



# Engage MAT

## Leave and Time off

### Policy

**Date of ratification October 2016....**

**Date of review October 2018.....**



## Leave and Time off Policy

---

Introduction .....	3
IAbuse of this policy .....	3
Rarely cover .....	3
1. Annual leave .....	3
2. Disability leave .....	5
3. Emergency dependant leave.....	6
4. Compassionate leave on bereavement.....	8
5. Other compassionate leave.....	9
6. Time off for religious observance .....	11
7. Travel difficulties in bad weather .....	12
8. Time off for interviews .....	12
9. Time off work for public duties.....	13
10. Jury service .....	15
11. Court attendance.....	16
12. Volunteer reserve forces .....	17
13. Trade union duties and activities .....	21
14. Strike action .....	21
15. Family friendly entitlements and responsibilities.....	22
16. Maternity support leave entitlements and responsibilities .....	22
17. Parental leave .....	22

## **Introduction**

Every employee will, from time to time, need to take time off work. This model policy provides opportunity for schools and academies to establish a clear framework within which employee entitlements and employer discretions relating to leave and time off can be clear.

The model policy allows for any statutory entitlements, entitlements provided through national and local conditions of service and a number of local discretions. Individual schools and academies will need to take decisions around those local discretions when considering adoption of the policy.

For Trust staff, please read CEO at Headteacher reference.

## **Abuse of this policy**

Any employee found to have abused the provisions of this policy will be investigated under **the Disciplinary procedure with appropriate action being taken.**

## **'Rarely cover'**

When considering how to cover periods of employee absence, consideration must be given to the requirement introduced through the 2009 *School Teachers' Pay and Conditions Document* that teachers (other than those employed for the purposes of providing cover) should cover the absence of teacher colleagues 'only rarely and in circumstances that are not foreseeable'. The introduction of this requirement was part of the package of contractual change set out in the *National Agreement on Raising Standards and Tackling Workload*.

## **1. Annual leave**

### **1.1 Teaching staff**

There are no specific provisions for annual leave for teaching staff.

Under the *School Teachers' Pay and Conditions Document*, the number of directed hours within which a teacher employed full time shall be available is 1265 in any school year, with the number of days on which teachers shall be available for work in any school year is 195, with five of those days being days on which the teaching of pupils is not required. Teachers cannot therefore be directed to undertake duties on any other days not specified as working days by the employer, including public holidays and weekends (except where their contract specifies weekend working).

The 1265 annual directed time limit does not apply to Headteachers, Deputy Headteachers, Assistant Headteachers or Lead Practitioners. The *Schools Teachers' Pay and Conditions Document* does not specify either maximum weekly hours or maximum annual hours. The document does however, specify that the employer (in the case of a Headteacher, this would be the Governing Body) has a responsibility to ensure a work life balance exists for these categories of employee. One inference from this is that these categories of employee should benefit from reasonable periods of leave during the year. It is clear that these employees cannot be instructed to work on any Saturday, Sunday or public holiday (unless their contract of employment expressly provides for this).

## 1.2 Contracted support staff

Annual leave entitlement varies according to grade and length of service. The table below shows the leave entitlement that employees are entitled to.

Spinal Column Point	Length of continuous service in complete years immediately prior to commencement of leave year		
	Below 5 years	5 or more but less than 10	10 years or more
Scale E or below	24 days	29 days	29 days
Scale F - G	25 days	29 days	29 days
Scale H - M	27 days	29 days	30 days
Scale N and above	28 days	29 days	31 days

The annual leave period runs from 1 September to 31 August each year. Part-time employees and those employed on temporary and fixed term contracts, receive annual leave on a pro-rata basis.

Those employees who work 'all year round' will take annual leave from their normal working hours. Employees must make requests for annual leave to their line manager half term in advance. Only annual leave which has been approved can be taken. Normally, 'all year round' employees will be required to take their annual leave during school/academy closure periods but this can be varied at the discretion of the Headteacher/Principal. The school/academy is closed between Christmas and New Year so Annual Leave will be automatically deducted for these days. In exceptional circumstances, and by mutual agreement, annual leave can be carried forward to the next year (normally a maximum of five days) but must be taken in the consecutive year.

For employees who do not work all year round and are paid an average salary, the averaged salary calculation includes payment for the appropriate number of annual leave days. Leave is effectively taken during weeks when the employee is not expected in school/academy. This also takes into consideration any public or bank holidays owed. Salary is paid in 12 equal monthly instalments to avoid lengthy gaps in payment during long school/academy closure periods.

When any support staff employee leaves employment, entitlement to outstanding leave will be calculated. Any leave owed should be taken before the termination date but where this is not possible, pay in lieu of the remaining leave entitlement will be paid.

Those support staff employees who work less than all year round and who leave at the end of the summer term (provided they have worked the full school/academy year) will remain on the payroll until 31 August, in order that they receive all of the

salary to which they are entitled through the averaged (over a year) salary arrangement.

### 1.3 Casual support staff employees

Historically, casual support staff employees (i.e. those paid on a monthly claims basis) received entitlement to leave through enhanced salary payments called “rolled up holiday pay”. Legislation removed this method of payment and now requires that leave entitlement is identified and taken as leave. Special arrangements were therefore introduced for these employees in September 2009.

## 2. Disability leave

2.1 Disability leave is reasonable paid time off work for a reason related to an employee’s disability. It can usually be planned in advance and is for a fixed period of time. Employees should make appointments outside working hours but where this is not possible disability leave may be an option. A failure to allow reasonable time off could be deemed discriminatory.

Examples of disability leave include:-

- Hospital or doctor’s appointments
- Hearing aid tests
- Training with a guide or hearing dog
- Counselling/therapeutic treatment
- Recovery time after a blood transfusion or dialysis treatment
- Physiotherapy
- Servicing of necessary equipment or disability aids
- Cancer treatment
- Other reasons connected with rehabilitation, assessment and treatment
- While reasonable adjustments are made in respect of the individual’s disability it is not appropriate for an employee to remain at work or be redeployed. This decision will be based on medical advice. (The time off will not be taken into account when considering possible dismissal on the grounds of medical incapability)
- A reasonable extension to a phased return period based on medical advice

Disability leave is an example of a reasonable adjustment under the Equality Act 2010. The intention is to avoid employees taking annual leave due to their disability or having a poor attendance record. Not all disabled employees will need to take disability leave.

Disability leave is not sickness absence that is related to a disability. When an employee is not well enough to attend work this **must** be recorded as sickness absence.

## 2.2 Eligibility

Employees who consider that they have a disability as defined by the Equality Act can apply to their Headteacher/CEO for disability leave when they need it

The Equality Act defines disability as “a physical or mental impairment, which has a substantial and long-term adverse effect on ability to carry out normal day-to-day activities”. Substantial and adverse means more than minor or trivial, and long term means that it has lasted or is likely to last for at least a year or for the rest of the life of the person affected. Normal day-to-day activities include everyday things like eating, washing, walking and going shopping. A normal day-to-day activity must affect one of the “capacities” listed in the Act, which includes; mobility, manual dexterity, speech, hearing, sight and memory.

## 2.3 Notification

Employee responsibilities:-

- discuss the request for disability leave with the Headteacher, and wherever possible in advance.
- Make a written request to the Headteacher.

Headteacher responsibilities:-

- Explain the availability of disability leave when informed of the employee’s disability.
- Assess whether any request is reasonable. This will depend on the circumstances (e.g. the nature of the disability, personal management strategies, available appointments, etc.).
- Explore other reasonable adjustments with the employee that may be necessary.
- Inform the HR Shared Service Centre of the disability leave using the usual leave notification process

## 3. Emergency dependant leave

- 3.1 A statutory entitlement exists for all employees to have the right to take reasonable time off work to deal with an emergency involving a dependant. There is no qualifying period - employees have this entitlement from their first day of employment.

The statutory entitlement only provides time off and such time off cannot be denied. There is, however, no requirement for emergency dependent leave to be with pay.

Employees should appreciate that emergency dependent leave can be difficult to cover and will have an impact on the smooth running of the school. It should therefore only be used in genuine emergency situations.

### 3.2 Taking time off

Employees can use emergency dependant leave to deal with an unexpected or sudden problem and make any necessary longer-term arrangements:

- if a dependant falls ill or has been involved in an accident or assaulted, including where the victim is hurt or distressed rather than injured physically;
- to make longer term care arrangements for a dependant who is ill or injured;
- to deal with an unexpected disruption or breakdown in care arrangements for a dependant, for example, when the child-minder or nurse fails to turn up;
- to deal with an incident involving their own child during school/academy hours, for example, if the child has been involved in a fight or is being suspended from school/academy.
- when a partner is having a baby;
- to deal with the death of a dependant, for example, to make funeral arrangements or to attend a funeral;

It should be noted that certain circumstances, including some of those listed above, may be covered by other provisions of this policy. Emergency dependant leave provides a statutory entitlement for employees (without pay) whereas those other provisions will require a request from the employee and authority from the Headteacher but may provide leave *and* pay, and potentially for longer periods.

### 3.3 Definition of dependant

A dependant is the partner, child or parent of an employee, or someone who lives with an employee as part of their family. For example, this could be an elderly aunt or grandparent who lives in the household. It does not include tenants or boarders living in the family home, or someone who lives in the household as an employee, for example, a live-in housekeeper.

In cases of illness, injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency.

### 3.4 Amount of leave

There is no set limit to the amount of time off which can be taken. In most cases, the amount of leave will be one or two days at the most, but this will depend on individual circumstances, although employees may be able to take longer periods of leave under other arrangements (see Compassionate leave for bereavement and Parental leave).

For example, if a child falls ill, the leave should be enough to help the employee cope with the crisis - to deal with the immediate care of the child, visiting the doctor if necessary and to make longer term care arrangements. It does not mean that the employee may take two weeks leave to look after a sick child.

### 3.5 Notification

Employees must tell their employer, as soon as is practicable, the reason for their absence and how long they may be away. There may be exceptional circumstances where an employee returns to work before it was possible to contact the employer, but they should still tell the Headteacher the reason for absence immediately on returning. It is not necessary to give notice in writing.

### 3.6 Protection from dismissal and detriment

Employees are protected from being penalised or dismissed because they have taken, or have sought to take, time off under this right. For example, someone who is moved to a lower salary grade because they have exercised this right would be able to make a complaint that they have suffered a detriment. It is unfair to dismiss or select for redundancy any employee on the basis that they have taken, or have sought to take time off under this right.

If an employee is unreasonably refused time off under this right, suffers a detriment or is dismissed for taking, or seeking to take, time off under this right, the matter should be considered under the school's grievance procedure.

## **4. Compassionate leave on bereavement**

- 4.1 The time immediately after the death of a close relative will be difficult for most employees. The closer the relationship between the employee and the person who has died, the greater the need for the relevant managers to adopt a sensitive approach. Compassionate leave for bereavement may be granted at the discretion of the Headteacher to employees who have suffered the death of a close relative.



#### 4.2 The following factors should be considered:-

- The relationship of the employee to the person who has died - a formal family relationship is not necessarily an accurate reflection of the closeness of a family tie.
- Personal responsibilities - for example, the employee may have responsibility for arranging the funeral, as executor for the will, etc.
- Geographical location of the funeral and the travelling time involved.
- The recovery time needed before the employee can cope with the demands of his/her job.

#### 4.3 Standard discretionary entitlement

- One day of paid leave to attend the funeral of a spouse, partner, parent, guardian, child, brother, sister, grandparent or grandchild.
- Half a day of paid leave to attend the funeral of an aunt, uncle, cousin, mother/father-in-law or brother/sister-in-law.

#### 4.4 Further possible discretionary entitlements

Up to an extra four days paid leave can be granted by the Headteacher depending on the circumstances outlined in 4.3 above. Any leave approved beyond this would be unpaid except in the most exceptional circumstances, when the Headteacher has discretion to authorise paid leave for a further five days maximum.

If the employee is unable to return to work beyond the allowed compassionate leave period because they are unfit to do so, absence should be deemed sick leave and the relevant parts of the **Improving attendance and managing sickness absence policy and procedure**

Employees may request leave to accommodate religious observances following bereavement. This can require extended periods of leave or leave to be taken at very short notice. Requests should be viewed sympathetically although there is no provision in the policy for such leave to be with pay.

### 5. Other compassionate leave

#### 5.1 Medical appointments

Wherever possible, employees should make medical/dental appointments for themselves or their dependents outside of school hours (normal working hours – outside of directed hours for teachers) or in school closure periods.

There is no legal requirement to grant time off for medical appointments including surgery and fertility treatment. Where the surgery or fertility treatment is available and

recommended by the NHS the Headteacher should grant leave of absence with pay (this does not mean the employee has to have the procedure on the NHS, they could choose to go private). For non-NHS recommended procedures the Headteacher should grant leave of absence without pay. Please note if the employee concerned is deemed to have a disability covered by the Equality Act, it will be appropriate to consider whether time off for medical appointments should be treated as disability leave

Where possible, the employee should ensure there is sufficient time outside school hours or in school closure periods to allow for recovery. If the Headteacher is satisfied that this has not been possible, the usual sick leave and sick pay arrangements will apply provided the school's sickness absence procedure is followed. If the employee is unfit to work due to complications resulting from surgery/treatment, or the surgery/treatment results in injury, the usual sick leave and sick pay arrangements will apply provided the school's sickness absence procedure is followed.

#### 5.1.1 Transgender procedures

The Equality Act 2010 makes it unlawful for an employer to discriminate against an employee, job applicant, or contractor on the grounds they propose to start, or have completed a process to change their gender. An individual does not need to be undergoing medical supervision to be protected by the Act, nor do they have to complete the process of changing their identity. The individual cannot be treated any less favourably than someone who is absent for some other reason. Employers have a duty to ensure that an employee in these circumstances does not suffer harassment once they return to work. Confidentiality is therefore important and the Headteacher/Principal should discuss with the employee what information will be given to colleagues about the reason for absence.

#### 5.1.2. Discrimination and fertility treatment

Employers are not legally obliged to allow employees time off from work to undergo fertility treatment. Women who are undergoing fertility treatment are, however, protected under the Equality Act 2010. If they are dismissed or treated differently because they are undergoing surgery or other treatment, or have undergone fertility treatment, this is likely to constitute unlawful discrimination.

If an employee is ill as a result of treatment, e.g. if they suffer from stress or some other complication, then they will be entitled to take sick leave, and receive sick pay if they are unfit for work.

### 5.1.3. Further information

Occupational Health will be able to advise on specific cases. Advice regarding medical appointments can also be accessed through HR Direct. Please note there are statutory entitlements for employees with pregnancy related absence.

## 5.2 Other personal leave

Paid leave of absence can be granted for a reason the Headteacher supports such as to allow paid absence to allow arrangements to be made if significant damage occurs to personal property by pupil/s, moving house, representing county or regional teams in sporting or cultural events, examination/study leave, service as an examiner and meetings of examination panels. There may be other reasons leading to paid leave which the Headteacher supports. cy to allow 1 day paid absence if damage incurred by pupil

Some occasions may lead to the Headteacher allowing a day's unpaid leave. These would include graduation/public honour of self, spouse or child or the reading of a will after death (more likely where the deceased is a friend and not a family member in which case leave is likely to be granted under 3.1 above). There may be other reasons leading to unpaid leave which the Headteacher supports.

The green book details additional decisions for Headteachers with regards to further provisions for support staff. This is in terms of time off for dependents. Headteachers have the discretion to decide whether to grant additional leave with or without pay. Headteachers should give particular consideration to granting reasonable paid time off for dependents as defined under the Employment Relations Act 1999<sup>1</sup>. This could be to settle an elderly relative into a care home or to attend a hospital appointment or planned operation with a child/partner.

## 5.3 Compassionate leave for other domestic circumstances

There may be some circumstances where emergency dependent leave would normally apply but where the Headteacher believes it is appropriate to allow time off with pay. Where this is the case, the Headteacher has discretion to the limits outlined for compassionate leave on bereavement under 4.1 above.

All leave of absence on compassionate grounds should be minimised and, wherever possible, timed to be outside school hours or in school closure periods.

## 6. Time off for religious observance

Many religions or beliefs have special festival or spiritual observance days. Those employees with annual leave entitlements may request annual leave in order to celebrate festivals or attend ceremonies. Some employees in schools do not have

an annual leave entitlement to use in the same way and even for those with an annual leave entitlement, there is an expectation that leave will be taken during school closure periods.

Whilst there is no legal obligation to approve such requests for time off for religious observance, Headteachers should give due consideration where it is reasonable and practical for the employee to be away from work.

Consideration for religious observance may not be limited to time off and some employees may wish to worship or pray at particular times of the day or fast for periods of time. All reasonable steps should be taken to accommodate such wishes.

## **7. Travel difficulties in bad weather**

The Headteacher may authorise staff not to attend school when adverse weather conditions make travelling difficult or dangerous. Headteachers should ensure that communication methods are robust to ensure that all staff and pupils are aware of the decision to open or close.

Where such absence is authorised, the employee would receive normal pay but the Headteacher will be entitled to allocate work that the employee can carry out at home during this time.

If an employee is absent without the necessary authority from the Headteacher, it will be treated as unpaid leave.

## **8. Time off for interviews**

An employee will be allowed reasonable time off with pay to attend interviews.

The employee must provide as much notice as possible to the Headteacher of their wish to take time off to attend an interview and, wherever possible, should mitigate the amount of leave required.

The Headteacher may limit the amount of time an individual takes for interviews, particularly if the number of days lost is significant and the ability for appropriate cover to be found is limited.

An employee who has been given notice of dismissal on the grounds of redundancy will be allowed reasonable time off for interviews. If they have continuous employment of two or more years, they will also be entitled to reasonable paid time off to look for other employment or to arrange training for future employment.

## **9. Time off work for public duties**

9.1 Under current employment legislation employers are required to grant reasonable time off to employees engaged on certain public duties. A reasonable amount of time off must be allowed to employees who are:

- Justices of the Peace (Magistrates);
- members of a Family Health Service Authority;
- members of Local Authorities & Police Authorities;
- member of Strategic Health Authorities;
- members of Statutory Tribunals;
- members of a National Health Service Trust;
- members of School Governing Bodies, Academy Trusts, Higher Education Corporation or Local Authority Education Establishments;
- members of the Environment Agency;
- members of the Broads Authority;
- Members of a Board of Visitors, or a Visiting Committee for Prisons, Remand Centres and Young Offenders Institutions.

The 'reasonable time off' is to allow attendance at meetings of the body or any of its Committees or Sub-Committees, or, performance of duties which have been approved by the body and which are necessary for carrying out its functions.

9.2 There may be other public organisations not specifically covered by the legislation for which paid time off will be considered. The Headteacher may seek advice from HR Direct before making a decision on this.

9.3 Reference has been made to allowing reasonable time off. The legislation sets out various criteria for determining reasonable time off under these circumstances.

These are:

- how much time off is required for the performance of the office or as a member of the body in question, and how much time off is required for the performance of the particular duty;
- how much time off the employee has already had in respect of these duties and any other permitted time off (e.g. for trade union duties).
- the circumstances of the employer's business and the effect of the employee's absence on the running of the business.

The Local Government and Housing Act, 1989, however prescribes an absolute maximum of 208 hours per year which employees may be paid to undertake duties as a member of a county, district or parish council (unless the office of Chairperson of the Council is held).

9.4 In view of the legislative requirements and in order to ensure equitable treatment for employees, the following process will be followed to consider requests from employees for paid leave to undertake public duties:-

- 9.4.1 As a first step, the employee should advise the Headteacher that they are intending to become involved in the public duty covered by the guidelines.
- 9.4.2 Once the employee has been appointed to the particular office, the Headteacher will take steps to identify how much time off is likely to be required. This would be through discussion with the member of staff and by contacting external sources if appropriate for guidance, e.g. Clerk to the Justices.

It is not possible to be overly prescriptive about the amount of time off involved as this will vary depending on the role undertaken and the nature of the commitment at any particular time. Each case will be considered individually. In determining an appropriate amount of time off, account will be taken of the employee's other commitments in respect of such activities as trade union/health and safety activities. Having considered all these factors, a time off allowance can then be agreed. Headteachers have discretion to agree a paid time off allowance of up to 18 working days per annum. Notwithstanding these arrangements some members of staff may, of course, prefer to use annual leave instead of paid time off. Unpaid leave may also be an option to be considered.

- 9.4.3 The Headteacher will then notify the employee formally of the limits of time off agreed.
- 9.5 Part-time employees have the same legal entitlement to time off as their full-time colleagues. While part-time employees may themselves ask to rearrange their working hours to fit in with the requirements of their public duties they must not be required to do so.
- 9.6 No time off, paid or unpaid, other than annual leave (where it is an option) will be allowed to employees standing for election to district or parish councils for the purpose of campaign or other pre-election duties. Annual leave (where it is an option) will only be allowed in these circumstances where it can be managed without negative impact on the school
- 9.7 For any employees in community or voluntary controlled schools who do not hold a politically restricted post, leave of absence without pay will be granted for a period or periods not exceeding four weeks in total in the period immediately preceding an election, up to and including the day of the poll. In the event of an employee being elected as a Member of Parliament, the school would not keep the individual's job open but the Engage Trust would be willing to seek to re-employ such an employee if they had at least ten years previous service and if a return to employment with the Trust is sought within a period of five years after the election. No commitment to

either the success of this exercise or to the nature of employment and salary level can be given.

- 9.8 In all cases of time off for public duties members of staff should, in conjunction with the Headteacher be expected to ensure that their work as an employee of the school/academy is interfered with as little as possible and that their absence is not to the detriment of the efficiency of the school.
- 9.9 Public service of some types carries with it entitlement to allowances of various kinds. Allowances relating to subsistence, travel expenses etc. are not usually of concern to the school unless they duplicate expenses already paid to the member of staff. Employees who are able to claim an allowance for loss of wages and salary should either voluntarily forego such allowances or provide evidence of the amount of allowance claimed in order that the school can arrange for the appropriate deductions to be made from the employee's earnings.

## **10. Jury service**

- 10.1 All employees are entitled to paid time off to undertake jury service. All employers have a legal obligation to allow an employee to serve as a juror, if they are called up, for as long as is necessary.

The employer will continue to pay the employee. The employee must claim juror's allowance from the court and this will then be deducted from their pay. The juror's allowance compensates for the employee's loss of earnings. Therefore if the employee attends court for longer than their normal working hours no additional payment will be made.

During the period of jury service the employee may be released early. If this happens, the employee should contact the Headteacher/Principal to discuss whether it is practicable to return to work for the rest of the day.

### **10.2 Notification**

Employee responsibilities

- Notify the Headteacher of dates as soon as the jury summons is received.

- Complete the **jury service/compulsory court attendance notification form** and loss of earnings certificate form when the summons is received.
- Complete **confirmation form F201e** once the jury service has been completed or if it is cancelled.
- Claim juror's allowance.
- Contact the Headteacher concerning working arrangements if released early during jury service.

#### Headteacher responsibilities

- Agree working arrangements whilst the employee is absent.
- Ensure that the confirmation form is completed.
- Access funds to support the cost of cover.

## 11. Court attendance

### 11.1 Court attendance related to the employment

If an employee is called as a witness, defendant or plaintiff on behalf of the employer, they will be paid as normal to attend court. The employee must claim the appropriate allowance for loss of earnings from the court and follow the process as outlined at 10.2. That amount will then be deducted from their pay. If the court sits outside of the employee's normal working hours the Headteacher will discuss how that should be managed. The Headteacher may, for example, approve time off in lieu, work to rearrange working days or agree to paid additional hours.

### 11.2 Compulsory court attendance not related to the employment

If an employee is called as a witness, defendant or plaintiff and this is not related to their work, they will be granted paid leave to attend court. They must claim the appropriate allowance for loss of earnings from the court and follow the process as outlined in at 10.2. That amount will then be deducted from their pay. If employee attends court for longer than their normal working hours, the school or academy will not make any additional payment.

### 11.3 Voluntary court attendance

Where attendance at court is of a personal matter to the employee and is voluntary, the Headteacher will seek to accommodate time off through the use of annual leave (where it is an option), time off in lieu (where it is practicable) or unpaid leave.



## 12 Volunteer reserve forces

- 12.1 The British Volunteer Reserve Forces (VRF) makes a valuable contribution to our defence, our communities and the workplace. The VRF consists of the Royal Naval Reserve, the Royal Marines Reserve, the Territorial Army, and the Reserve Air Forces.

Reservists may be called up and 'mobilised' to support defence strategy in conflict operations and to assist in disaster relief across the globe.

- 12.2 Mobilisation is the process of calling reservists into full-time service with the regular forces, in order to make them available for military operations. The maximum period of mobilisation will depend on the scale and the nature of the operation and is typically no longer than 12 months.

This section outlines to employees and managers what happens when employees require time off to fulfil reservist duties.

### 12.3 Eligibility

There are two main types of reservist covered by the relevant legislation:-

- Standard volunteer reservists – individuals recruited into the VRF.
- Regular reservists - ex-regular servicemen who retain a liability to be called up and mobilised.

### 12.4 Entitlement

Once a call-up notice to mobilise a reservist has been issued, the employer is legally required to comply with it under the Reserve Forces Act 1996, subject to deferral, revocation and certain exemption provisions.

Under the Reserve Forces (Safeguard of Employment) Act 1985, reservists have a statutory entitlement to be reinstated within six months of the end of their military service. This should be to the same role and on terms and conditions no less favourable than those if had they not undertaken the period of service. If reinstatement is not possible, for example where there has been a reorganisation of the business, then the employee should be offered the most favourable terms and conditions possible in the circumstances.

A reservist cannot be made redundant on the grounds of their military duties or their liability to be mobilised. Reservists can be included in the redundancy pool if this is necessary due to a closure or restructure of a department or team. All employees, however, should be treated consistently and redundancy criteria should not

discriminate against reservists on the grounds of their reserve service or call-up liability.

## 12.5 Process - mobilisation and reinstatement

The employee must inform the Headteacher who should also receive a formal notice from the Ministry of Defence (MoD). The notice will include the call-out date (first day of mobilisation) and the anticipated timeline.

## 12.6 Responsibilities

The employee:-

- Inform the Headteacher as soon as a copy of the call out notice is received.
- Ensure the Headteacher is kept up to date with a suitable contact address for correspondence.
- Write to the Headteacher within one calendar month from returning from whole-time service to agree a date to return to work.
- If their post has been made redundant, engage in the redeployment process.

## 12.7 The Headteacher:-

- Sign and return the mobilisation acknowledgment slip as instructed on the notice.
- Meet with the employee to discuss handover arrangements and confirm what the employee's terms and conditions will be when they are absent. Ensure that arrangements are made in respect of childcare vouchers etc. Where an employee has outstanding payments to be made on the cycle to work scheme contact HR Direct.
- Complete **Leavers form (F103)** form to ensure that the employee is paid correctly (on mobilisation) and write to them confirming the arrangements.
- Consider whether due to the anticipated length of absence and role it is necessary to treat the employee as a leaver thereby ensuring appropriate access is removed and equipment is returned. See **leavers and movers checklist (C103)**.
- Consider the resourcing options available to cover the absence. This will depend on the employee's role and anticipated length of absence. A permanent appointment to the post *cannot* be made due to the reinstatement entitlement of the reservist.
- Seek financial assistance to cover the additional costs of replacing the employee by completing the claim form (provided in the mobilisation pack) and providing necessary evidence.
- Ensure that reminder systems are in place, to enable preparation for their return.
- Ensure the employee's position and absence is taken into account if any changes are proposed at a later date to staffing structures or other organisational arrangements.
- Inform the employee in writing of any significant changes to their employment whilst they are mobilised. For example a restructure or TUPE transfer. Any correspondence must be sent to the employee's home address.

- Re-employ the reservist as soon as reasonably possible from the date stated in the reinstatement letter. Ensure appropriate safeguarding checks are made before return where necessary.
- Meet with the employee on their return to discuss their experiences – the employee may have new skills that they can offer. Provide an update on changes and developments in the organisation and offer specific training and support where needed.
- Ensure that HR Shared Service Centre is notified of the employee's return so that the employee is paid correctly.

## 12.8 Terms and conditions of employment during mobilisation

The contract will cease via mutual agreement between the employer and the employee. This will not in any way affect the employee's right to reinstatement.

### 12.8.1 Continuous service

The period of continuous service will not be broken as outlined by the Employment Rights Act (1996). However the period of military service will not count towards the calculation of continuous employment.

### 12.8.2 Pay and contractual benefits

The employer will not continue to pay the reservist's salary or contractual benefits.

### 12.8.3 Annual leave

Reservists should be encouraged to take any accrued annual leave (where applicable) before mobilisation. Where this is not possible the normal rules of carryover are applicable. Annual leave is not accrued during the period of mobilisation.

## 12.8.4 Pension

### Teachers' Pension scheme

Where the employee is a member of the Teachers' Pensions Scheme they should contact Teachers' Pensions direct to discuss the implications to their pension and ascertain whether there is a requirement to take any action in this respect.

### Local Government Pension Scheme

Where the employee is a member of the Local Government Pension Scheme (LGPS) the following conditions will apply.

If the Reserve Forces pay that the employee will receive equals or exceeds the pay they would normally have received, the employee will continue to make contributions on the pensionable pay received from the MoD and the service will count in full for pension purposes.

If, however, the Reserve Forces pay does not exceed the pay normally received, the pension contributions (and any additional contributions to purchase added years) are simply deemed to have been paid. The employee will not have to make any contributions (other than any Additional Voluntary Contributions that they wish to pay) and the service will count in full for pension purposes.

The employee can opt not to be covered by the above pension provisions and any such election would have to be submitted within 12 months of the end of the reserve forces leave.

## 12.9 Training commitments

Training commitments will vary between the different elements of the Reserve Forces. The vast majority of this training takes place in the employee's spare time at evenings and weekends. There is a, however, continuous training period, often referred to as annual camp but this normally takes place during school/academy closure periods.

## 12.10 Process - annual camp

Employee responsibilities:-

- Confirm in writing the date of the annual camp training to the Headteacher as soon as possible with a request for time off to enable planning for this absence.

## Headteacher responsibilities

- Give consideration to allow up to two weeks (depending on the dates provided by the employee) paid leave per year
- Confirm decision to employee
- Retain a local record of the leave.

## 13. Trade Union duties and activities

### 13.1 Representatives

Employee representatives and trade union officials must be able to carry out their union duties effectively whilst having due regard to the reasonable expectations of the employer in relation to the performance of their duties as employees.

Representatives of recognised trade unions have the right to take reasonable time off work, with pay, to carry out duties relating to industrial relations matters between their members and the County Council and/or Governing Body, and to undergo training.

The academy buys into the Facilities Time Agreement operated by Norfolk County Council.

### 13.2 Members of recognised trade unions and professional associations

Members of recognised trade unions have the right to take reasonable time off work, without pay, to take part in the activities of their trade union. Any queries on these matters should be referred to HR Direct.

## 14. Strike Action

14.1 Strike action can only legitimately be taken following a process that meets the necessary legal requirements (i.e. following a member ballot, etc.).

14.2 A deduction from pay will only be made if an employee was due to work that day. This deduction is not a penalty for taking strike action. Strike action is a breach of contract and employers are therefore entitled to claim damages as a result.

**Teachers:** Where an individual takes a full day of strike action, a day's pay will be deducted on the basis of 1/365<sup>th</sup> the annual (full-time equivalent) salary.

**Support staff:** For full time staff 1/5<sup>th</sup> of a week's pay per day to reflect the proportion of time lost out of the working week. For part-time staff the deductions will be for actual hours lost.

14.3 Information around the impact of strike action on an individual's pay and pension situation will be provided in advance of any strike action where sufficient notice has been given by the relevant trade union(s) and/or professional association(s)

## **15. Family friendly entitlements and responsibilities**

Maternity, adoption, surrogacy, shared parental leave and paternity schemes detailing entitlements and responsibilities, exist for teaching staff and non-teaching staff in schools.

## **16. Maternity support leave entitlements and responsibilities**

Maternity support leave is available to support staff only. If the employee qualifies for both paternity leave and maternity support leave refer to the paternity policy . If the employee does not qualify for paternity leave but wishes to take maternity support leave please refer to the maternity scheme – support staff

## **17. Parental leave**

The Maternity and Parental Leave Regulations 1999 introduced an entitlement to a period of unpaid leave, for employees to look after their children, or make arrangements for their welfare.

### **17.1 Entitlement**

Employees are entitled to 18 weeks' unpaid parental leave if:

- they have at least one year's continuous service with the school or a related employer
- they have a child under the age of eighteen or have a child who was adopted within the past eighteen years and is under the age of eighteen
- they have, or expect to have, parental responsibility for the child.

A "week's leave" is defined in 17.4 below.

An employee can only take a period of parental leave before:

- the child's eighteenth birthday
- the eighteenth anniversary of an adopted child's placement with them or their child's 18th birthday, whichever is earlier

An employee can take a period of leave immediately after the end of normal maternity, paternity or adoption leave.

The parent does not have to be living with the child to qualify. The right applies to a single child. Therefore, if an employee has twins, they are entitled to 36 weeks' parental leave. Parental leave cannot be transferred between parents.

#### **17.1.1 Provisions applicable to teaching staff**

Employees can take a maximum of four weeks' leave in any year in respect of any individual child. Therefore an employee with twins could take up to eight weeks in any one year.

Periods of leave must be taken in multiples of one week – unless the child is disabled, in which case it may be taken as individual days.

### 17.1.2 Provisions applicable to support staff

The green book states that support staff employees may take parental leave:

- as a single block of up to 13 weeks (or 18 weeks if the child is disabled). Schools and academies can choose to extend the 13 week single block to 18 weeks for all support staff
- as a number of shorter periods of a minimum of a half-day
- in patterns which provide part time or reduced hours working arrangements for a period of time equivalent to taking 13 weeks (or 18 weeks for a disabled child) as a single block. Schools and academies can choose to extend the 13 week single block to 18 weeks for all support staff

### 17.2 Purpose of parental leave

An employee must be taking the leave to care for the child. This means looking after the welfare of a child and can include making arrangements for the good of a child.

For example, an employee might take parental leave to:

- spend more time with the child
- accompany the child during a stay in hospital
- check out new schools/academies
- help settle the child into new childcare arrangements
- enable a family to spend more time together, e.g. taking the child to stay with grandparents.

Caring for a child does not necessarily mean the employee has to be with the child 24 hours a day. If it is found that the employee is using the parental leave for some other purpose, e.g. to do other work, this could be dealt with using the disciplinary procedure.

**Note:** Because notice needs to be given with a request for leave, parental leave is not suitable where an employee's child suddenly falls ill. However, under the Employment Relations Act 1999, employees are able to take a short period of emergency leave to care for the child - see para 3 – Emergency dependants leave.

### 17.3 Process for parental leave

Employee responsibilities:-

- **Parental leave record form** should be completed and passed to the Headteacher (unless the member of staff making the request is the Headteacher in which case the request is made to the Chair of Governors) giving 21 days' notice before the intended parental leave start date. **NB.** If the employee is having a baby or adopting, the notice is 21 days before the week the baby or child is expected.
- If requested, provide the Headteacher with appropriate evidence of eligibility. This may be evidence that:

- the employee is the parent of a child
- the employee has parental responsibility for the child
- the child is below the age at which the right to parental leave ceases

The evidence could be:

- the child's birth certificate
- papers confirming a child's adoption or the date of placement for adoption

Headteacher responsibilities:-

- Check the employee's eligibility – the request for evidence must be reasonable, e.g. it may not be reasonable to check on the employee's entitlement on every occasion on which leave is asked for
- Assess whether to approve the request or postpone it. Parental leave cannot be refused, only postponed, and can only be postponed where the needs of the business or quality of the service so requires. Headteachers/Principals should discuss the matter with the employee and confirm the postponement arrangements in writing (Form **F201b** can be used for this), no later than seven days after the employee's notice to take leave. Headteachers may be required to justify their decision then or at a later date. If refused, leave must be allowed within six months of the start date of the leave originally requested

**Note:** When an employee gives 21 days' notice prior to the expected week of childbirth, to take parental leave immediately after the birth of a child, then the leave cannot be postponed. In the case of adoption, the employee needs to give 21 days' notice of the expected week of placement, or in rare cases where this is not practical, an adoptive parent should give notice as soon as is reasonably practical.

#### 17.4 Definition of a week's leave (for parental leave)

One week's parental leave is equal to the length of time that an employee is normally required to work in a week.

This means that a week's leave for an employee who usually works from Monday to Friday is equal to five days. For an employee who usually works Mondays and Tuesdays only, a week's leave is equal to two days.

If an employee's working pattern varies from week to week, an average working week must be calculated as a fraction of the period for which the employee is required to work in a year. For example, an employee's contract states they work three days a week for 30 weeks, four days a week for 18 weeks, and two days a week for four weeks. To calculate the number of days leave in their average week, divide the total number of working days in these periods by 52.

If an employee takes leave in blocks of less than one week, a week is only deducted from their overall entitlement to 18 weeks when the short periods of leave adds up to what would be a normal or average working week.



## 17.5 Moving between employments

The 18 week entitlement applies to an individual child, not to an individual employment. Therefore if, for example, an employee has taken eight weeks' parental leave with their previous employer, they are only entitled to take another ten weeks in their subsequent employment(s).

## 17.6 Record keeping

There is no requirement in law to keep formal records of an employee's parental leave but it is wise to do so.

One record should be kept per employee for each child concerned. Leave should not be aggregated or recorded jointly between parents, or where an employee is entitled to leave for more than one child.

Copies of any relevant documentation should be kept with the record on the employee's file.

## 17.7 Notifications

Headteacher should ensure that employees who are members of the Local Government Pension Scheme are aware that, under the rules of the scheme, the first 30 days of any period of unpaid leave is still subject to pension contribution from both the employee and employer.

Headteacher should notify the HR Shared Service Centre of any periods of unpaid leave, using the staff return form (**F213o**) in order that deductions from pay can be made.

## 17.8 Returning to work

If the parental leave was for four weeks or less, the member of staff has a guaranteed right to return to the same post as before. If the leave was for a period longer than four weeks, they are entitled to return to the same post, or if that is not reasonably practicable, to a similar post which has the same (or better) status, terms and conditions as the old post.

If the parental leave is for four weeks or less and it follows additional maternity leave, the staff member is entitled to return to the same post as they would have been entitled to return to after their additional maternity leave period.

If the parental leave is for a period longer than four weeks and it follows additional maternity leave, the staff member can return to the same post as they would have been entitled to return to at the end of their additional maternity leave, unless it is not

reasonably practicable for the post to be kept open. In these circumstances they are entitled to a similar job which has the same (or better) status, terms and conditions as the old post.