discretion	None	5 days Paid (School) thereafter Unpaid (School)

This may occur when staff apply to other schools for jobs, or having secured a job, they may be invited to functions to get to know the school.

Such exchanges should not be discouraged, but once again, Headteacher's should determine whether the number and frequency of such requests are 'reasonable' and act accordingly.

SECTION 6 – PUBLIC DUTIES & OTHER WORK COMMITMENTS

13. TIME OFF TO FACILITATE OTHER STATUTORY PUBLIC DUTIES

(Employment Rights Act, 1996, Section 50)

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Duties as a JP Attendance at committee meetings as a member of: a local authority a police authority a statutory tribunal an NHS Trust, District/Regional Practitioner Committee Board of Prison Visitors	Up to a maximum of 18 absences (pro rata) for part time staff per academic year	Statutory/Local for both Teaching & Support Staff	Schools delegated budget or LA Centrally Retained Funds (as agreed by Schools Forum)
School Governor duties Chairs and Vice Chairs of School Governing Bodies within Rochdale LA Members of School Governing Boards (excluding Chairs and Vice Chairs) within Rochdale LA who attend committee meetings or recruitment for leadership posts in school Members of School Governing Bodies (excluding Chairs and Vice Chairs) within Rochdale LA	Up to a maximum of 18 absences (pro rata) for part time staff per academic year Up to a maximum of 12 hours over a maximum of 6 occasions	Local for both Teaching & Support staff	Paid Paid Unpaid

An employer must allow “reasonable” time off to fulfil a statutory public duty, the amount of time off should be agreed between the employee and employer beforehand, taking account of:

- i) how much time off is required to perform duties as a whole and how much for the particular duty in question;
- ii) how much time off the member of staff has already had for other public duties
- iii) the impact of the member of staff's absence on the school.

Headteacher's therefore have the ability to exercise discretion within the maximum limits set.

Please note that the law only refers to attendance at committee meetings, not to any other related attendance. Situations may occur where a member of staff asks for time off for meetings of an official working party. It is recommended that where the working party is an official subset of the committee, the request should be considered favourably within the confines of 'reasonableness'.

14. OTHER PUBLIC DUTIES

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Jury service or witness at court for the school/local authority	As necessary	Statutory	Paid, loss of earnings claimed from the court and reimbursed to school
Witness at court for personal reasons	As necessary	Minimum legal requirement	Unpaid, loss of earnings claimed from the court
Attendance at court as a defendant or plaintiff (except where the member of staff is in legal custody)	As necessary	Statutory	Paid
Election duties in connection with Council elections	1 day to contest an election plus the day after	Local for both Teaching & Support Staff	Paid
Parliamentary elections	Three weeks up to & including the day of election plus the day after		
Councillors duties	18 days out of the 195 working days per year Pro rata for part time employees	Local for both Teaching & Support Staff	Paid (School)

Councillors acting as Mayor or Chair of a major Committee	Additional 36 days per year		
Emergency Mountain Rescue and are called upon by the Police	Up to a maximum of 18 days per academic year. Pro rata for part time employees		Paid
Special Constables and are called upon during the working day	Up to a maximum of 18 days per academic year. Pro rata for part time employees		Paid

Claim Forms

The member of staff should acquire a claim form from the court. The form is then given to the Employer to sign. The court will then reimburse the individual for loss of earnings/subsistence. The Employer will then make appropriate deductions from the individual's salary.

Where a member of staff is on paid discretionary leave and receives an allowance for work done (e.g. juror's or councillor's allowance), any such monies must be paid back to the School. Where discretionary leave is granted without pay, salary will be deducted for working days only.

The onus for recovering allowances lies within the school. The Headteacher authorising the absence should advise the members of staff of their responsibility to pay any allowance back to the school and explain the process. It is then the school's responsibility to ensure recovery.

An employee must have time off work for Jury Service, but a Headteacher can ask the employee to make a request to delay their jury service if the absence will have a serious effect on the school and provide a letter of support to accompany the request.

An employee should be able to take time off to attend court as a witness in relation to personal matters; however this should be without pay. The employee should acquire a form from the court for re-imbursement of loss of earnings.

15. EXTERNAL EXAMINER/MODERATOR

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
External examiner, marker, awarder; external moderator; setters or revisers of question papers;	At Governors' discretion	National for Teaching Staff. None for Support Staff	Paid

the exam board's instructors or presenters of INSET courses; members of committees/subject panels			
Note: Support staff in posts on Grade 6 and above are required to obtain written consent for any employment they wish to undertake in addition to their primary post within the council/school			

This applies to work undertaken outside of school. Headteacher's/Governors need to be mindful of the Teachers Pay and Conditions Document and the School's Pay Policy when approving such work.

Staff should be encouraged to plan well ahead and to give schools good notice of their commitments to minimise disruption. Many staff like to do this work as a useful form of personal professional development. There **may also be many benefits to the school from this work**. Authorisation of discretionary leave, with or without pay, for these activities is totally at the discretion of the Governors/Headteacher. However, it is recommended that every effort should be made to release staff within the constraints of the needs of the school. When making decisions, Headteacher's are urged to be firm but fair.

Fees are normally paid for this work. It is recommended that where absence is approved with salary, any fees other than for work done in a member of staff's own time should be paid back to the school.

16. CONSULTANT/SPEAKER OR LECTURER

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Guest lectureship & consultancy	At Governors' discretion	Local for Teaching Staff. None for Support Staff	At Governors' discretion (School)

This may occur if a member of staff is invited to speak publicly to an audience on a particular subject. Discretionary leave, with or without pay is at the discretion of the Governing Board/Headteacher. Members of staff should notify the Headteacher well in advance of the event and ensure that all aspects of absences are covered, including any fees paid.

There is often great kudos attached to these occasions from which a school might benefit. Sometimes payment can be made in the form of equipment or resources for the school. In any case, the member of staff may have prepared for the occasion and travelled in their own time so it would not be unreasonable to allow some remuneration earned to stay with the member of staff, in recognition for the work done. A split between member of staff and school is therefore recommended.

SECTION 7 – OTHER REQUESTS

17. MOVING HOME

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
House removal where removal falls on a working day	(a) For members of staff recently appointed and moving into the area, requiring up to 3 days absence (b) For the staff where (a) does not apply	Local for Teachers. None for Support Staff	Teachers One day with salary or as advised within the Schools Relocation Policy Support Staff At the discretion of the Headteacher/Governors or as advised within the Schools Relocation Policy

This facility is designed for situations where the removal cannot be on any other day than a working day. Discretionary leave can only be given within 6 months of the commencement of employment for **support** staff.

18. EXAMINATION LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Examination leave for programmes of study which fall within the School's Staff Development Policy, or where exams taken will enhance the employee's professional development	At Governors' discretion	Local for both Teaching & Support Staff	Paid (School)

This facility should only apply where the member of staff is receiving financial and/or time support from the school for the programme of study.

It applies to examinations that have to be sat during working days.

It does not apply to driving tests (times for which can be selected) or for the written papers (which can be taken during evenings), unless the ability to drive is an integral requirement of that person's work.

In situations where staff are undertaking a programme of study that does not fall within the School's Development Policy, but that requires sitting an examination in work time, Governors may wish to exercise their discretion as set out in Section 8, provided that the qualification gained will enhance their professional development as a member of the school staff

19. GRADUATION & OTHER LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
University Graduation for the teacher, son/daughter, spouse/partner where graduation falls on a working day	As necessary	Local	1 day with pay 1 day without pay
All other categories come under this heading including family weddings, extended university graduation, discretionary extension to other discretionary leave allowances, elective/cosmetic surgery	At Governors' discretion. Up to a maximum of 30 days in any one academic year	Local for Support Staff. None for Teaching Staff	Unpaid

20. UNPAID LEAVE

In exceptional circumstances the Headteacher/Relevant Committee can authorise unpaid leave of up to 30 days in any one year where other leave provisions do not apply.

There exists a wide range of situations where staff may genuinely need time off during term time and, unlike other Authority staff, are unable to take annual leave. In these situations, schools are asked to consider requests submitted by staff.

Governors/Headteacher's are advised to think carefully about the effects on school organisation, disruption to pupil's education, the effects on other staff and the danger of setting precedents you may not wish or be able to follow.

Generally speaking, a compromise can often be found either on timing of the leave, using school holiday periods as part of the leave or rearranging the member of staff's working year (providing there is a benefit to the school). None of these would probably result in the need for significant amounts of unpaid leave.

Advice can always be sought from Schools HR Advisory Service.

The Governing Board are able to place a maximum on the number of requests they authorise within any one Academic Year, for extended unpaid leave, irrespective of the reason for the discretionary leave request.

21. URGENT REQUEST FOR LEAVE

REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
Transport failure, car breakdown or weather disruption	As unavoidably necessary	None	At discretion of Headteacher/Governing Board

These are situations that must rely entirely upon managerial discretion as no two cases are the same. The first priority in all cases is the safety and welfare of staff and pupils.

21.1 Transport Disruption

If there is a major disruption to the public transport system because of a strike or bad weather then it is recommended that staff who use this means of transport and have no other alternative, they should make every attempt to attend work, however if not possible they should be treated sympathetically. **Strikes will be known in advance and therefore the employee should have time to make alternative arrangements. Where there are severe weather impacts, the guidance for dealing with severe weather incidents should be followed**

Each individual case should be considered on its own merits, taking into account such factors as distance from home to school and availability of alternative methods of transport. It is expected that within these situations the school refers to the guidance issued in relation to managing in adverse weather conditions and implement their emergency plan/procedures.

Equally, if a member of staff's car breaks down and they make every effort to come into work as soon as possible by other means, they too should be treated sympathetically, although you may wish to seek some recompense for the hours lost.

In all other cases the guidance rule should be that staff should not be paid for work that they have not done.

If the disruption is significant and impacts on the ability for a school to meet minimum staffing levels and a decision to close the school is required; school closure decisions made by Headteacher following consultation with the Chair of Governors. Headteacher's are required to notify the LA (Head of Schools) immediately.

SECTION 8 – NOTES

22. ADDITIONAL GUIDANCE IN RELATION TO EXTENDED DISCRETIONAL LEAVE REQUESTS

Guidance on responding to requests from staff for time off for discretionary leave is covered within the Discretionary Leave Policy.

There is not an entitlement to time off for discretionary leave, however where requests are received, forward planning on behalf of both the employee and employer are necessary.

Staff should submit requests in writing (Appendix B) in a timely manner, stating the reason, the relevant dates providing as much notice as possible. If actual dates are not known, approximate dates should be provided with an explanation why it cannot be taken during a period of school closure. Staff should be mindful that it may not be possible to accommodate discretionary leave requests.

A decision needs to be made at individual Governing Board level as to who will make the decision for the extended unpaid discretionary leave and this should be clearly recorded. The Governing Board is recommended in all circumstances to delegate these decisions to the Headteacher other than when the decision is in relation to the Headteacher themselves. Where decisions relate to the Headteacher, or delegation hasn't been provided, all decisions would need to be referred to the Personnel and Pay Implementation Committee. This committee would need to be appropriately called, 7 days in advance and clerked by the School Based Clerk to Governors.

In order to preserve Governance for a potential appeal hearing it is recommended that all decisions for Discretionary Leave for staff are delegated to the Headteacher.

In consideration of any decision, the decision maker/s should consider the following:

- Continuity of educational provision
- The impact on the education and care of the children affected, which are the contractual duties of a teacher and other staff in school
- If it makes service delivery impossible, the request should be refused
- The precedent set for other staff, and the need to ensure fair and equal treatment for all
- Health and safety
- Budgetary i.e. any costs that may be incurred including employing cover staff
- Organisational implications
- Organisational context i.e. special measures, category
- Timing when the request is for i.e. when HMI are due to revisit
- The particular individual circumstances e.g. if the request was for Hajj, could the person undertake the pilgrimage at another time

Objectively justifiable reasons for any refusal should be provided, based on a legitimate business need.

The key consideration is balancing the need of the school against that of the individual.

All staff should be considered in the same regard.

It is essential that written records of discussions are kept, along with discretionary leave request forms/letters, outcome letters, notes of meetings etc.

An employee has the right of appeal against any discretionary leave request. Appeals will be heard by the Appeals committee of the Governing Board.

23. DEDUCTION OF PAY FOR TEACHING & SUPPORT STAFF

For periods of unpaid leave, deductions will be based on equated 7th of weekly pay.

DISCRETIONARY LEAVE & STATUTORY LEAVE
MANAGERS' HANDBOOK

PARENTAL LEAVE RECORD

Employee's Name: _____

Child's Name: _____

Child's DOB: _____

Other children qualifying? _____ Yes/No (*If yes, pin cards together*)

	Date Leave to begin	Date Leave to end	Number of weeks (days)	Cumulative total of (days) taken
Yr 1				
Yr 2				
Yr 3				
Yr 4				
Yr 5				
Yr 6				
Yr 7				
Yr 8				
Yr 9				
Yr 10				
Yr 11				
Yr 12				
Yr 13				
Yr 14				
Yr 15				
Yr 16				
Yr 17				

It is important that entitlement to parental leave is established on appointment and confirmed with the previous employer on the second reference request pro-forma.

Parental leave records should be shared with new employers when staff leave the service of the school.

False declarations should be regarded as a disciplinary offence.

DISCRETIONARY & STATUTORY LEAVE REQUEST FORM

This form should be completed in all cases where Discretionary or Statutory Leave is requested

Name of Employee:			
Address:			
Job Title:			
Tick the box which best described the type of leave sought. The relevant section/part of the policy is next to the option. By ticking this option and signing this form you are declaring that you have read and understood the particulars concerned:			
Parental Leave (S1, P1) ☐ Ante-Natal Appointment (S1,P2) ☐ Bereavement Leave (S2) ☐ Religious Observances (S4) ☐ Moving Home (S7,P16) ☐ Job Interview (S5,P10) ☐ External Examiner/Moderator (S6,P14) ☐ Consultant, Speaker, Lecturer (S6,P15) ☐ Other Public Duties (S6,P13) ☐ Extended Discretionary leave (S8,P21) ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	Paternity Leave (S1,P2) ☐ Shared Parental Leave (S1, P1) ☐ Dependents Leave (S1,P5) ☐ Urgent Request (S7,P19) ☐ Urgent Family Business (S1,P6) ☐ School Observations (S5,P11) ☐ Examination Leave (S7,P17) ☐ Medical Appointment (S3) ☐ Statutory Public Duty (S6,P12) ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
Is your request for leave (see the relevant section) : With Pay ☐ Without Pay ☐			
State the details of the leave requested: 			
If this is a request for Shared Parental Leave, have you included the signed declaration from the other parent or adoptive partner (see Appendix C)? Yes ☐ No ☐			
If this is a request for Shared Parental Leave, please confirm the number of requests for shared parent leave made since the birth of the child or adoption placement? 			
Summary of evidence provided to support application (if applicable): 			

I understand that by signing this form (and providing the additional information requested) I am declaring that I meet the specified criteria as detailed in the relevant section of the Policy. The information provided is factual and accurate and that I am aware that providing false information is an offence and could result in my summary dismissal and referral to the police

Employee Signature:		Date:
Approved by the Headteacher (please circle)	Yes	No
Headteacher Signature		Date:

SHARED PARENTAL LEAVE DECLARATION- TO BE COMPLETED BY THE OTHER PARENT OR PRIMARY ADOPTER

By signing this declaration I hereby confirm the following:

That I share responsibility with _____ for the care of the child concerned.

I meet the employment and earnings test as stipulated in section 4.8 of the (Insert Name of School) Discretionary Leave & Statutory Leave Policy.

That is agree to the amount of Shared Parental Leave given to the employee.

The information I have provided on this form is factual and accurate and that I am aware that providing false information would result in a referral to the Police.

Name of the birth parent or primary adoptive parent:	
Signature of the other parent or adoptive parent:	
Date:	

REQUEST FOR DISCRETIONARY LEAVE/**STATUTORY LEAVE** OUTCOME LETTER

(Please note that statutory requests cannot be declined, however they can be scheduled to meet business need. For guidance please contact the School's HR Advisory Service)

Dear

APPLICATION FOR DISCRETIONARY LEAVE/**STATUTORY LEAVE**

Further to your application for discretionary/**statutory leave** dated the _____, after careful consideration I have determined to **allow/not allow** your request.

Option 1 (if request has been allowed) You will therefore be granted leave from the xxxxxxxx to the xxxxxxxx and in accordance to section xx of this policy this will be with pay/without pay.

Option 2 (Statutory Requests-if request is allowed but dates need to be changed from what has been requested by the employee) You will therefore be granted leave and in accordance with section xx of this policy this will be with pay/without pay. Further to our discussion, due to the business need of the school, I am unable to grant the period requested on your application form; however I am willing for you to take your period of discretionary leave from the xxxxxx to the xxxxxxxx

Option 3 (if request has not been allowed) My reason for declining your request is as follows:

Outline the rationale for declining the request.

You have a right of appeal against this decision. Should you choose to exercise this right of appeal, you should notify the school based Clerk to the Governing Board, in writing, within 7 calendar days of receipt of this letter.

Your appeal letter should include your grounds for appeal, any evidence on which you intend to rely and the name and address of your representative.

Yours sincerely

Headteacher/Relevant Committee of the Governing Board

DISRECTIONARY LEAVE REQUEST- INVITE TO APPEAL HEARING

PRIVATE & CONFIDENTIAL

Dear

DISCRETIONARY **STATUTORY** LEAVE MEETING – APPEAL HEARING

Further to your appeal letter dated (insert date) I am writing to inform you that an appeal hearing against {my decision/the decision by the Relevant Committee of the Governing Board} at the meeting held on (date of meeting) has now been arranged. The date of the appeal hearing is (insert date) at (insert name of school) at the school.

Please find the enclosed documents submitted by the Management Representative which includes a copy of the order of proceedings. Please be aware that the appeal will not be a re-hearing of the case but a review of the decision made by the Headteacher/relevant committee, based on the grounds of appeal you submitted.

If you wish to submit any documentary evidence or call witnesses to the appeal hearing, you are required to submit details for the attention of the School Based Clerk to Governors, c/o (name of contact) no less than 7 calendar days prior to the appeal hearing.

Your documentary evidence may contain confidential or third party information, and should be redacted by yourself prior to submission in this process to maintain the confidentiality of, most commonly, a name but also of information that one party does not want to become public knowledge.

You should ensure that you have received appropriate consent prior to sharing this information. In relation to the identification of pupils by name, you will need to ensure that their names are redacted and replaced by an identifier e.g. pupil A, pupil B etc.

It will not be possible for the Headteacher/Advisor/Clerk to make redactions on behalf of the employee, as they will not be aware of any agreement/consent for disclosure. Once your bundle is forwarded on, in line with the procedure, you will be responsible for any data/information that has been shared inappropriately.

You are advised that you may, if you so wish, have a Teacher Association/Trade Union representative or a work colleague present at the hearing but no one else.

Additional copies of the documentation have been attached in order that you may pass them to your representative if you so wish.

Please note that the decision of the Appeal Committee is final.

Yours sincerely

SCHEDULE FOR APPEAL HEARING

1. The committee will ideally consist of 3 members of the Personnel Appeals Committee of the relevant Board (excluding the Headteacher or any other member of staff who works at the school). This may be 2 members where the School's Governing Board constitution dictates this or in exceptional circumstances. A member of the HR & Governor Support Service may be in attendance to support the panel.
2. The employee will be given a minimum of 14 calendar days' advanced notice of the hearing; informed, by the clerk to the Appeals Committee of Governors, in writing, of the purpose of the hearing, the allegations and a list of witnesses to be called by the Management Representative. The employee will also be supplied with copies of any documents to which it is intended to refer, and be advised of the right to be accompanied at the hearing by a Trade Union/Teachers' Association representative or a work colleague of his/her choice if he/she wishes, but by no-one else.
3. Not less than 7 calendar days in advance of the hearing the employee (or his/her representative) shall send to the Clerk of the Appeals Committee copies of any documents that he/she intends to refer to at the hearing, together with a list of witnesses that he/she intends to call.
4. The under mentioned procedure will be followed at an appeal hearing:
 1. Employee (or his/her representative) to put his/her case based on the grounds of appeal submitted.
 2. Employee to call any witnesses.
 3. The Headteacher/Nominated Person to ask questions of the employee (and/or his/her representative) and witnesses.
 4. The Appeals Committee to ask questions of the employee (and/or his/her representative) and witnesses.
 5. Employee's witnesses to withdraw from proceedings, if applicable.
 6. The Headteacher/Nominated Person to put his/her case in response to the grounds of appeal provided.
 7. The Headteacher/Nominated Person to call witnesses.
 8. Employee (or his/her representative) to ask questions of the Headteacher/Nominated Person and witnesses.
 9. The Appeal Committee to ask questions of the Headteacher/Nominated Person witnesses.
 10. Headteacher/Nominated Person witnesses to withdraw from proceedings, if applicable.
 11. Headteacher/Nominated Person to summarise their case.
 12. Employee (or his/her representative) to summarise their case.
 13. Summing up should concentrate on the key points of the case. These points should be concise and last no more than a few minutes.
 14. The Headteacher/Chair of the committee may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, s/he will specify the nature of that information. Any adjournment will normally be for a stated period.
 15. Following the summing up, both parties, together with their representatives will withdraw. If it is necessary to recall one of the parties for further information. If a member of the HR & Governor Support Service is in attendance to support the panel then, he/she shall remain during the relevant Committee's deliberations.

5. During the Appeal hearing the decision of the Chair of the committee, as to procedure and which matters are of relevance to the proceedings, will be final.
6. The Chair of the Appeals Committee will communicate the decision, with reasons, to both parties either orally at the conclusion of the hearing or in writing by the Clerk within 7 calendar days of the hearing. If given orally, the decision will be confirmed in writing by the Clerk. No further right of appeal will be available to the employee under this procedure.

DISCRETIONARY/STATUTORY LEAVE- APPEAL HEARING OUTCOME LETTER

PRIVATE & CONFIDENTIAL

Dear

DISCRETIONARY/STATUTORY LEAVE – APPEAL HEARING OUTCOME

Further to the Appeal Committee hearing on (date of meeting) I confirm that the Committee has considered your appeal.

The Appeals committee decision is, that after careful consideration, to:

DISCRETIONARY LEAVE

Option 1 (delete as necessary)

allow your request with/without pay (delete as necessary). This will be for the period {date from} to {date to}

Option 2 (delete as necessary)

not allow your request (insert any final statement).

If you decide to take the discretionary leave without the required authorisation, this matter will be dealt with as a breach of contract on your return to work. This will result in an investigation taking place in accordance with the school's Disciplinary Procedure and will be considered as gross misconduct which could result in your summary dismissal from post. you will be expected to return to work on {insert date}

BOTH

The decision of the Appeal Committee is final.

Copyright Rochdale Borough Council
September 2024

