

**DERBYSHIRE LA**

**AUTHORISED LEAVE  
OF ABSENCE**

**BROCKLEY PRIMARY SCHOOL**

# **AUTHORISED LEAVE OF ABSENCE**

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## 1. **INTRODUCTION**

All employees within schools have a basic entitlement to leave of absence within their contracts of employment. These basic entitlements are detailed within their contracts of employment and are supplemented by jointly agreed local arrangements. Subject to both local and national conditions of service the granting and authorisation of leave is a matter to be determined by the Governing Body.

However, in addition to their entitlement to leave of absence under their contract of employment, employees also have a statutory entitlement to leave of absence for the following reasons:

### 1.1 **Purpose**

This document provides guidance to Governing Bodies on current legislation and local and national conditions affecting leave of absence, and the extent of their discretionary powers. It has been discussed and agreed with all the teachers' associations and Unison.

### 1.2 **Public Duties**

Under the Employment Protection Act 1978, employees have the right to reasonable time off to carry out a number of public duties.

### 1.3 **Parental Leave**

Under the Employment Rights Act (1996), Maternity and Parental Leave etc. Regulations 1999 which entitles employees with parental responsibility to take 13 weeks unpaid leave for any purpose connected with the care of that child.

### 1.4 **Paternity Leave**

Under the Employment Bill 2001 and with effect from April 2003, which entitles employees to take 2 weeks' leave within 56 days of the birth of a child.

### 1.5 **Adoption Leave**

Under the Employment Act 2002 an adoptee will be entitled to 26 weeks' ordinary adoption leave, followed by 26 weeks' additional adoption leave – a total of 52 weeks.

### 1.6 **Flexible Working**

Under the Employment Rights Act (1996) – Flexible Working (Procedural Requirements Regulations 2002) employees will have the right to apply to work flexibly. Employers have a statutory duty to consider their applications seriously.

## 2. **STATUTORY LEAVE**

### 2.1 **PUBLIC DUTIES**

The Employment Protection (Consolidation) Act 1978 gives statutory rights to reasonable time off for the following purposes:

- Justice of the Peace.
- Local Councillor.
- Member of statutory tribunal.
- Governor of state school.
- Member of National Rivers Authority.
- If declared redundant, time off to look for a new job or to arrange training for a new job.
- Specified Trade Union duties.
- Board of Visitors for Prisons, Remand Centres and Young Offenders.

Leave arrangements for all staff to carry out recognised public duties have been agreed on the basis of up to 18 days paid leave per year.

Although there is no statutory requirement to do so the same leave arrangements have been agreed for:

- Meetings of the Whitley Council.
- National or Provincial Council affairs.
- To undertake duties consequent upon membership of public bodies.
- School Governors appointed by the LEA.
- Parent Governors of Special Schools & Colleges of Further or Higher Education.

Other Special Leave arrangements have also been agreed and should be granted on the following basis:

- Jury Service – leave of absence with pay minus the loss of earnings allowance paid under the Jurors' Allowance Regulations.
- Parliamentary Elections – Up to four weeks unpaid leave of absence is granted to candidates standing in Council, European or Parliamentary elections or acting as agents thereof.
- Elected member duties with other Local Authorities up to 208 hours per year.
- Trade Union Duties – These are set out in the Authority's Facilities Time Agreement which is included in the LEA's Personnel Handbook.

The Authority has retained funds centrally to cover the staff replacement costs for those employees granted leave of absence up to the maximum specified levels for those employees undertaking Public Duties and Trade Union activities on the basis outlined above.

## 2.2 **PARENTAL LEAVE**

Parental Leave is a statutory requirement available to all parents or those with parental responsibilities.

### **Entitlement**

Employees who are parents, foster parents, adoptive parents prior to placement, grandparents with a significant parenting role and step-parents are entitled to parental leave in the following circumstances:

- 13 weeks in total is available to employees having or expecting to have responsibility for a child.
- An additional 5 weeks is available to employees who have responsibility for a child for whom Disability Living Allowance has been awarded.

Parental Leave is available to all employees for the purpose of caring for a child:

- Up to the age of 8 years.
- For up to 8 years following the adoption of a child or up to the age of 18 whichever is sooner.
- Up to the age of 18 for a child for whom Disability Living Allowance has been awarded.

Parental Leave may be taken as:

- A single block of 13 weeks (18 weeks for a disabled child).
- As a number of shorter periods of a minimum of half a day.
- In patterns which provide a part-time or reduced hours working arrangement for a period of time equivalent to taking 13 weeks leave as a single block (18 weeks for a disabled child).

### **Pay**

- Parental Leave is an unpaid entitlement.

## 2.3 **PATERNITY LEAVE**

Paternity Leave is a statutory entitlement available to individuals who have a parenting responsibility for a child. It does not require biological paternity and may be taken by an individual nominated by the mother to assist in the care of the child and provide support at or around the time of the birth. Employees may take either one or two weeks' leave. If two weeks are taken, they must be consecutive weeks.

### **Entitlement**

Employees who have 26 weeks continuous service by the 15<sup>th</sup> week before the expected week of childbirth are entitled to Paternity Leave on the following basis:

### **Pay**

Paternity Leave is a paid entitlement for which the statutory minimum is £112.75 per week (2007/08).

Before Statutory Paternity Leave was introduced the Authority agreed the following leave arrangements for parental responsibilities as part of its locally agreed conditions of service. The local agreement enhances to the statutory minimum.

- Employees on Teachers' Conditions of Service - 3 days Full Pay, 7 days at the statutory minimum.
- Employees on other Conditions of Service - A maximum of 10 days Full Pay.
- Within 56 days from the birth of the child, or placement in the case of a child being adopted.

Employees should notify their Headteacher or Line Manager of the proposed dates of absence and provide a copy of the mother's maternity certificate, medical appointment card/letter, or in the case of adoptive parents, the Matching Certificate.

## 2.4 **ADOPTIVE PARENTS LEAVE**

Adoptive Parents Leave is a statutory entitlement available to couples or individuals intending to adopt children.

### **Entitlement**

Adoptive Parents Leave is available:

- To employees who have 26 weeks continuous service as at the date of placement of the child by the adoption agency.
- To individuals who adopt.
- To one member of a couple where a couple jointly adopt (the couple may choose which partner takes adoption leave).
- For adoptions from overseas.
- Only where the child is newly placed with an adoptive parent. It does not apply to step-family adoptions or adoptions by the child's existing foster parents.

Adoptive Parents Leave may be taken:

- From the date the child is placed with the adopter for the purpose of adoption.
- From a date which is no more than 14 days before the expected date of placement.
- Ordinary Adoption Leave is for a period of 26 weeks.
- At the end of this period Additional Adoption Leave may be taken, for a further period of 26 weeks.
- Employees must give notice of their intention to take adoption leave within 7 days of being notified that they have been matched with a child for the purpose of adoption. Where this is not reasonably practical the Headteacher/Manager should be notified as soon as possible.
- The Headteacher/Manager should be provided with a copy of the 'Matching Certificate', which is issued by the adoption agency. This includes:

- Name and address
  - Details of the adoption agency
  - Date the employee was notified of having been matched
  - Expected date of placement
- The Headteacher/Manager should be given 28 days notice of the date the employee wishes to start their adoption leave and 28 days notice of their intention to return to work if it is earlier than the Ordinary Adoption Leave period of 26 weeks.

## **Pay**

Statutory Adoption Leave is a paid entitlement:

- Provided the employee has been continuously employed for 26 weeks ending with the matching week.
  - Provided the employee has paid National Insurance Contributions in the eight weeks prior to the matching week.
  - Statutory Adoption Pay is payable during the first 39 weeks of Ordinary Adoption Leave.
    - 6 weeks @ 9/10 average earnings\*
    - 12 weeks @ half pay in addition to statutory adoption pay
    - a further 21 weeks statutory adoption pay
- \* 4 weeks at full pay and 2 weeks at 9/10 pay for teachers
- If the placement breaks down, employees will be able to remain on adoption leave for up to 8 weeks after the end of the placement.



## 2.5 **SICK LEAVE**

This section covers sick leave and sick pay entitlements. Provided the following conditions are met, an employee who is absent from duty due to illness, which includes injury or other disability, is entitled to receive sick pay.

- The absence is reported to the Headteacher/Line Manager on the first day of absence and a self-certification report is submitted for up to 7 days absence.
- A doctor's statement is submitted not later than the eighth day of absence.
- Subsequent doctor's statements are submitted at the same intervals as they are required for DSS (N.I) purposes and on return to duty and in those cases where the absence extends beyond the period covered by the initial statement and at similar intervals during a period of entitlement to Statutory Sick Pay.
- In the case of prolonged or frequent absence, the employee undertakes any examination that the employer may require by an approved medical practitioner nominated by them, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. The cost of the examination shall not be met by the employee. The employee's own doctor may be present at such an examination at the employee's request.
- The employee declares to the satisfaction of the employer any entitlement to benefits under the relevant Acts as well as any alternative in the entitlement to such benefits.

### **Employees on Teachers' Conditions of Service**

The entitlement to sick pay for employees on teachers' conditions of service is:

During the first year of service	Full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days.
During the second year of service	Full pay for 50 working days and then half pay for 50 working days.
During the third year of service	Full pay for 75 working days and then half pay for 75 working days.
During the fourth and successive	Full pay for 100 working days and then half pay for 100 working days.

The above entitlement is regarded as a minimum and the entitlement for employees on teachers' conditions of service with long service is:

- 10 years total service but less than 20 years an additional 23 working days at full pay
- 20 years total service but less than 30 years an additional 46 working days at full pay
- 30 years total service and over an additional 69 working days at full pay

For the purpose of the sick pay service, "service" includes all aggregated teaching service with one or more local education authorities.

For the purpose of this scheme, "working days" means teaching and non-teaching days within "directed time", as specified in the most recent School Teachers' Pay & Conditions Document .

For the purpose of calculating a teacher's entitlement a year is defined as beginning on 1 April and ending on 31 March of the following year. If a teacher's service begins after 1 April in any year, the full entitlement for that year will be applicable. Where a teacher is on sick leave on 31 March in any year, no new entitlements shall begin until the teacher has resumed duty. In these circumstances the period from 1 April until the return to duty is regarded as part of the preceding year's entitlement for the purpose of this scheme.

Where a teacher moves to another employer, any sick pay paid during the current year by the previous employer shall be taken into account in calculating the amount and duration of sick pay payable by the new employer.

Sick pay includes where appropriate Statutory Sick Pay and shall not exceed the full normal contractual pay of the teacher.

### **Employees on other Conditions of Service**

The entitlement to sick pay for employees on other conditions of service is:

During the first year of service	1 month's full pay and (after 4 months' service) 2 months' half pay
During the second year of service	2 months' full pay and 2 months' half pay
During the third year of service	4 months' full pay and 4 months' half pay
During the fourth and fifth year of service	5 months' full pay and 5 months' half pay
More than 5 years' service	6 months' full pay and 6 months' half pay

If there is less than a 6-week break from a previous employment with Derbyshire County Council this shall be counted as continuous service.

The payment of sick pay to those below the minimum earnings level for National Insurance Contributions will be made where applicable.

The amount of sick pay due to an employee will be determined by aggregating the periods of absence due to illness during the twelve months immediately preceding the first day of absence.

## 2.6 **FLEXIBLE WORKING**

From 6 April 2003, **parents** have a statutory right to request a **permanent** variation to their contract in order that they can work more flexibly.

### **Entitlement**

The right to request flexible working is available to parents:

- Who have 26 weeks continuous service at the 6 April 2003;
- Who have a child under the age of 6 years or under 18 years if the child has been awarded a disability living allowance;
- Who are responsible for the upbringing of the child;
- Who are the biological parent, guardian or foster carer of the child;
- Who are married to or the partner of the child's mother or father;
- Who expect to have responsibility for the upbringing of the child.

To apply for a variation to their working pattern the employee must:

- Submit a formal application requesting a change to their contract of employment (see Appendix).
- The Headteacher/Line Manager will hold a meeting to discuss the application within 28 days.
- Give notice of the decision reached, within 14 days of the meeting, setting out the grounds for the decision.
- If the application is refused the employee has the right of appeal.
  - The grounds for appeal should be submitted in writing within 14 days of receiving notification that the application has been refused.
  - The appeal hearing will be heard within 14 days of an appeal being registered.
  - The decision of the appeals panel will be given in writing, setting out the reasons for the panel's decision within 14 days of the hearing.
  - Employees have the right to be accompanied at the appeal hearing.

**APPLICATION TO WORK FLEXIBLY**

Name	
Employee Number	
School/Department	
Current hours and pattern worked	
New hours and pattern of work applied for	
Date you require new hours to start	
Relationship to child	
Child's date of birth	
Have you previously applied to work flexibly?	<p><b>Yes</b> If Yes, please state date (you can only make one application in any 12 month period)</p> <p><b>No</b></p>
Signature	
Date	

### 3. DISCRETIONARY LEAVE OF ABSENCE

#### Leave of Absence With Pay

##### Introduction

The types of leave of absence outlined below provide details of the circumstances where it is considered reasonable for Governing Bodies to grant leave of absence with pay. It is also the responsibility of the Headteacher and Governing Body to ensure that the number and pattern of absences do not individually or collectively adversely affect the smooth-running of the school or the education of its pupils.

For the purposes of leave of absence with or without pay the definition of a near relative will be relationships outlined in the kinship regulations i.e. father, mother, step-father, step-mother, husband, wife, son, daughter, step-son, step-daughter, adopted son or daughter, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law. In addition, there are occasions when despite the lack of a direct family relationship, it is clear that the member of staff concerned should be regarded as a near relative. Thus, the term “near relative” shall include any other person with whom the member of staff has a close personal relationship which, in the opinion of governors or managers, justifies leave of absence with pay.

If managers or governors have any serious doubt as to the reasonableness of requests or as to the interpretation of the scheme, advice may be obtained from your designated Personnel Patch Officer. The categories outlined are not necessarily exhaustive and advice will be available on requests not mentioned specifically within the scheme where managers and governors consider these to be proper and reasonable.

The scheme for leave of absence with pay for employees has been agreed between recognised professional associations and the LEA.

##### Entitlement

- Urgent personal and domestic leave up to 5 working days for:
  - Urgent personal or domestic emergency e.g. property damage due to fire, flood, storm, impact, subsidence or burglary.
  - Serious illness of a near relative.
  - To attend to the care of a dependant where no other care is immediately available and to make arrangements for alternative care.
  - Some foreseen events e.g. hospital appointment or planned operation for a child or partner, meetings relating to the adoption of a child.

- Up to three days for family reasons. This category includes moving house, illness of husband, wife, children, or other near relatives which is not serious illness and weddings of near relatives.
- Bereavement Leave  
  - ½ or 1 day where only attendance at a local funeral is required.
  - 3 days for funeral arrangements and attendance.
  - 5 days for funeral arrangements, attendance at funeral and dealing with affairs of deceased.
- Medical or dental appointments which cannot be made outside school hours.
- Inability to reach school because of weather conditions, transport strike or other such unavoidable crises.
- Driving Test  
  - Part day – where these cannot be arranged outside school hours.
- Attendance at Conferences or Training Courses organised by an approved educational body.
- Sitting examinations to improve qualifications.
- Interviews in connection with an application for another post.
- Absence from last day of Spring Term until 30 April (retiring teachers only).
- Attendance at meetings or associated activities of examining bodies.
- Attendance at ceremonies such as graduation, Duke of Edinburgh's award, presentations, investitures, etc. where employee or a near relative is involved.
- Participating in County, Regional, National or International sporting or cultural event.
- Attendance at meeting of a Diocesan Education Committee.
- Training and associated activities with any branch of HM Forces.
- Taking part, as a candidate, in the proceedings of a Local Government election on the day of the election.
- Attendance at any court as a witness or as a jury member.
- Service as a member of the National Executive of a professional association (as per Facilities Agreement).

This list is not prescriptive nor comprehensive. It may be appropriate to agree leave of absence with pay for other reasons and such cases should be considered on their own merits and in the context of maintaining effective and efficient smooth running of the school.

### **Leave of Absence Without Pay**

Requests for leave of absence without pay for up to 5 days shall be determined by Governing Bodies. As the agreements for leave of absence with pay cover most contingencies, it is not expected that Governing Bodies will have to consider many requests of leave of absence without pay.

In considering such requests, Governing Bodies will wish to take into account the nature of the request and the effect on the effective and efficient smooth running of the school. Leave of absence without pay should not be granted to enable employees to pursue private interests or to extend periods of holiday. But, governors may wish to grant up to 5 days unpaid leave following a period of paid leave granted for an urgent or domestic situation which is ongoing.