



Discretionary Leave Policy

September 2018

Wardle Academy Trust

Next review – May 2021

1. Introduction

(The Wardle Academy Trust Board of Trustees has agreed this Policy) and, as such, it applies to all members of staff within the Trust.

It should be read in conjunction with other relevant documents (e.g. the Burgundy Book, the Green Book) which cover the terms and conditions of specific groups of staff. Nothing in this document overrides those particular provisions.

Staff who were subject to TUPE arrangements in September 2017, and who have not changed contracts since joining the Trust, are still subject to the Rochdale LA Discretionary Leave Policy of November 2015.

2. Principles of Application

The Working Time Regulations 1998 and S.1 of the Employment Rights Act 1996 deal with an employee's statutory and contractual rights to paid holidays ("annual leave"). Other sections deal with the right to time off for particular reasons (e.g. public duties) and the legislation has been amended to incorporate EC provisions on Dependency Care. Notwithstanding these statutory provisions, there is no general right to time off or for that time to be paid. It is normally granted at the discretion of the employer and in Wardle Academy Trust, the policy is determined by the Board of Trustees.

It is recognised that there will be occasions when a member of staff could face an emergency or an unforeseen circumstance outside of work that needs their urgent attention and they will need to request time off to deal with the immediate crisis. If there is no provision for dealing with such situations it will increase their anxiety and only serve to make a bad situation even worse. Therefore, all staff will be made of aware of the provisions of this policy; of what to do if they wish to request time off; and what their responsibilities are in these situations.

Any staff member is at liberty to request time off and they are entitled to have such requests given reasonable consideration. The purpose of this policy is to provide a framework of guidance to enable requests to be dealt with in a reasonable and consistent way. Each case will be judged on its own merits and circumstances. The granting of time off in one case will not necessarily set a precedent for other cases.

Line managers receiving an application for time off will be required to keep a formal detailed record of the request including a description of the circumstances and whether or not the request was granted in accordance with the framework of the policy.

The Headteacher (or CEO if it is the head requesting time off) or Head of HR has the delegated authority as to whether to grant time off and whether it should be paid or unpaid. Appeals against the decision should be made via the Grievance procedure. Any abuse of the policy will be dealt with under the Trust's Disciplinary procedure.

In exercising their discretion, the Headteacher/CEO/Head of HR will give full consideration to all the circumstances of the case, including (where appropriate) the personal relationship of the person affected and conditions of service of the member of staff. Teachers and support staff whose holiday periods are defined by school holidays may need to be granted discretionary leave during term time. Any costs of supply cover for time off granted under this policy will have to be met from the school's allocation of budget.

3. Headteacher / Line Manager Responsibilities

All Headteachers / Line Managers should acquaint themselves with the provisions of the Trust's Discretionary Leave policy. On receiving a request for time off the Headteacher/Line Manager will meet with the member of staff as soon as is practicable and with due regard to the timing of the intended absence. They will discuss the circumstances of the request, gather all the necessary information and document the outcome of the meeting.

Prior to any decision, the headteacher/CEO must liaise with HR to ensure consistency of action across all schools. Whether the request has been granted and whether or not it will be paid will be communicated, normally in writing, within a few days of the decision.

Any appeal against a decision not to grant to time off, or not to pay the time off, must be made to the CEO (or Chair of Trustees, if the request is from the CEO) via the Grievance procedure. Where the staff member indicates their intention to appeal the Headteacher/Line Manager will provide them with a copy of this procedure. They will also provide the governance appeal panel with relevant information relating to the consideration of the original request and the reason for its refusal. When the Grievance procedure has been completed, the appeal stage panel decision will be final.

The Headteacher/Line Manager will ensure that there are proper records of the consideration of all requests for time off and that a copy is placed on the individual's personal file on each occasion

4. Staff Responsibilities

All staff should acquaint themselves with the provisions of the Trust's Discretionary Leave Policy. Staff will be expected to have taken steps to avoid requesting time off wherever practicable. This is particularly relevant where there is a possibility of the need for time off to re-occur. Examples of this would include:

- medical appointments (whether one-off or part of ongoing treatment);
- care of a dependant.

Unless there are exceptional circumstances preventing the staff member from doing so, all requests for time off must be made in advance so as to give the Headteacher/Line Manager a chance to consider the request before the intended absence is incurred. As much detail as is reasonable should be provided to assist the Headteacher/Line Manager in considering the circumstances of the request.

If an unexpected emergency does arise and the staff member is unable to let the Headteacher/Line Manager know before taking the leave, they must let them know as soon as is practicable, by telephone if necessary. On their return to work they will need to account for the time off in the same way as they would normally have done had the time off been planned.

If the staff member wishes to appeal against the Headteacher/Line Manager's decision they must do so in writing using the Grievance procedure, as soon as is practicable after the decision is known.

5. Categories of Discretionary Leave

(A) STATUTORY PUBLIC DUTIES

(Employment Rights Act, 1996, Section 50)

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:

- how much time off is required to perform duties as a whole and how much for the particular duty in question;
- how much time off the member of staff has already had for other public duties
- 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.

STATUTORY PUBLIC DUTIES (Employment Rights Act 1996)			
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 police authority statutory tribunal 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	Paid
School Governor duties Chairs and Vice Chairs of School Governing Bodies within Rochdale LA 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	Local for both Teaching & Support staff	Paid Unpaid

(B) OTHER PUBLIC DUTIES

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 (See note C2.1)	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 Parliamentary & European elections	1 day to contest an election plus the day after Up to three weeks up to & including the day of election plus the day after	Local for both Teaching & Support Staff	Paid
Councillors duties Councillors acting as Mayor or Chair of a major Committee	Up to 18 days out of the 195 working days per year Additional 36 days per year	Local for both Teaching & Support Staff	Paid Paid
Service in Non-Regular Forces -attendance at annual camp	See Military Reservists Policy Wherever possible, staff should negotiate to attend a camp outside term time.	Local for both Teaching & Support Staff	Paid for up to 10 days

(C) COMPASSIONATE LEAVE

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. The family relationships given in the tables are therefore only for guidance.

The periods of leave indicated in the table may, by discretion, be extended up to a maximum of five days for any one bereavement if it is felt that the factors surrounding the case warrant this.

TIME OFF TO CARE FOR DEPENDANTS			
REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
<p>1. To make arrangements for the provision of care, in relation to unforeseen and emergency matters:</p> <ul style="list-style-type: none"> • to deal with an emergency including 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 notes C4.5 - 4.7 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
<p>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)</p>	As necessary	Minimum legal requirement	Unpaid

TIME OFF TO CARE FOR DEPENDANTS

(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.

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. It is permissible for this to be done after the absence if it could not reasonably have been done beforehand.

When considering requests for this leave, Headteachers 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, carer's 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 or extra unpaid leave.

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.

(D) PARENTAL LEAVE

(Employment Rights Act 1996 and Maternity and Parental Leave (Amendment) Regulations 2002)

PARENTAL LEAVE			
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 birthday 28 days prior notice has to be given, 21 if child disabled. (see note C 5.6)	Statutory	Unpaid

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

Employee's 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.

(E) PATERNITY LEAVE

PATERNITY LEAVE			
REASON FOR ABSENCE	PERIOD OF ABSENCE	NATIONAL/ LOCAL AGREEMENTS	PAID/UNPAID & SOURCE OF FUNDING
<p>This is separate from Parental Leave and is to allow 'partners' time to assist at home following the birth of a child or the placement of a child for adoption</p> <p>Additional Paternity Leave (if the child was due or was adopted prior to 4th April 2015)</p>	<p>Either 1 week or 2 consecutive weeks' leave to be taken in one block, but must be completed either within 56 days of the actual date of the birth of the child or the Expected Week of Childbirth or placement with the adopter</p> <p>Note: There is a statutory application process which must be followed</p> <p>Up to 26 weeks (the child's mother or adopter must have started working again)</p>	<p>National Agreement for Support Staff Local Agreement for Teachers</p>	<p>Teachers: 1 week with normal pay followed by one week on Statutory Paternity Pay if over Lower Earnings Limit</p> <p>Support Staff: 1 week maternity support leave on normal pay followed by one week on Statutory Paternity Pay if over Lower Earnings Limit</p> <p>For Additional Paternity pay any relevant payment to the child's mother must have stopped, with at least two weeks of the 39 week payment period remaining. Additional Statutory Paternity Pay is only payable during the period of the 39 week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period.</p>

(F) OTHER REASONS FOR REQUESTING LEAVE

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.
Transport failure, car breakdown or weather disruption	As unavoidably necessary	None	At discretion of Headteacher/Governing body
House removal where removal falls on a working day	For members of staff recently appointed and moving into the area, requiring up to 3 days absence For the staff moving locally – 1 day	Local for Teachers. None for Support Staff	One day with salary (Teachers and Support Staff)
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
Job Interview	As necessary but for Public Sector appointments only	Local for both Teaching & Support Staff	5 days Paid in any academic year thereafter Unpaid
Visits of necessary observation to another school (e.g. as part of an interview or result of securing a new job)	At headteacher's discretion	None	5 days Paid thereafter Unpaid
External examiner, marker, awarder; external moderator; setters or revisers of question papers; the exam board's instructors or presenters of INSET courses; members of committees/subject panels	At headteacher's discretion	National for Teaching Staff. None for Support Staff	Paid
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 headteacher's discretion	Local for both Teaching & Support Staff	Paid
Ante-natal care appointments where advised by a doctor, mid-wife or health visitor	As necessary	Legal requirement	Paid
Medical appointment (hospital) or screening where the time or the		Local for both Teaching &	Paid

appointment cannot be chosen to fall out of working hours	As necessary to a maximum of 12 hours in any one academic year Over 12 hours in any one academic year	Support Staff	Unpaid
Appointments for Medical Screening	As necessary	Local	Paid
IVF Treatment	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
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
Attendance at key school or college event of son/daughter	1 per child per year. 2 hours.	None	Paid
Accompanying son/daughter who are representing nation at a sporting, musical or cultural event	At headteacher's discretion	None	Unpaid

6 Situations Whereby Discretionary Leave will not be Approved

Unless the situation is exceptional, the following reasons for leave will not be approved:-

- Holidays in term time (unless agreed as part of the terms and conditions of employment). This includes early/late flights to avoid premium charges
- Driving lessons/tests
- Non-school related courses including speed awareness courses
- Accompanying partners on business trips
- Accompanying children/relatives to sporting or musical events (including overseas representational tours, unless the children are representing their nation*)
- To facilitate routine domestic arrangements (e.g., carpet fitting, arrival of 'white' goods, installation of cable/satellite tv, passport renewal)
- To facilitate car servicing or repair
- Accompanying family members/friends to routine medical appointments

* National representation (at headteacher's discretion)

7. Transport Failure/Weather Disruption/Local or National Emergency Situations

There is an expectation that staff choose to live in locations that do not affect their ability to get into work, even during times of transport failures or poor weather. However, the Trust does recognise that regardless of where staff live, there will be occasions during the year when their journey to and from work will be hindered.

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 students.

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.

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 each academy 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 the academy may wish to seek some recompense for the hours lost if this is regularly repeated.

8. Deductions from Pay

Where the time off granted is unpaid, the deduction from salary will be at the following rates:-

- Teaching staff: 1/365th of the annual salary for each day's absence;
- All other staff: 1/5th of a normal week's pay for each day's absence