



## King David Primary School

# Staff Special Leave of Absence Policy

### **Summary**

This guidance deals mainly with special leave for compassionate or other personal reasons, given in accordance with local conditions of service instead of a statutory entitlement.

Statutory provisions for leave of absence for certain other reasons are available from the school's HR service, including:

- Maternity leave
- Adoption leave
- Paternity and parental leave
- Flexible working
- Public duties
- Union duties
- Time off for study and training

Special leave overlaps with the statutory right to reasonable time off for dependants. This guidance includes information on the statutory right and advice on how this should be accommodated within the authority's leave of absence scheme.

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## **Special leave of absence scheme for teachers - introduction**

The Birmingham leave of absence scheme for teachers is in two parts:

- The limited discretionary powers available to head teachers, with a commentary
- The role of governing bodies in dealing with all other matters, including some guidance

### **Part 1 of the scheme – head teacher’s limited discretion**

The limited discretions available to head teachers allow them to grant special leave of absence, subject to the needs of the school, for specified reasons and within specified limits. In most cases the scheme specifies that special leave, if granted, is paid. Attached to each reason is a commentary which is not part of the scheme but which has been prepared by the authority, in consultation with the teachers’ associations and support staff unions, to assist head teachers in the interpretation and management of the scheme.

### **Part 2 of the scheme – governing body’s decisions**

Governing bodies are responsible for decisions about leave which are not within the head teacher’s discretion, including applications for special leave from the head teacher, and should delegate such decisions to the chair of governors or a suitable committee, so that any appeals can be heard by the appeals committee. There should be a policy, or at least some guidelines, to provide fair and consistent treatment to all employees. Attached to this part of the scheme is some advice to assist governors in preparing their policy on special leave of absence.

## **Managing requests for special leave**

Head teachers should:

- Remind employees that they must apply for special leave, and in reasonable time, having regard to the fact that some requests will be outside the discretion of the head teacher and there have to be referred to a committee of the governing body;
- draw employees’ attention to the leave of absence scheme as part of induction and also at the beginning of each school year;
- remind all employees at appropriate intervals that they are expected to consider their responsibilities under their contracts of employment and how to reconcile them with family needs, in particular to try to plan in advance for the possibility that normal care arrangements may be disrupted (see notice in Appendix One);
- explain that if requests for special leave become frequent a head teacher may need to discuss the personal reasons with the employee because the frequency is incompatible with the needs of the school;
- invite employees to apply - at the beginning of the school year where possible, otherwise as soon as possible - for leave of absence for unavoidable religious ceremonies, so that plans for cover can be made in good time, on the understanding that the leave is only for religious ceremonies which have to be observed unavoidably and cannot be observed outside working hours – see below for further guidance.

## **Informing Schools HR Services of special leave granted**

Schools must inform Schools HR Services of special leave granted using the forms provided by HR. The form to be used will depend on the reason for the leave and whether or not it is paid in accordance with the provisions of the leave of absence scheme, i.e. whether it falls within part 1 or part 2 and, if in part 2, on the governing body's decision about pay.

## **Notice for staff**

A notice for head teachers to give to all staff at the beginning of the school year (or term) and as part of induction is in Appendix One.

## **Time off for dependants – the law**

Section 57A of the Employment Rights Act 1996 (as amended) provides that

“An employee is entitled to be permitted by his employer to take a reasonable amount of time off during the employee's working hours in order to take action which is necessary-

- (a) to provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted;
- (b) to make arrangements for the provision of care for a dependant who is ill or injured;
- (c) in consequence of the death of a dependant;
- (d) because of the unexpected disruption or termination of arrangements for the care of a dependant; or
- (e) to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him.”

There is an explicit statement that illness or injury includes mental illness or injury.

“Dependant” is defined as an employee's spouse or civil partner, child, parent, a person living in the same household at the employee (other than a tenant, lodger, boarder or employee). For the purposes of (a) and (b) above, a dependant also includes any person who reasonably relies on the employee for assistance on an occasion when the person falls ill or is injured or assaulted or to make arrangements for the provision of care in the event of illness or injury. For the purposes of (d) above it also includes any person who reasonably relies on the employee to make arrangements for the provision of care.

The rights do not apply unless the employee tells the employer the reason for absence as soon as reasonably practicable and, except where that cannot be done until after the employee has returned to work, tells the employer how long he or she expects to be absent.

The Act is silent on the question of pay, i.e. it does not specify that the time off must be paid or unpaid.

## **Reasonable time off for dependants – guidance on special leave**

This is probably the most difficult part of the leave of absence scheme to manage.

The legal right to reasonable time off for dependants (see above) is one of the various pieces of legislation to support parents and others with caring responsibilities in the context of a society where support from relatives is not necessarily available, where Government encourages parents to work and where people seek the advantages of paid employment.

Although the Act uses the phrase “entitled to be permitted by his employer” it does not specify that the permission has to be given in advance. However, the test of reasonableness is crucial and employees are not entitled to unreasonable time off. Therefore it is in the employee’s interests to seek assurance as soon as practicable that the absence is regarded as reasonable and therefore covered by the statutory right.

There is no definition in the legislation of “reasonable”. However, employees have a duty under their contracts of employment to be available for work, unless they are sick or on maternity leave (or paternity leave, parental leave etc.). As part of that duty they should make arrangements for the regular care of dependants who need such care. Problems arise when these normal care arrangements are disrupted. The question at issue is whether it is reasonable to expect an employee to have alternative arrangements. Usually this question is asked when a child of an employee is too ill to go to school or to the childcare provider, and the employee has no relative or friend able to care for the child at home.

Reasonable time off is related to the time when the circumstances arise, hence the use of the terminology “when a dependant falls ill” rather than when a dependant is ill. There is specific provision for time off to make arrangements for the provision of care for a dependant who is ill or injured.

By its definition of a dependant the legislation also acknowledges that an employee may only be called upon to provide care in an emergency rather than on a regular basis and in respect of these dependants (who are likely to be adults) cannot be expected to have either normal or alternative care arrangements in place.

There has not been much case law on the interpretation of ‘reasonable’ in respect of time off for dependants. One employment tribunal case heard that both the normal care arrangements and the alternative care arrangements on which the employee had relied when normal care had been disrupted previously were unavailable on a particular day and found that the employee’s request for that day off work was reasonable, even though the unavailability of both arrangements was known in advance. “Unexpected” disruption or termination of arrangements for the care of a dependant is therefore not the same as “sudden”. Even if the disruption is known some time in advance the test of reasonableness may still be met. In this case the employee had alternative arrangements, so it offers no guidance on the reasonableness of time off when no alternative arrangements have been made.

However, the terminology of the legislation offers some guidance. It relates to the time when circumstances arise, by using the phrase “when a dependant falls ill” rather than when a dependant is ill. It also makes specific provision for time off to make arrangements for the provision of care for a dependant who is ill or injured, so it does not envisage that the right to reasonable time off will extend to caring for a dependant for the whole duration of the illness.

Government guidance states that an employer who feels that an employee is taking more time off than the employer can sustain should warn the employee that the level of time off is unacceptable.

As the leave of absence scheme allows head teachers to exercise their discretion to grant up to three days' paid leave due to the illness of a member of the teacher's immediate family, it implies that granting such leave would be reasonable. However, the leave of absence scheme as a whole is discretionary and subject to the needs of the school. The head teacher has to balance those needs with the circumstances of the employee, and with precedents and fairness, having regard to the maxim that good employees are a school's most valuable asset.

### **Time off for medical appointments etc.**

Employees are expected to arrange appointments with doctors and dentists outside working hours. It is acknowledged that this may not be possible when the appointment is with a hospital consultant, although where possible employees should seek an appointment during a school holiday. However, when this is not possible (because of waiting lists or the urgency of the medical condition) then the employee should be given paid time off to attend the appointment. Likewise when an employee needs to see a doctor or dentist urgently and an appointment is not available outside school hours paid time off should also be granted; it is "an urgent personal reason, which could not have been foreseen".

Further guidance is available within 'Managing Staff Sickness in Educational Establishments'.

### **Weddings**

Although the leave of absence scheme does not refer to civil partnerships, the same rules should be followed, in order to comply with the Equality Act.

Time off for weddings is not a right. Head teachers do not have discretion to grant leave of absence for employees' own weddings. Employees are expected to arrange their own weddings at weekends or during school holidays and not to seek any time off work for the wedding or the honeymoon. Head teachers are advised to ensure that this expectation is fully understood, employees' requests for time off during term-time for their own weddings are highly likely to be denied by the governing body, even in cases when weddings are arranged not by the bride and groom but by their families.

Employees should be invited, wherever practicable, to advise close relatives planning a wedding that contracts of employment in schools do not enable employees in schools to take annual leave during school terms, so that they would have to apply for special leave to attend a wedding taking place during school hours, and that the result of such an application would depend on the needs of the school. This could therefore lead to a request for leave of absence being denied.

A close relative is defined by the City Council as "parent, husband, wife, brother, sister, child, grandparent, grandchild, parent-in-law, daughter or son-in-law" and also "a person standing in special relationship to the employee".

An application for absence in excess of 3 days must be referred to the appropriate committee of the governing body, as the head teacher does not have discretion to grant more than the day of the wedding, and up to two days for travelling if necessary.

Head teachers do not have discretion to grant special leave for rehearsals for weddings.

## **Religious ceremonies and religious worship**

Religious ceremonies may, or may not, form part of a religious festival. Some important religious festivals may not include ceremonies but may nonetheless require observance; others may not require observance or will be celebrated on the nearest weekend to the due date.

There may be differences in the importance attached to particular ceremonies or festivals between different branches of the same religion. The authority's information is that the following will require observance unavoidably:

Yom Kippur (Jews)

Jewish New Year (Orthodox Jews)

Eid-ul-Fitr and Eid-ul-Adha (Muslims)

Divali (Hindus and Sikhs)

either the Birthday of Guru Nanak or Baisakhi/Vaisakhi (according to the particular branch of Sikhism)

Birthday of Emperor Haile Selassie I (Rastafarians).

The Eastern Orthodox Church and some other churches such as the Ukrainian (Eastern Rite) Catholic Church celebrate Christmas according to the Julian Calendar, i.e. about 12 days later than other Christian churches. These (and some other) churches require attendance at religious worship as an obligation, but that obligation does not extend to the whole day.

Paid leave of absence should therefore be granted for the day on which these unavoidable religious observances fall if that day is during a school term and not at a weekend or school holiday. Head teachers are advised to invite employees to apply for leave of absence at the beginning of the school year if possible, otherwise as soon as possible, so that plans for cover can be made in good time.

In some schools, it can be predicted that a significant number of employees, or of a particular category of employee, will request leave of absence for a religious ceremony which their faith requires them to observe. If granting leave of absence to all of those employees would lead to real problems in the running of the school, then the governing body is advised instead to consider changing the term dates as permitted by the resolution of the former Education and Lifelong Learning Advisory Team in 2001 which refers specifically and only to a "demonstrable need on the ground of religious observance". The Advisory Team decided that this reason was sufficiently compelling to allow schools to depart from the standard term dates. Where the religious affiliations of employees reflect those of pupils, changing term dates would accommodate the needs of both.

Before changing the school's term dates, a governing body should consult both parents and staff and should consider

- how to achieve the least possible disruption to children's education
- the need to give plenty of notice – this should be at least two terms – to all involved, parents and staff, because of the impact on childcare arrangements and holiday bookings

Designating the day of a religious festival a training day is not an option, because those employees observing that festival could claim that they have been deprived of the opportunity of training on that day and have therefore suffered unlawful discrimination on the grounds of their religion. Nor is it

legal to give the school an extra day's holiday, because statutory regulations require schools to open for pupils for 380 sessions (190 days).

The governing body has discretion to grant additional days either with salary or without. The governing body also has discretion to grant leave of absence, with salary or without, for festivals or ceremonies which adherents of the faith regard as important but which are not absolutely obligatory. To enable employees with religious faith fully to practise their religion, members of the authority's Standing Advisory Council on Religious Education recommend governing bodies to go beyond the current leave of absence scheme by granting employees leave of absence for the most important religious festivals in addition to those where observance is regarded as unavoidable. This discretion is for the governing body to exercise through the appropriate committee or to authorise the head teacher to act by formal delegation. The head teacher does not have that discretion under the leave of absence scheme and must obtain authorisation from the governing body to exceed the scheme's provisions.

The relevant committee of the governing body is advised to grant paid leave when an employee wishes to attend the ordination (or equivalent) of a member of his or her immediate family and unpaid leave for attendance as a delegate to the General Synod or parallel religious assembly.

It is recommended that in exceptional circumstances, when pilgrimage is required of a believer and cannot be undertaken during school holidays, unpaid leave should be granted because of the religious duty attached to it. (Pilgrimage to Mecca is required of every Muslim at least once in his or her lifetime and pilgrimage to the Golden Temple at Amritsar of Sikhs likewise.)

There is no legal requirement to provide time or facilities in the workplace for religious or belief observance. If a room is available and its use for prayer would not disrupt the work of the school, it would be good practice to permit such use. However, schools must be careful to ensure that there is no direct or indirect discrimination or perception of unfairness between different employees in giving such permission.

There is some useful general guidance in a publication from ACAS, although it does not deal specifically with schools ([http://www.acas.org.uk/media/pdf/f/l/religion\\_1.pdf](http://www.acas.org.uk/media/pdf/f/l/religion_1.pdf)).

## **‘Secondments’**

Prolonged leave of absence from the school at the employee's request to allow him or her to work for another school or organisation is usually called secondment. The employee returns to his or her job at the end of the secondment. Secondments which last more than a couple of years may cause problems of reintegration into the school on the employee's return, so the relevant committees of governing bodies are advised to consider very carefully any request to be absent for more than a year or two at a time. They are advised to review the arrangement annually and to provide for the employee to keep in touch with the school, possibly through attendance at training days.

Agreed leave must be confirmed to the employee in writing. The letter to the employee should explain clearly the terms of the leave and that the employee will return to his or her substantive job at the school when the leave or ‘secondment’ comes to an end, so that there is no room for misunderstanding on either side.

Usually the leave of absence for secondment is unpaid, because the employee receives a salary from the school or organisation to which he or she is seconded, but there have been instances in which the employee is granted paid leave, with the school being reimbursed the employee's salary costs by the

other school or organisation concerned. Schools should check what is proposed when secondment is first requested and should seek advice as necessary from Schools HR Services.

### **Employees seeking to work part-time for other organisations**

Some employees may request leave to undertake part-time work, such as OFSTED inspectors or School Improvement Partners, or examiners for external examining bodies. This is a matter for the appropriate committee of the governing body to determine in accordance with the governing body's general policy on such requests for career development. If the governing body grants paid leave, the employee should pay any fees received to the school, in recognition of the fact that the employee would otherwise be paid twice for the same period of employment and in order to pay for cover in the employee's absence. If part of a fee relates to work outside the employee's contract with the school (for example, for preparation undertaken in the employee's own time) the governing body may agree that an appropriate proportion of the fee may be retained by the employee.

### **Employees providing services for other schools**

A governing body may ask an employee to work temporarily in another school as part of a service-level agreement whereby a providing school supports a receiving school, and the providing school charges the receiving school for those services. In such cases the employee is not on leave or secondment, but is simply working elsewhere at the governing body's direction.

### **Time off for study or training**

There is a separate procedure for the statutory right to request time off for study or training in respect of training not provided or required by the school.

### **Armed forces - reservists**

Volunteer members of the Armed Forces Reserves (including commissioned officers accredited to cadet units) should try to arrange their annual training during school holidays. However, if this is not possible, then they should be granted paid leave for the fortnight's training.

For reservists called up for active service, the Reserve Forces Act allows the Ministry of Defence to compensate companies for the loss of key employees and allows them to apply for an exemption or deferral. [Further information](#) is available.

### **Employees dissatisfied with decisions about leave of absence**

A local authority procedure is currently under discussion. In the meantime, appeals regarding a decision taken by the headteacher should go to the Staffing Committee, and appeals regarding decisions made by the Staffing Committee should go to the Governing Body's Appeals Committee.



## TEACHERS' LEAVE OF ABSENCE SCHEME – PART ONE – LEAVE WHICH THE HEAD TEACHER HAS DISCRETION TO GRANT

In the cases in the table below head teachers may grant leave of absence without prior reference to the governing body or to the local authority, having regard to the merits of the individual case and the needs of the school, provided that the period of absence ordinarily allowed in each case is not exceeded. In cases where the absence is expected to have an impact on secular education, the headteacher will also consult with the Deputy Headteacher or relevant Senior Manager, before reaching his/her decision. Likewise where the absence is expected to have an impact on religious studies, the headteacher will consult with the Head of Religious Studies, or, in the case of absence of the Head of Religious Studies, with the Director of Jewish Studies, before reaching his/her decision.

The final column in the table is not part of the leave of absence scheme, but includes advice and guidance from the local authority to help head teachers exercise their discretion in respect of particular aspects of the scheme.

The leave of absence scheme specifies that leave granted by the head teacher shall be reported to the governing body in schedules presented at meetings, but governing bodies are advised that the schedules should be presented to its staffing or other appropriate committee.

### Requests outside the head teacher's discretion

If the request made to the head teacher is not within the head teacher's discretion under the leave of absence scheme, the head teacher should refer the request to the appropriate committee of the governing body for determination in accordance with the governing body's role in the leave of absence scheme. In urgent cases the head teacher may have to seek a decision from the chairperson of the governing body in accordance with the School Governance Regulations.

LEAVE OF ABSENCE SCHEME – HEAD TEACHER'S DISCRETION			COMMENT AND ADVICE
REASON FOR ABSENCE	PERIOD OF ABSENCE ORDINARILY ALLOWED	WHETHER TO BE APPROVED WITH SALARY OR WITHOUT	<p><b>Requests for leave outside the following items, which are specified as being at the head teacher's discretion, are for the appropriate committee of the governing body to determine.</b></p> <p><b>Where the scheme states that the leave is to be approved with salary the head teacher has no discretion to stipulate that the leave should be unpaid.</b></p>
1 Death and funeral of a close relative	Up to 3 days, plus up to 2 days for travelling if necessary	With salary	<p>A close relative is defined by the City Council as "parent, husband, wife, brother, sister, child, grandparent, grandchild, parent-in-law, daughter or son-in-law" and classes with these "a person standing in special relationship to the employee". This would include a partner.</p> <p>This provision overlaps with the statutory right for reasonable time off for dependants, unpaid, under the Employment Rights Act 1996 as</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
			<p>amended. The Act provides that an employee is entitled to be permitted by his or her employer to take a reasonable amount of time off during the employee’s working hours in order to take action which is necessary in consequence of the death of a dependant.</p> <p>It would be appropriate for the governing body (through its staffing committee) to grant extra paid leave, over and above that open to the head teacher’s discretion, to take account of any extra time required for travel, depending on the accessibility of the place of residence of the relative.</p> <p>Requests for leave also covered by a statutory right to reasonable time off should be considered in relation to the legal requirements – see time off for dependants</p>
2 Funeral of a close friend	Up to 1 day	With salary	<p>It is noted that the leave of absence scheme does not give the head teacher discretion to grant extra time for travelling to the funeral of a close friend (as distinct from that of a close relative). It would be appropriate for the governing body (through its staffing committee) to grant extra paid leave to take account of any time required for travel.</p> <p>Requests for leave also covered by a statutory right to reasonable time off should be considered in relation to the legal requirements - see time off for dependants</p>
3 Illness of a member of teacher’s immediate family	Up to 3 days	With salary	<p>This provision overlaps with the statutory right for reasonable time off for dependants, unpaid, under the Employment Rights Act 1996 as amended, one of the various pieces of legislation to support parents and others with caring responsibilities in the context of a society where support from relatives is not necessarily available, where Government encourages parents to work and where people seek the advantages of paid employment.</p> <p>There is no definition in the legislation of “reasonable”. However, employees have a duty under their contracts of employment to be available for work, unless they are sick or on maternity leave (or paternity leave, parental leave etc.). As part of that duty they should make arrangements for the regular care of dependants who need such care. Problems arise when these normal care arrangements are disrupted. The question at issue is whether it is reasonable to expect an employee to have alternative</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
			<p>arrangements. Usually this question is asked when a child of an employee is too ill to go to school or to the childcare provider, and the employee has no relative or friend able to care for the child at home.</p> <p>There has not been much case law on the interpretation of ‘reasonable’ in this context. One employment tribunal case heard that both the normal care arrangements and the alternative care arrangements on which the employee had relied when normal care had been disrupted previously were unavailable on a particular day and found that the employee’s request for that day off work was reasonable, even though the unavailability of both arrangements was known in advance.</p> <p>“Unexpected” disruption or termination of arrangements for the care of a dependant is therefore not the same as “sudden”. Even if the disruption is known some time in advance the test of reasonableness may still be met. In this case the employee had alternative arrangements, so it offers no guidance on the reasonableness of time off when no alternative arrangements have been made.</p> <p>However, the terminology of the legislation offers some guidance. It relates to the time when circumstances arise, by using the phrase “when a dependant falls ill” rather than when a dependant is ill. It also makes specific provision for time off to make arrangements for the provision of care for a dependant who is ill or injured, so it does not envisage that the right to reasonable time off will extend to caring for a dependant for the whole duration of the illness.</p> <p>By its definition of a dependant the legislation also acknowledges that an employee may only be called upon to provide care in an emergency rather than on a regular basis and in respect of these dependants (who are likely to be adults) cannot be expected to have either normal or alternative care arrangements in place.</p> <p>As the leave of absence scheme allows head teachers to exercise their discretion to grant up to three days’ paid leave due to the illness of a member of the teacher’s immediate family, it implies that granting such leave would be reasonable. However, the leave of absence scheme as a whole is discretionary and subject to the needs of the school. The head teacher has to balance those needs with the circumstances of the</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
			<p>employee, and with precedents and fairness, having regard to the maxim that good employees are a school’s most valuable asset.</p> <p>(Neither the statutory right to time off for dependants nor the head teacher’s discretion to grant leave of absence extends to requests for indefinite leave to nurse a relative suffering from a serious, long illness and such matters should be referred to the appropriate committee of the governing body, which is advised to consider requests to nurse a terminally sick relative or partner, close friend or companion with particular sympathy, granting paid leave of absence in the first instance and reviewing the situation monthly. Visits to (rather than nursing) a terminally ill person resident in the United Kingdom or easily accessible countries in Europe can normally be arranged at weekends or during school holidays, and, depending on the prognosis and the timing of school holidays, can also be arranged during holidays if the person lives further away, but if death is imminent it would be appropriate to grant paid leave of absence during the working week, up to a maximum of ten days. If the illness is not terminal any leave beyond that granted under the head teacher’s discretion should be unpaid.)</p>
4 Wedding of close relative or close friend	1 day plus up to 2 days for travelling if necessary	With salary	<p>Although the leave of absence scheme does not refer to civil partnerships, the same rules should be followed, in order to comply with the Equality Act.</p> <p>Time off for weddings is not a right. Head teachers do not have discretion to grant leave of absence for employees' own weddings. Employees are expected to arrange their own weddings at weekends or during school holidays and not to seek any time off work for the wedding or the honeymoon. Head teachers are advised to ensure that this expectation is fully understood employees’ requests for time off during term-time for their own weddings are highly likely to be denied by the governing body, even in cases when weddings are arranged not by the bride and groom but by their families.</p> <p>Employees should be invited, wherever practicable, to advise close relatives planning a wedding that contracts of employment in schools do not enable employees in schools to take annual leave during school terms, so that they would have to apply for special leave to attend a wedding of a close relative or close friend taking</p>

<b>LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION</b>			<b>COMMENT AND ADVICE</b>
			<p>place during school hours, and that the result of such an application would depend on the needs of the school. This could therefore lead to a request for leave of absence being denied.</p> <p>A close relative is defined by the City Council as "parent, husband, wife, brother, sister, child, grandparent, grandchild, parent-in-law, daughter or son-in-law" and also "a person standing in special relationship to the employee".</p> <p>An application for absence in excess of 3 days must be referred to the appropriate committee of the governing body.</p> <p>Head teachers do not have discretion to grant special leave for rehearsals for weddings.</p>
5 University Graduation Ceremony of teacher or of teacher’s immediate family	1 day plus up to 2 days for travelling if necessary	With salary	
6 Other very urgent and special personal reasons which could not reasonably have been foreseen	Up to 3 days	With salary	<p>The maximum number of days applies to each occasion on which leave is granted. There is no annual or termly limit, but all requests for special leave of absence are to be considered with regard to the merits of the individual case and the needs of the school. If such requests become frequent a head teacher may need to discuss the personal reasons with the employee and explain that the frequency is incompatible with the needs of the school.</p> <p>Requests for leave also covered by a statutory right to reasonable time off should be considered in relation to the legal requirements relating to time off for dependants.</p>
7 Removal of house	Up to 2 days in the case of a teacher moving house in consequence of taking up a post in Birmingham following employment elsewhere. Up to one day for removals in other circumstances.	With salary	<p>Time off for removals is not a right, and if an employee is not constrained by completion dates and can arrange to move at a weekend or during a school holiday the employee should do so.</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
8 Interview for other post	As may be necessary and reasonable	With salary	This could include reasonable time off for a visit arranged for applicants at the invitation of the school.
9 Attendance at a religious ceremony where the teacher’s religion requires it unavoidably	Up to 2 days per year;  Additional days as necessary	With salary  Without salary	<p>Religious ceremonies may, or may not, form part of a religious festival. Some important religious festivals may not include ceremonies but may nonetheless require observance; others may not require observance or will be celebrated on the nearest weekend to the due date. There may be differences in the importance attached to particular ceremonies or festivals between different branches of the same religion. The authority’s information is that the following will require observance unavoidably:</p> <p>Yom Kippur (for Jews)  the Jewish New Year (for Orthodox Jews)  Eid-ul-Fitr and Eid-ul-Adha (Muslims)  Divali (Hindus and Sikhs)  either the Birthday of Guru Nanak or Baisakhi/Vaisakhi (according to the particular branch of Sikhism)  Birthday of Emperor Haile Selassie I (Rastafarians).</p> <p>Paid leave of absence should therefore be granted for the day on which these unavoidable religious observances fall if that day is during the school term and not at a weekend or half-term holiday. Head teachers are advised to invite employees to apply for leave of absence at the beginning of the school year where possible, otherwise as soon as possible, so that plans for cover can be made in good time.</p> <p>In some schools, it can be predicted that a significant number of employees, or of a particular category of employee (such as lunchtime supervisors), will request leave of absence for a religious ceremony which their faith requires them to observe. If granting leave of absence to all of those employees would lead to real problems in the running of the school, then the governing body is advised instead to consider changing the term dates as permitted by the resolution of the former Education and Lifelong Learning Advisory Team in 2001 which refers specifically and only to a “demonstrable need on the ground of religious observance”. The Advisory Team decided that this reason was sufficiently compelling to allow schools to depart from the standard term dates. Where the religious</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
			<p>affiliations of employees reflect those of pupils, changing term dates would accommodate the needs of both.</p> <p>Before changing the school’s term dates, a governing body should <b>consult both parents and staff</b> and should consider:</p> <ul style="list-style-type: none"> <li>• how to achieve the least possible disruption to children’s education</li> <li>• the need to give plenty of notice – this should be <b>at least two terms</b> – to all involved, parents and staff, because of the impact on childcare arrangements and holiday bookings</li> </ul> <p>Designating the day of a religious festival a training day is not an option, because those employees observing that festival could claim that they have been deprived of the opportunity of training on that day and have therefore suffered unlawful discrimination on the grounds of their religion. Nor is it legal to give the school an extra day’s holiday, because statutory regulations require schools to open for pupils for 380 sessions (190 days).</p> <p>The governing body has discretion to grant additional days either with salary or without. The governing body also has discretion to grant leave of absence, with salary or without, for festivals or ceremonies which adherents of the faith regard as important but which are not absolutely obligatory. To enable employees with religious faith fully to practise their religion, members of the authority’s Standing Advisory Council on Religious Education recommend governing bodies to go beyond the current leave of absence scheme by granting employees leave of absence for the most important religious festivals in addition to those where observance is regarded as unavoidable.</p> <p>This discretion is for the governing body to exercise through the appropriate committee or to authorise the head teacher to act by formal delegation. The head teacher does not have that discretion under the leave of absence scheme and must obtain authorisation from the governing body to exceed the scheme’s provisions.</p> <p>The relevant committee of the governing body is advised to grant paid leave when an employee wishes to attend the ordination (or equivalent) of a member of his or her immediate family and unpaid leave for attendance as a delegate to the General Synod or parallel religious assembly.</p>

LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
			<p>It is recommended that in exceptional circumstances, when pilgrimage is required of a believer and cannot be undertaken during school holidays, unpaid leave should be granted because of the religious duty attached to it. (Pilgrimage to Mecca is required of every Muslim at least once in his or her lifetime and pilgrimage to the Golden Temple at Amritsar of Sikhs likewise.)</p> <p>There is no legal requirement to provide time or facilities in the workplace for religious or belief observance. If a room is available and its use for prayer would not disrupt the work of the school, it would be good practice to permit such use. However, schools must be careful to ensure that there is no direct or indirect discrimination or perception of unfairness between different employees in giving such permission.</p>
10 To participate as an amateur in national, regional or county matches or competitions	Up to 3 days per term	With salary	
11 To participate in musical performances at the highest professional levels	Up to 3 days per term	With salary	
12 Study and examination leave:  (i) For Open University Degree  (ii) For part-time degree or degree equivalent  (iii) Other	Up to 10 days in any 3 year period plus the days of the examination  Up to 10 days over the normal period of the course, plus the days of the examinations  The days of the	With salary  With salary  With salary	



LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION			COMMENT AND ADVICE
professionally relevant examinations	examinations		
13 To give lectures and talks away from school within the UK at the invitation of the educational bodies	As may be reasonable	With salary	As the invitation will have been extended because of expertise gained in the teaching profession and in particular in the teacher’s current role, and as the teacher will be giving the lecture in working time, the governing body should ensure that any fees in respect of the engagement are paid to the governing body (see additional guidance).
14 Attendance at Examination Board Meetings			If the governing body grants paid leave, the fees must be paid to the school, in recognition of the fact that the employee would otherwise be paid twice for the same period of employment and in order to pay for cover in the employee’s absence.
(i) Chief and Deputy Chief Examiners/ Moderators	Up to 10 days per annum	With salary*	
(ii) Assistant Examiners/ Moderators	Up to 5 days per annum	With salary*  *with the Board reimbursing the school	
15 Attendance at annual training camp as voluntary member of the Armed Forces Reserves or as a Commissioned Officer accredited and/or posted to the cadet units of one of the three services.	Two weeks, or the duration of the period of training whichever is the less, in any one full year	With salary	

<b>LEAVE OF ABSENCE SCHEME – HEAD TEACHER’S DISCRETION</b>			<b>COMMENT AND ADVICE</b>
16 Attendance at approved in-service training and professional development activities	5 days	With salary	<p>The School Teachers’ Pay and Conditions Document provides that all staff in the school should have access to advice, training and developmental opportunities appropriate to their needs, including needs identified in objectives or in planning and review statements in accordance with the policies of the governing body. Training and professional development required of employees during their employment is undertaken on the direction of the head teacher during working time and therefore this provision should not appear within the leave of absence scheme, because leave of absence is not applicable.</p> <p>An employee may wish to attend other training which, though not essential to the job or approved as part of professional development under the School Teachers’ Pay and Conditions Document, will be for the mutual benefit of the employee and the school. Governing bodies are also recommended to adopt the authority’s model procedure for the right to request time off for study and training, although they may also consider applications under the special leave of absence scheme.</p>
17 To stand as a candidate at a Local Government Election	1 day (polling day)	Without pay	

## **TEACHERS’ LEAVE OF ABSENCE SCHEME – PART 2 – DECISIONS FOR THE GOVERNING BODY’S CHAIR**

### **Leave of Absence for Head Teachers**

Head Teachers who wish to apply for leave of absence for any of the purposes listed as within the head teacher’s discretion shall apply to the chairperson of the school’s governing body as far in advance as possible. The chairperson is advised to follow the guidance given in Part 1 of this scheme, as the chairperson is exercising in respect of the head teacher the powers which a head teacher would exercise for other employees.

For other matters, like all other teachers in the school, the head teacher should apply to the committee of the governing body.

Where a head teacher intends to be absent on school business within the city notification to the chairperson of the school’s governing body is not necessary but the head teacher should leave

information at the school as to his/her whereabouts and a telephone number for contact in case of an emergency.

A head teacher who intends to be absent on school business outside the city should notify the chairperson of the school's governing body and leave information at the school as above.

### **Other Leave of Absence Granted by the Governing Body**

All requests for special leave of absence not covered by the discretionary powers of the head teacher shall be referred by the head teacher to the committee to which the governing body has delegated its power to grant special leave in cases not covered by the discretionary power of the head teacher. In urgent cases in which a meeting of the committee cannot be convened in time, the head teacher should refer the request to the chairperson of the governing body in accordance with the School Governance Regulations.

It is advisable to adopt a policy or guidelines for the cases which fall outside the powers of the head teacher and to publish this policy to all employees on a regular basis.

Any policy adopted should also have regard to the provisions of the School Teachers' Pay and Conditions Document that teachers should be required to cover only rarely.

### **Advice and Guidance to the Governing Body's committees when considering requests for Special Leave of Absence – general principles**

In considering requests for special leave of absence the relevant committees of governing bodies have been recommended for many years to use guidelines followed by the authority for centrally managed teachers in order to achieve a consistency of approach in all cases. Some of the guidelines are included in the advice on leave which head teachers have discretion to grant, because they represent extensions of that leave. Others are set out below.

In preparing a policy on applications for special leave of absence the governing body is advised to consider the following questions of principle:

- Is the purpose of the leave a matter of life, death or health?
- Could the purpose be achieved in any other way? (For example, if an employee requests unpaid leave of absence to nurse a sick relative, approval would be for a limited period, and subject to review, to allow the employee time to make other arrangements.)
- Could the purpose be achieved at another time, i.e. outside school hours?
- Could refusal of a request be construed as direct or indirect unlawful discrimination?
- Would it be good employment practice to grant leave of absence in this case?
- What would be the cost of granting leave of absence in this case, both in terms of cash and the quality of education for pupils/students?
- Can expenditure be justified by the circumstances of the case?
- Would a grant of leave of absence set an undesirable precedent?
- Should the decision be influenced by previous cases if there has been no change in policy or practice in the meantime?
- Should the decision be influenced by public relations considerations?

### **Advice and Guidance to the Governing Body's committees when considering requests for Special Leave of Absence – specific reasons**

It is advised that requests to nurse a terminally sick relative or partner, close friend or companion should be treated with particular sympathy, granting paid leave of absence for a limited period in the

first instance and reviewing the situation regularly. Visits to (rather than nursing) a terminally ill person resident in the United Kingdom or easily accessible countries in Europe can normally be arranged at weekends or during school holidays, and, depending on the prognosis and the timing of school holidays, can also be arranged during holidays if the person lives further away, but if death is imminent it would be appropriate to grant paid leave of absence during the working week, up to a maximum of ten days.

If the illness of the employee's close relative or close friend is not terminal any leave beyond that granted by the head teacher should be unpaid.

Leave for visits abroad should be approved only in special circumstances and normally without salary, unless the visit is to a close relative or close friend who is terminally ill and whom the employee cannot visit at weekends or during school holidays. Unpaid leave would be appropriate for visits to deal with other serious problems with family or relatives, also holidays booked in good faith before the employee started employment with the school, and notified to the school at interview with an explanation that cancellation would incur a charge. Given the increasing popularity of 'surprise holidays' the governing body is recommended to adopt a policy stating that leave will not be granted in such cases. It is recommended that requests to accompany a spouse or partner abroad should be agreed only where the spouse or partner has obtained a temporary job overseas and should be unpaid leave for a fixed period.

An employee may wish to attend training over and above training and development which he or she has been directed to attend. Such training, whilst not essential to the job or approved as part of professional development, will often be for the mutual benefit of the employee and the school. Governing bodies may consider applications for leave of absence for such training. They are also recommended to adopt the authority's model procedure for the right to request time off for study and training.

Secondment to other, temporary employment is at the governing body's discretion. The authority seeks the co-operation of governing bodies where the secondment is to help another school maintained by the authority. Sometimes requests for secondment help a school in financial difficulties by saving the salary of the person granted leave of absence. Sometimes the request is for a particularly good cause, such as Voluntary Service Overseas. However, if the relevant committee of the governing body is minded to agree to a secondment it should not do so without precise, written agreement over the employee's return to the school when the secondment ends and over the financial arrangements. Advice may be obtained from Schools HR Services or Employee Relations.

Guidance on leave for religious purposes over and above the discretion available to the head teacher for these purposes is given against the description of that discretionary power in the section of the scheme for leave of absence granted by the head teacher. There is also advice on what to do if large numbers of pupils and employees of the same faith seek leave at the same time.

Representing the country at an international sporting or arts event (Olympic, Commonwealth Games, etc.) is probably regarded as such an honour that a governing body is recommended to grant leave. The question of pay will depend partly on the financial support available to the employee from the appropriate sponsoring body.

The authority has traditionally recommended three weeks' unpaid leave for an employee to stand as a candidate in a Parliamentary election.

## **Fostering leave**

Governing bodies are also recommended to follow the City Council's policy of offering additional support for employees who foster for the City Council or for another local authority, or who are caring for a child under a residence or special guardianship order and the child would otherwise be a 'looked after' child. This support includes access to up to 10 days' paid and 10 days' unpaid leave each year, which a City Council employee may request in the following circumstances:

For assessment/training to become a foster carer

At the commencement of a placement

To attend meetings or other activities related to caring for the foster child

Other circumstances (excluding standard day to day parenting/caring activities) relating to a particular foster child which are not included in the list above.

## Special Leave - Suggested Notice to Staff

### This Content is applicable to both Teachers and Support Staff

The attached draft notice has been prepared as part of a review of the leave of absence scheme which includes discussions about helping head teachers to manage requests for special leave of absence. It is a suggested draft and provides a framework which can be altered according to the needs of a particular school.

For example, whilst some governing bodies may expect all staff to take holidays during the school holidays, others may be prepared for some support staff who are not classroom-based and who have all-year-round contracts to take leave during school terms on the understanding that they are required for duty during part of the school holidays. The attached draft reflects the former position, so any school taking a different position should amend the draft accordingly.

It is recommended that a notice should be published to all staff at the beginning of each school year (or even each school term) and given to all new staff on appointment as part of their induction.

Schools may wish to devise an appropriate form of acknowledgement of receipt of the notice, possibly combined with a form for applying for special leave for religious ceremonies which the employee's religion requires him or her to observe unavoidably.

### DRAFT FOR SCHOOLS TO AMEND/USE AS APPROPRIATE

#### **NOTICE TO STAFF: SPECIAL LEAVE**

This notice explains to all members of staff the governors' position regarding requests for special leave during term time.

Employees are obliged to attend for work under their contracts of employment. In the case of teachers, there is a statutory obligation to be available for work on the 195 days specified by the employer and for support staff who are based in the classroom or employed on term-time only contracts there are parallel contractual requirements. For staff who are employed all year round and who are not based in a classroom there is nonetheless an expectation that they will take annual leave during school holidays. School term dates are published to you all in advance and are available from the school office.

Under the leave of absence scheme which is part of teachers' conditions of service, head teachers have discretion to grant a limited amount of special leave in certain specific circumstances and subject to specified limits. This discretion is to be exercised subject to the needs of the school. Any requests for special leave outside head teachers' discretion are a matter for the Governing Body. Full guidance on special leave, including the leave of absence scheme, can be found in the Local Authority's Notes for Guidance: Employees in Schools and in the school's Staff Leave of Absence Policy.

Employees with caring responsibilities are urged to plan in advance for the possibility that normal caring arrangements may be disrupted at any time, for example, if a child's school is closed unexpectedly.

In order for the school to make arrangements for cover it would be helpful if any employees wishing to take special leave during term time for a religious ceremony which their religion requires them to observe unavoidably and which cannot be celebrated on the nearest weekend or out of school hours could apply to the head teacher for such leave at the beginning of the school year. If the exact date of the ceremony is not known at this stage, please indicate the approximate date.

Staff must not book or take holidays during term time. Please share this information with friends and family members, so that there can be no misunderstanding over 'surprise' holidays, for which the Governors have decided that special leave will not be granted. Special leave will only be considered for the exceptional circumstances outlined in the leave of absence scheme. Employees must apply for any special leave and seek approval in reasonable time from the head teacher, who will refer any request outside the head

teacher's discretion to the appropriate committee of the governing body. This is particularly important when the request is one which the head teacher does not have discretion to grant and must refer to the committee.

You should also be aware that any employee taking unauthorised leave will be in breach of contract, and that conditions of service provide for pay to be deducted in such cases. Breach of contract is also a disciplinary matter and disciplinary action may therefore be taken.