

May 2021



DISCRETIONARY LEAVE OF ABSENCE POLICY

**HORIZONS EDUCATION TRUST, AMERICAN LANE,
HUNTINGDON, CAMBRIDGESHIRE. PE29 1TQ**

1. INTRODUCTION.

Trustees have agreed the following policy taking into consideration the views of the staff working group meetings on 14 June 2010, 4 October 2010, 6 July 2012 along with the statutory changes in legislation and discussion of personnel Trustees on 26th March 2013. EPM that this policy should be called 'Discretionary Leave of Absence' due to equalities legislation.

Spring Common School adopted all policies on Academy conversion 2015 and Policies were adopted for Horizons Education Trust 16 April 2021. All new schools or schools transferring to the Trust will adopt our HR Policies. Riverside Meadows Academy adopted the Trust HR policies on their Academy Transfer 1 May 2021.

- 1.1 The Board of Trustees recognises that the success of the school depends upon the contribution of all staff and gives full acknowledgement that a fair and effective policy on Leave of Absence contributes to the maintenance of staff morale and thereby to the success of the school.
- 1.2 The Board of Trustees recognises that absence from duty by staff may occur for a wide variety of reasons including compassionate grounds, jury service or for other reasons. Personal illness or injury is covered by the employee's sickness absence scheme. This policy applies to all teaching and support staff. This policy is non-contractual and may be amended at any time.
- 1.3 The Board of Trustees will observe its statutory obligations. Broadly these are:
 - **Time off for trade union duties** in accordance with provisions in Section 61 and 62 of the Employment Rights Act 1996.
 - **Time off with pay for safety representatives**, appointed and or elected by recognised trade unions both to carry out safety functions and to undergo relevant training.
 - **Paid time off for ante-natal care** under section 55 of the Employment Rights Act 1996, as part of the provisions for maternity/paternity leave.
 - **Statutory unpaid emergency dependants care leave** by request using form available from school office.
 - **Adoption Leave**
 - **Shared Parental Leave**

- **Parental Leave**
- **Maternity Leave**
- **Paternity Leave**

1.4 This policy sets out the Discretionary Leave of Absence provisions to make sure requests for leave of absence are dealt with in a fair and consistent way. The operational needs of the School are the priority and therefore there will be times when the Head Teacher has to refuse a request for leave. The examples of discretionary leave given show where circumstances may arise which are not identified in this policy the Head Teacher has authority to make the decision on whether or not leave is granted, and whether it is with or without pay using the guidance framework from Trustees.

STUDY/EXAMINATION LEAVE

2.1 If the Head of School receives a request from an employee for leave of absence for the purpose of revision immediately prior to an examination for a recognised qualification or leave of absence for the day(s) on which the examinations take place the request will be considered according to the following principles:

- The cost to the school of the leave in terms of salary, cover arrangements and organisational disruption.
- The relevance of the qualification to the better performance of the post the individual holds.
- The individual's career development and personal circumstances.

2.2 Any time off will be agreed by Head of School prior to the course start date according to individual cases and consideration of a request that is made. The Head of School will state the arrangements in writing after discussion with the Executive Head Teacher.

The decision of the Academy Advisory Group will be final if there is an appeal.

3. SECONDMENTS/EXTENDED UNPAID LEAVE OF ABSENCE

3.1 In the event that an employee requests an extended period of unpaid leave of absence the Head of School will discuss the matter with the employee and consider the matter in relation to:

- The cost to the school of the leave in terms of, cover arrangements and organisational disruption.
- The circumstances of the individual.
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The Head of School will make a recommendation to the Executive Head Teacher. The recommendation, if not acceptable to the employee, will be accompanied by a written statement from the employee of his/her request, with reasons.

The decision of the Academy Advisory Group will be final.

4. ADOPTION, MATERNITY SUPPORT LEAVE, PATERNITY LEAVE AND SHARED PARENTAL LEAVE

- 4.1 Information on Maternity Support Leave, Paternity Leave, Adoption Leave and Shared Parental Leave is available to employees as separate guidance for teachers and Support staff from the office.

5. TIME OFF FOR PUBLIC DUTIES AND ACTIVITIES

- 5.1 Subject to the needs of the school employees are entitled to reasonable time off in order to carry out the following public duties and activities. The Head of School will expect a request in writing and a plan with number of days per year will be agreed with the Head of School in order to be clear both for the school and employee. In the case of a Head of School such an agreement will be with the Executive Head Teacher
- (i) A Justice of the Peace
 - (ii) A Member of the Magistrates Courts Committee
 - (iii) A Member of a Family Practitioner Committee
 - (iv) A Member of a Local Authority (inc. Teacher Representative)
 - (v) Such other public duties as are referred to in of the Employment Rights Act 1996.
 - (vi) Serving on such other local or regional public bodies as the Trustees may authorise.
 - (vii) Campaigning as an official candidate for a General Election
 - (viii) Campaigning as an official candidate for a European Election.
- 5.2 In the event that the employee requests so much time off for public duties and activities that in the opinion of the Head of School (or Executive Head Teacher in Head of School absence) the operational effectiveness of the school suffers; the Head of School (or Executive Head Teacher) will discuss the need to reduce the amount of time off or make some alternative arrangements with the employee, together with his/her trade union official if requested.

In the event that the matter is not resolved it will be referred to a Panel of Trustees whose decision is final.

6. PAY FOR TIME OFF

6.1 Time off for public duties is with pay subject to the limits of reasonableness and the provisions of 5.1 & 5.2 above.

Statutory Dependent Care Leave

6.2 Employees have a right to take a reasonable amount of **unpaid** time off work when it is necessary to:

- provide assistance when a dependent falls ill, gives birth, is injured or assaulted;
- make longer-term care arrangements for a dependent who is ill or injured;
- take action required in consequence of the death of a dependent;
- deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependent; and/or
- deal with an unexpected incident involving their child during school hours (or those of another educational establishment).

6.2 A **dependent** for the purposes of this paragraph 6.1 is:

- (a) an employee's spouse, civil partner, parent or child;
- (b) a person who lives in the same household as an employee, but who is not their tenant, lodger, boarder or employee; or
- (c) anyone else who reasonably relies on the employee to provide assistance, make arrangements or take action of the kind referred to in 6.1 above because that person is a dependent.

7. LEAVE OF ABSENCE - SERVICE IN NON-REGULAR FORCES

7.1 Paid leave of absence will not normally be granted for Summer Camp.

7.2 Members of the Territorial Army who are required to undertake training additional to attendance at summer camp and who are unable to arrange for such training to be on days when they would normally not be working will be granted up to 5 days unpaid leave of absence.

8. LEAVE REQUESTED IN SPECIAL CIRCUMSTANCES

8.1 Applications for exceptional leave should be made to the Head of School in writing using the Discretionary Leave of Absence proforma attaching any letters or appointments notices in confidence.

If the member of staff does not provide at least 48 hours prior notice for a

planned absence the leave will be unpaid.

Staff must attend all non-emergency medical appointments for themselves and any dependents outside their contractual hours.

In an absolute emergency telephone the Head of School PA so the Head of School is informed to trigger a Discretionary Leave of Absence application.

8.2 In dealing with requests for leave of absence in special circumstances the Head of School will apply the principles set out below.

- The cost to the school of the leave in terms of salary, cover arrangements and organisational disruption.
- The circumstances of the individual including previous paid and unpaid leave granted relative to the period of employment.

8.3 The Discretionary leave year commences on 1 September.

DISCRETIONARY LEAVE OF ABSENCE WITH PAY: GUIDANCE FOR ALL STAFF

Trustees expect no more than 3 days paid leave in any one year for all eventualities at the discretion of the Head of School.

Examples of discretionary leave granted with pay
Compassionate Leave Illness or injury of a significant other person giving rise to serious domestic difficulties.
Bereavement Leave Death (including funeral) of a significant other person.
Moving House Where it cannot be arranged for a non-working time.
Personal Events or emergencies i.e. An event which, if response were to be delayed, would result in significant personal loss to the employee such as fire or flood.
Accepted Impossible travel Because of weather or other public crisis.

Interviews

for jobs in the education service.

Dependent Care Leave

Employees may only take **paid** time off to provide personal care for a dependent where there is an immediate crisis.

- (there is a statutory right to take **unpaid** leave see below)

DISCRETIONARY LEAVE OF ABSENCE WITHOUT PAY: GUIDANCE FOR ALL STAFF

Trustees expect no more than 3 days unpaid leave for any eventuality in any one year. The school should not be expected to pay for childcare or dependents care.

Examples of absence normally granted without pay

Any personal reason other than those above which it was not possible to schedule for a non-working day or time or within annual leave e.g. dentist, optician, medical appointment, driving test, important one-off family occasions.

Attendance as witness either on subpoena or other direction from a court or at the direction of the police, or voluntary attendance at an inquest as witness not representing the school or Trust.

Leave of absence for religious observance.

INFORMATION TO SUPPORT DISCRETIONARY LEAVE REQUESTS

Medical Appointments

Upon production of a medical appointment letter/card up to half a day leave may be granted to attend an appointment at hospital (to include medical screening and blood donation but excluding any appointment associated with elective surgery) where it has proved impractical to attend outside normal working hours.

Attendance in court as a witness

If you are subpoenaed or summonsed to attend a Court (including an Employment Tribunal), as a witness and you are not representing the School then, on production of proof of required attendance, you must request leave from the Head of School using the form at Appendix 1 and you will be granted unpaid leave to attend. If you wish to attend Court as a witness on a voluntary basis then you should request leave of absence from the Head of School as soon as the need for the leave is known using the form at Appendix 1 and a decision will be made on a case by case basis.

Leave of absence for religious observance

You may request unpaid time off work to attend religious festivals, pilgrimages, time off for prayer using the form at Appendix 1. Requests for time off will be considered sympathetically and on a case by case basis, taking consideration the needs of the school pupils and surrounding circumstances. You should request time off at the beginning of the School year if possible, otherwise as soon as possible, so that plans for covering your absence can be made in good time to support pupils.

Statutory unpaid emergency dependents care leave guidance.

See Appendix 2 attached to this policy and the application form to the Head Teacher from the school office.

Procedure and Decision Making

1. Except in emergencies, authorisation to take leave of absence must be requested from the Head of School as soon as the need for the leave is known using the form at Appendix 1.
2. Where the leave of absence request is made by the Head of School, the request should be made to the Executive Head Teacher for the Trust.
3. Requests for leave of absence and approval/refusal of such will be dealt with in a fair and consistent manner, having regard to the nature of the request, statutory obligations, pupil/student educational provision, service needs, eligibility, any previous requests and the degree of flexibility that you already have in your current working arrangements.
4. Inevitably not all requests can be granted. Non-emergency leave of absence must not be taken unless approved on the form at Appendix 1 giving at least 2 days' notice.

5. Where an **emergency** arises you must notify the PA to the Head of School as soon as is reasonably practicable, giving the reason for the absence and how long you expect to be absent from work to deal personally with the emergency which cannot be dealt with by anyone else.

Appeal Process

1. Where a leave of absence request is refused there is right of appeal if you have evidence that the decision made is unreasonable in relation to this policy.
2. Any appeal must be made on the form at Appendix 1, clearly stating why the reason that the decision made was unreasonable, within 5 days of receipt of the leave of absence decision.
3. The appeal will be considered by a panel of two Trustees whose decision is final.
4. A confidential record of requests for leave of absence and whether or not the request was granted will be maintained.
5. Staff including members of the LGPS scheme will be informed about the impact of taking unpaid leave on their pensionable service.

Appendix 1

REQUEST FOR LEAVE DURING THE SCHOOL DAY
(Please give at least 2 days' notice or leave will be unpaid)

NAME:.....**ROLE:**.....

I wish to apply for time out of the school day as follows: -

Date:.....Time leaving school.....**AM/PM** Return time to school..... **AM/PM**

I have read and understood the discretionary leave policy. Please attach a copy of any relevant appointment card. **Reason for request:**

IF APPROVED, PLEASE ENSURE YOUR LINE MANAGER IS AWARE TO ARRANGE COVER

I understand and accept that if leave of absence is granted without pay it will affect my pension entitlement

Signed:.....Date:.....

FAO: Assistant Head Teachers – Please indicate below if absence is **NOT** agreed

- Operational difficulties in covering absence
- Loss of entitlement/continuity of educational provision for pupils/students
- Leave of absence limits already reached
- The request is outside the policy framework
- Other. Explanation of reason(s) for non-approval:

Signed (AHT):Date:.....

PLEASE SUBMIT THIS FORM TO HEAD OF SCHOOL FOR PAYROLL COMPLETION

Your request for leave is:

Approved **WITH** pay: Approved **WITHOUT** pay:

Time to be made up: **Yes** **No**

Signed:.....Date:.....

For office use: - Added to: **School diary** **SIMS** **EPM**
Copy returned to employee

APPEAL AGAINST LEAVE OF ABSENCE DECISION

If you wish to appeal against a refusal to grant discretionary leave of absence then you must explain your reasons below and return this form to [the decision maker] within 5 days of the date of the decision as recorded above. Your appeal will be heard by a panel of two Trustees.

Appendix 2

STATUTORY UNPAID EMERGENCY DEPENDANTS CARE LEAVE GUIDANCE NOTE

Scope

The following sets out the right to emergency dependants care leave which is applicable to all employees in accordance with the Employment Rights Act. There is no service requirement in respect of this entitlement.

Eligibility

The employee must:

- Tell the employer the reason for their absence as soon as reasonably practicable: and except where the above cannot be complied with until after the employee returns to work;
- Tell the employer how long they expect to be absent

The dependant must be the employee's:

- Spouse or civil partner;
- Child;
- Parent;
- Someone who lives in the same household as the employee but who is not their employee, tenant, lodger or boarder; or
- Someone who reasonably relies on the employee either for assistance on an occasion when they fall ill or is injured or assaulted, or to make arrangements for the provision of care in the event of illness or injury.

Where the time off relates to unexpected disruption or termination of arrangements for the care of a dependant, then a dependant will also include any person who reasonably relies on the employee to make arrangements for the provision of care. This last category of dependant may cover a situation where the employee is the primary carer or is the only person who can help in an emergency.

References to illness or injury include mental illness or injury.

The timing of emergency dependants care leave

An employee is entitled to take a reasonable amount of unpaid time off during their working hours in order to take action which is necessary as agreed by the Head Teacher:

- To provide assistance on an occasion when a dependant falls ill, is giving birth, or is injured or assaulted;
- To make arrangements for the provision of care for a dependant who is ill or injured;
- As a result of the death of a dependant;
- Because of the unexpected disruption or termination of arrangements for the care of a dependant; or
- 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 them. The duration of emergency dependants care leave

The duration of the leave is such as is "reasonable" in order to take action that is necessary to deal with one of the specified events above. Reasonable time off in relation to a particular problem will not normally be more than one day. However, each set of circumstances should be considered on their own facts.

The right is intended to cover usually unforeseen and emergency situations, and is not for time off for the on-going care of dependants.

If for example a dependant is unwell and requires ongoing care, an employee is not entitled to time off to look after them beyond responding to an emergency of whilst making longer term arrangements for their care.

In circumstances where dependent care leave is not sufficient, an employee should discuss the issues with their Head Teacher.

Managing emergency dependants care leave

- Academies may determine a policy in respect of dependants care leave that provides for more than the statutory minimum requirement.
- The policy may be incorporated into the school's / academy's Special Leave of Absence Policy, and may include a number of days paid leave; in some

circumstances a mutual agreement may be reached whereby an employee works at a different time to make up any hours lost.

- The application of any such policy and the granting of the statutory right should be managed consistently in respect of all employees, and with due regard to the Equality Act and the Public Sector Equality Duty.
- There is no limit to the number of occasions on which the leave may be taken, however if leave is persistently taken for the same reason a Head Teacher may wish to consider the reasonableness of this.
- If an employee fails to notify the Head of School when this could have been reasonably expected, or to provide a reason for their absence, the Head of School may consider the absence to be unauthorised and manage the absence accordingly.
- It is anticipated that the meaning and scope of the terms including 'reasonable' will be considered by employment tribunals in due course. An employee may present a complaint to an employment tribunal that their employer has unreasonably refused to permit them to take leave as required by the Act.

Pension and employment rights during leave

The employee should contact their pension scheme directly, to ascertain their pension rights during unpaid leave and to make any necessary arrangements. The provisions in respect of the Local Government Pension Scheme and the Teacher's Pension Scheme differ.

An employee who takes emergency dependants care leave has the right not to be dismissed or subjected to any other detriment by reason of taking the leave. Continuous service will continue to accrue during the leave for both teaching and non-teaching employees.

Informing EPM Payroll when an employee has taken unpaid emergency dependants care leave

The person responsible for entering the monthly absences through EPM's payroll portal will need to record the dates on which pay is to be deducted in respect of any unpaid dependants care leave.

The absence category to select is UPL (Unpaid Parental Leave). Your EPM payroll administrator will then deduct the specified daily rate from the employee's salary, in respect of any post(s) that would normally be worked on the day that the leave was taken.

The unpaid leave will then be shown on the absence reports listed under the 'download reports' section of the portal for record keeping purposes.

Policy agreed on: May 2021

Signed on behalf of the Trustees _____

Committee: FPP

Author: _____

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