



BROADWATER
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PRIMARY SCHOOL

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Discretionary Leave Policy for Teachers and Support Staff 2020-2023

(West Sussex Discretionary Leave – Teachers & Support Staff 2008 (amended Sept 09))

Approved by Governors Spring 2020

Turn your ear to wisdom and apply your heart to understanding (Proverbs 2:2)

Broadwater is a Christian School. We will enable children to become wise, confident, successful learners with the motivation, skills and responsibility to make a positive difference in God's world. Our vision is underpinned by the values we live by.

The Holy Spirit produces this kind of fruit in our lives: love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control. There is no law against these things! Galatians 5:22

It is this fruit that, in partnership with parents, we will instil in the children of our school.

Discretionary Leave Policy

Discretionary Leave – Teachers and Support Staff

All absence from work should be recorded (including annual leave) and any unpaid leave or other absence which might affect pay (e.g. sick leave, jury service) must be notified to HR Shared Services. It is recommended that Discretionary Leave for all school staff either paid or unpaid should be the subject of an absence policy determined by each school. Guidance is available from HR Shared Services.

Appointments During Work Time

Absences for appointments during normal working hours not covered in this guidance are entirely at the discretion of the governors.

Normally, staff should not make appointments during work time – particularly where this may cause disruption and/or require cover to be arranged. It is recognised that, because of the working hours of others, such appointments are, occasionally, unavoidable. However, it should be borne in mind that many of these services are now accessible on Saturdays and that, normally, all staff should be able to arrange appointments which do not interrupt the school day.

If it is felt appropriate to grant absence for an appointment during normal working hours:

- In the case of a teacher there should be no disruption to normal teaching, unless satisfactory cover is arranged at no cost to the school;
- Support staff would normally be expected to make up the time.

Leave for Medical Reasons

There may be a variety of situations where employees will need time off for medical purposes and the general intention is to accommodate reasonable requests for such time off. All requests must be made to the Headteacher/Governors, giving reasonable notice.

Routine Appointments

Where practical, employees should make routine appointments for the doctor/dental/hospital etc outside of working hours, where this is not practical, reasonable paid time off will be approved.

Cancer Screening

Paid time off will be permitted for the purpose of cancer screening.

Fertility Treatment

Employees requesting time off for fertility treatment will in general be supported. The specific needs will need to be understood, and the various provisions for leave set out in this policy will be used to enable this to happen where reasonable. This may mean time off for medical appointments, making full use of compassionate and special leave. The leave agreed may be paid or unpaid depending on the specific circumstances. In any event, the situation will be treated with sensitivity, and with the understanding the process can take some time.

Issues to be taken into consideration could include:

- The timing of some treatment is critical and cannot always be planned well in advance;
- Clinics offering this treatment may require long journeys;
- After treatment, they may need to be time off for recuperation; reactions to any unsuccessful treatments.

Time Off for Trade Union Activities

Accredited Representatives

Employment legislation provides for local trade union officials/representatives (i.e. recognised by the employer and the union) to have reasonable time off with pay and facilities to enable them to undertake their trade union duties. Time may be taken for both consulting and representing and for any necessary training related to these duties. The extent of the time off and facilities is for governors to determine but it must be 'reasonable' in all the circumstances having regard to the Code of Practice issued by ACAS (Arbitration, Conciliation and Advisory Service).

Under local agreement with the teachers' associations, a certain amount of supply cover to attend training conferences will be funded by the Authority provided it is agreed in advance and does not normally involve absence from school more than once a year.

Union officials should also be allowed reasonable time off without pay to engage in other union/association activities not related directly to local industrial relations (e.g. national conferences).

Union Members Other Than Officials

Trade union members (as distinct from officials/accredited representatives) are entitled to reasonable time off without pay to attend union meetings related to their own employment. However, it is the practice of the County Council to allow attendance without loss of pay at annual union meetings for support staff in the late afternoon, provided there is minimal disruption to work.

Similarly, trade union officials and/or members are entitled to reasonable time off without pay to engage in activities which are not directly related to the conduct of employee relations with their employer. National conferences may fall into this category although the extent of time off for such purposes may be the subject of local negotiation.

Disputes/Industrial Action

A dispute between a trade union and an employer arises when a trade union is prepared to call on its members to take industrial action of some kind (e.g. a work to rule or a strike). A withdrawal of labour will be lawful if the dispute is between the employer and the union (not some other employer) and if the union has followed proper procedures by way of holding a ballot in the approved manner.

The County Council does not have a formal disputes procedure covering its employees, except that UNISON (covering support staff) may refer an issue to a special meeting of the Staff Joint Committee.

You should consult the HR Professional support team as soon as it appears that a dispute and/or industrial action might be about to arise within the school.

Compassionate Leave

Leave on compassionate grounds is entirely at the discretion of the governors. The following guidelines may be adopted for leave with pay in any leave year. These guidelines will be administered on a pro-rata basis for part time staff:

- death (including the funeral) of member of immediate family - up to 5 days paid.
- Death of other near relative (including the funeral) - up to 3 days.
- Death (including the funeral) of a close friend – one day.

- Child's illness - up to 5 days in any school year. This is intended to provide first day cover until the employee can make alternative arrangements; absence for the duration of the illness should be in very exceptional circumstances only.
- serious illness of a near relative - up to 5 days in any one year. This is intended to provide first day cover until the employee can make alternative arrangements; absence for the duration of the illness should be in very exceptional circumstances only.

Any period of compassionate leave in excess of two weeks will normally be considered without pay rather than with pay, taking into account the circumstances and needs of the school.

Interviews

Paid leave of absence to attend interviews for appointments in teaching/local government on the basis of a maximum of five interviews in any year. Paid leave will be granted for the interview process but any further leave required will be unpaid.

Review

Unpaid leave may be granted at the governors' discretion; this may be appropriate for interviews for posts outside teaching/local government.

Public Duties

Employees are entitled to 'reasonable' time off but not necessarily with pay for the performance of such duties as:

- a Justice of the Peace
- a member of a
 - Local Authority
 - Statutory Tribunal
 - Health Authority
 - Water Company
- a member or governor of a maintained educational establishment maintained by a Local Authority

In the case of a **teacher**, paid leave of absence of up to 18 days in any year will be funded by the Authority provided it is agreed in advance for certain of the above.

In the case of a **support member of staff**, governors have discretion to grant up to 18 days' paid leave of absence. Additional time off may be granted by the governors, either unpaid or as a charge to the school's budget.

Jury Service

An employee required to undertake jury service is, effectively, entitled to paid leave of absence by virtue of the allowances which may be claimed from the Court, namely:

- travelling expenses, including parking fees
- subsistence allowance
- financial loss allowance

An employee should receive a Certificate of Loss of Earnings with the summons to attend court. This must be sent to Pay and Employment Services for completion and returned to the employee to take to Court. At the end of the Jury Service, the employee needs to obtain a statement of the actual Loss of Earnings Allowance paid, for submission to Pay and Employment Services so that the amount can be deducted from his/her salary and credited to the school's budget.

NB the school needs to notify HR Shared Services at the start and finish of the absence using form AR (absence return).

Attendance as Witness in Court/Employment Tribunal

Attendance as a witness may be on the basis of paid or unpaid leave of absence, as explained below. However, in all cases, a school must keep HR Shared Services informed. If there are any queries relating to a witness's expenses etc., advice is available from the Legal Services Department.

Paid Leave of Absence

Where a member of staff is required to attend as a witness arising from his/her employment, paid leave is automatic. He/she must:

- ascertain from HR Shared Services the daily amount of loss of earnings for the attendance concerned;
- enter a claim for this from the party (other than the County Council) who called him/her to give evidence;
- Inform HR Shared Services when the claim has been paid – so that the amount can be deducted from salary.

Unpaid Leave

If attendance is in the employee's private capacity, he/she is expected to take annual leave. If this is not possible, unpaid leave of absence should be granted, but it should be made clear that the employee should claim loss of earnings and that any shortfall may not, necessarily, be made up.

The procedure in the latter circumstances requires the employee to:

- obtain prior agreement to leave of absence;
- insist on a subpoena or witness summons as a pre-condition of attendance (as the issuing party has to offer to meet the witness's expenses);
- ascertain from HR Shared Services, the daily loss of earnings (which will include Saturday/Sunday if the absence is for a complete week or includes a weekend);
- enter a claim from the party who called the employee as a witness;
- inform HR Shared Services of the full period of absence so that the loss of earnings is deducted from salary (even if this exceeds the amount recovered).

Service in Non-Regular Forces

It is the Authority's policy to grant two weeks' paid leave of absence for attendance at summer camp etc., to an employee who is a member of the Non-Regular Forces.

An employee who wishes to become a member of the Non-Regular Forces should prior to joining, seek approval from the headteacher/governing body, as appropriate. Such approval should not be withheld unreasonably.

Special Leave

Paid

It is recommended that an employee be granted paid leave in special circumstances as follows:

- moving house where contractual obligations mean that the moving date falls in school term-time - one day
- bus or rail strike which prevents travel to work, with no other means being reasonably available - one day
- other personal considerations (e.g. attendance at a son's/daughter's graduation ceremony) - up to three days
- an employee who is being made redundant should be given reasonable paid time off to look for a new job or to arrange training

Unpaid leave

The headteacher may grant unpaid leave in accordance with the school's policy (e.g. up to a maximum of 10 working days) **for urgent personal considerations**. Requests for longer periods may then be referred to the Chair (or Vice-Chair) of Governors for due consideration. Each case should be considered on its merits and is classed as 'leave of absence' rather than 'extended leave' for the purpose of the supply regulations. It should also be noted that periods of unpaid leave affect pension benefits as it does not count as reckonable service.

For Support Staff who are members of the LGPS, there may be implications for their pension contributions whilst taking unpaid leave. Any additional regular contributions or contributions being made for the purchase of additional membership under the LGPS will remain payable throughout unpaid leave. The contributions will be calculated on the rate of pay receivable, as if the individual was not on unpaid leave. The additional benefits therefore continue to accrue in full. The individual needs to make arrangements with HR Shared Services for the contributions to be collected, so early contact with that office is advised to ensure continuing cover.

N.B If the contributions are not made then the contract to purchase additional benefits would cease and would not recommence on return from unpaid leave.

Study Leave

Teachers

For studies leading to external Higher Education qualifications which contribute to a teacher's professional development, it is recommended that up to 20 working days paid leave be granted over the duration of the course, with not more than 5 days in any one year, plus the days of the examinations.

Support Staff

The National Conditions of Service state that paid leave of absence should be granted for the purpose of sitting examinations applicable to local government service. In accordance with the Authority's scheme, it is recommended that paid leave be permitted:

- for study revision for the first attempt at an examination on the basis of one day for each day of examination, with a maximum of one week (extended in exceptional cases only);
- for study by correspondence course, up to two days leave for each day of examination, with a maximum of two weeks.

Adverse Weather

Paid time off work because of adverse weather is at the discretion of the governors/headteacher. It should be borne in mind that every employee has a contractual duty to report for work and is expected to make every effort to attend, even if arrival is delayed. This applies equally to public transport strikes and other emergencies as well as adverse weather.

If it is necessary to close a school, employees are still expected to report for work – unless they are instructed or advised not to (in which case they must be paid as normal).

If an employee does not attend for work on the grounds of adverse weather conditions, he/she must submit full details to the headteacher. If the headteacher is satisfied that all reasonable efforts were made to get to work, the employee should be paid as normal for the first day; it is expected that alternative arrangements would normally be made to attend subsequently. If the headteacher is not satisfied with the reasons for nonattendance, the absence may be without pay and Pay and Employment Services should be notified accordingly.

As an alternative to paid or unpaid leave of absence, the headteacher may exercise one of the following options, according to the circumstances:

- agree that the employee can work at home (where this is realistic/feasible);
- arrange for the employee to make up all or some of the absence by working additional hours as agreed;
- authorise annual leave;
- agree that the employee may report to work elsewhere.

Employees who are genuinely late for work and/or sent home early because of adverse weather should be paid as normal – although the headteacher may require the time to be made up.

If an employee asks to leave early, a deduction should normally be made from pay, unless the request is reasonable having regard to the conditions. Otherwise, it may be appropriate for the time to be made up.

When there are adverse weather conditions, staff should be advised to listen to local radio broadcasts, particularly for information about possible closure of the school, and should, if necessary, try to contact the headteacher for advice. When the school remains open for pupils there needs to be staff available to teach and supervise; they must, therefore, make every reasonable effort to attend.

Elections

Paid leave of absence may be granted to support staff to undertake polling duties on behalf of the Local Authorities in West Sussex at Parliamentary and local elections.

Leave of absence for teachers is not normally appropriate unless the school is being used as a polling station.

Leave for Religious Festivals and Cultural Observance

Headteachers have a responsibility in accordance with the County Council's Equal Opportunities policy, to respond reasonably and sensitively to any request from an employee regarding their cultural or religious needs.

County Council conditions of service provide for reasonable opportunities for flexible working arrangements (paid or unpaid) and other schemes which allow variations, in agreed circumstances, from the original contracts of employment. Therefore, a member of staff who wishes to observe a

religious or cultural tradition should consider whether it is practical to do so by using either leave or flexible arrangements.

Care should be taken in responding to requests for leave for the purposes of religious observance as the school may need to provide justification for not agreeing to such requests. Further advice is available from the PMS Team.

See “Religion and Belief in the Workplace” for further guidance. Further information about a number of faiths is contained in the Faith Guide. Both these documents can be downloaded from the Diversity and Equal Opportunities section of the Schools’ HR Guide.

Discretionary Paternity Leave for teacher employed in WSCC maintained Schools

Please see the Teachers’ paternity policy for further information.