

Schools Leave Code Policy

Approved by: School Human Resources

Trade Unions

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1. Policy

1.1 Aim

This policy explains the range of leave provisions available to Schools'/Council employees; some reflect the terms of the National Agreement whilst others are locally determined.

The leave policy aims to explain fully and regulate the Schools'/Council leave provisions, ensuring a fair and consistent application of the procedure.

1.2 Scope and Application

The management of the Schools' leave arrangements is the responsibility of the Headteacher.

Teaching staff have leave during school closure periods in accordance with the Conditions of Service for Teachers in England and Wales.

Support staff working term time arrangements will accrue annual leave, for which payment is made. It is not permitted to take annual leave during term time other than in very exceptional circumstances.

1.3 Responsibilities

Employees have responsibility for

- ensuring that all leave is properly recorded and authorised and for ensuring that they manage their annual leave appropriately, using their full entitlement within the leave year.

Managers are responsible for

- ensuring that all leave granted falls within these guidelines and that where unpaid leave is granted, Payroll is notified accordingly.
- Managers are also responsible for making employees aware that they should take their full annual leave entitlement within the leave year.

Human Resources (HR) is responsible for providing advice and support throughout the process.

1.4 Legislation

Employment Rights Act 1996: Provides for people to be informed about their conditions of employment.

Employment Relations Act 1999 (Parental Leave Regulations 2002): Eligibility for parents to take time off work to look after dependant in order to strike a balance between their work and family commitments.

EU Working Time Directive: Regulates annual leave arrangements.

Redundancy Payment Modification Order 1983: Lists organisations for the calculation of continuous service.

Local Government Housing Act 1989: Identifies those posts where employees are not allowed to be a member of a local authority, an MP or MEP.

Disability Discrimination Act 1995 (Amended 2003): Aims to address and eliminate discrimination against disabled persons by making reasonable adjustment.

Employment Equalities: (Sexual Belief) (Religion or Belief), Regulations 2003 and (Age) Regulations 2006. Addresses the rights of individuals to be treated fairly and equitably and not to be discriminated against on grounds of race gender, religion, sexual orientation, gender realignment, age or disability.

2 Holiday entitlement

2.1 Annual leave – Support Staff

- 2.1.1 All employees are entitled to paid annual holiday leave and public holidays based on their continuous service with the School/Council and other relevant employers (**Redundancy Payments (Continuity of Employment in Local Government etc) Modification Order 1999**).

The contractual annual leave entitlement for full time Support Staff employees governed by the Green Book, except where separate arrangements have been determined locally, is:

26 days	Basic entitlement
31 days	After five years continuous service
34 days	After ten years continuous service

This incorporates two extra statutory days' holiday, under the provisions of the terms and conditions of the National Joint Council for Local Government. Currently, statutory annual leave is 28 days including 8 public holidays.

- 2.1.2 For starters and leavers the annual calculation is divided by 12 for each complete calendar month of service to be worked. The figure is rounded up to the nearest half day.

Employees have the right to be paid for any outstanding leave entitlement before their last day of employment unless transferring to elsewhere in the Council or another local authority, in which case leave also is transferred. Leave taken in excess of entitlement must be refunded, and may be deducted from final salary.

- 2.1.3 The annual leave year runs from 1st April to 31st March. Entitlement to additional leave after five and ten years service is calculated initially on a pro-rata basis from the following month (unless the anniversary is the 1st of the month) of the anniversary of the continuous service date, then at the full additional entitlement from the beginning of the following leave year (1st April). For example:

- If an employee commenced employment with the School/Council in August 2004 and therefore has five years continuous service in August 2009, their entitlement for 5 months (April to August 2009) would be based on 26 days pro rata and 7 months (September 2009 to March 2010) at 31 days pro rata.

- If an employee commenced employment with the School/Council on October 1 1999 and has 10 years continuous service on 1st October 2009 their entitlement for 6 months (April to September 2009) would be based on 31 days pro rata and 6 months (October 2009 to March 2010) at 34 days pro rata.
- 2.1.4 There is no accrual of annual leave during periods of zero pay, for example, absence without permission or sabbatical leave with the exception of unpaid maternity leave where contractual leave entitlement will continue to accrue and unpaid sick leave where (only) statutory leave entitlement will continue to accrue.

2.2 Public holidays

- 2.2.1 Employees are entitled to a holiday with a normal day's pay, irrespective of length of service, for each of the statutory, general and public holidays as they occur (or alternative days when actually worked).
- 2.2.2 Part time employees are entitled to pro rata paid time off for public holidays, irrespective of whether they would normally work on the days on which public holidays fall.

2.3 Calculating the annual leave of part-time/job share employees

- 2.3.1 Annual leave for part-time/job share employees is expressed in hours, and calculated as follows:
- Calculate the full-time equivalent entitlement based on length of service (26, 31 or 34 days).
 - Add the number of Public Holidays falling in the leave year.
 - Express the resultant entitlement on an hourly basis (e.g. $(26 + 8) \times 7 = 238$ hours – for an employee with less than five years continuous local government service where the full-time daily hours are 7, and the leave year has 8 Public Holidays).
 - Multiply this hourly entitlement by the fraction reflecting the hours worked of the full working week (e.g. if 18 hours per week are worked, then in the above example the annual leave entitlement would be $238 \times \frac{18}{35} = 122.4$ hours).
 - Where a Public Holiday falls on a date when the employee would normally be at work, the hours the employee would have worked on that day are deducted from their leave entitlement.

NB: Any changes to a part time work pattern must be agreed in advance with the line manager.

2.4 Taking annual leave

- 2.4.1 Timing of annual leave must be arranged to fit in with service requirements, for example, to maintain cover during the absence of other staff or during peak work periods. Where possible, significant periods of annual leave, i.e. annual holidays should be planned in advance and should be taken as far as possible in school closure periods. In any event notice by the employee to take leave must be at least twice as many days in advance of the earliest date as days to be taken off. For example a minimum of two days notice for a request for one day's leave, or a minimum of two weeks notice for a request for one week's leave. Requests for annual leave will not be unreasonably

refused but headteachers/line managers must ensure service provision is maintained.

There may be occasions when, in the interests of efficiency, the School/Council requires employees to take leave at a particular time. In these circumstances the School/Council undertakes to consult the relevant trade union/staff in advance with a view to reaching an agreement.

- 2.4.2 Headteachers/line managers and employees must ensure that they do not allow leave entitlements to build up and that leave is staggered across the whole of the leave year. However there may be occasions, such as school holidays, where several staff require annual leave at the same time. In such instances, headteachers/line managers may need to roster staff leave in advance to meet business needs.
- 2.4.3 During the probationary period, only annual leave that has been accrued to date on a pro-rata basis may be taken unless this has already been agreed in advance and in writing by the headteacher. Headteachers may, when necessary extend any probationary periods proportionate to the amount of annual leave authorised throughout the probationary period by blocks of one week in line with the School/Council Probationary Procedure.
- 2.4.4 Staff in Children's Centres with fixed closure period will be required to take annual leave during the whole of the Children's Centre closure period. There will be 4 weeks fixed closure periods during the year of which you will be advised in advance by your line manager. The balance of your annual leave entitlement can be taken by agreement with your headteacher/line Manager subject to the exigencies (demands) of the service.

2.5 Annual Leave and Sickness Absence

- 2.5.1 Where a period of sickness coincides with annual leave, sickness absence will be dealt with in line with the **Schools' Sickness Procedure**.

If an employee falls sick whilst on annual leave the normal reporting and certification arrangements apply. Annual leave may be reclaimed if the employee provides a valid medical certificate for the entire length of the absence.

- 2.5.2 An employee on long-term sickness absence (absence that lasts or is anticipated to last more than 28 calendar days) is entitled to take annual leave but must request this according to the normal Leave Code Policy.
- 2.5.3 Where an employee returns from long term sickness absence before the end of the leave year and has the opportunity but fails to exercise his or her right to take annual leave within that current leave year, they will lose any untaken annual leave for that leave year unless an agreement has been reached in relation to carry over of annual leave (see 2.6 below).
- 2.5.4 Support staff will accrue statutory annual leave entitlement during period of unpaid sickness.
- 2.5.5 Where an employee's employment is terminated and his or her absence on sick leave has prevented the employee from exercising the right to take paid annual leave, he or she is entitled to a payment in lieu.

2.6 Carry over of annual leave

- 2.6.1 Employees are required to take all of their leave entitlement within the leave year. In exceptional circumstances, for example where it has not been possible to take leave due to work demands, up to five days may be carried forward from one leave year to another. Leave carried forward is at the discretion of the Headteacher/Chair of Governors and must be taken by the 1st June in the new leave year.
- 2.6.2 Where the employee requests to carry over annual leave to enable an extended period of leave in the next leave year, for example, to visit family abroad or for extended care responsibilities, this may be granted at the discretion of the Headteacher/Chair of Governors.
- 2.6.3 Employees on long term sick leave who are unable to return to work before the end of the annual leave year are legally entitled to carry over to the new annual leave year any unused **statutory** leave accrued. This should be taken as soon as is reasonably possible.

2.7 Annual Leave -Teaching Staff

The Burgundy book (Teachers' National Conditions), makes no mention of the entitlement to annual leave, however under the working time regulations, Teachers are entitled to statutory annual leave. This leave must be taken during school closure periods. All bank holidays are regarded as school closures.

3. Other leave arrangements

3.1 Special leave

Special leave, paid and unpaid, may be used to cover the statutory right to time off for dependants, but can also cover a wider range of situations beyond that statutory right: for example bereavement and compassionate leave (for children, spouses, partners and parents, or other close family members depending on individual family circumstances). It can also be used to cover disability-related absences, for example, time off for treatment, therapy or rehabilitation.

- 3.1.2 The Chair of Governors has discretion to grant up to five working days *paid* special leave in any 12-month period. The Chair of Governors may delegate their discretion; in doing so they must make clear which levels of management have discretion for granting paid special leave under this policy. Additionally the Chair of Governors has authority to grant further *unpaid* special leave and, in very exceptional circumstances only, further paid special leave.
- 3.1.3 Requests for special leave will be considered according to individual circumstances and where appropriate, take account of any outstanding annual leave.
- 3.1.4 Special Leave must be recorded and reported to payroll and locally monitored to ensure consistency of application.

3.2 Time off for dependants (Emergency family leave)

- 3.2.1 To qualify for time off for dependants, employees must inform their headteachers/line managers of their absence as soon as possible. The absence will normally be unpaid; however, headteachers/line managers will have the discretion with agreement from the employee to treat the time off as annual leave or TOIL, if appropriate.

3.3 Parental leave

- 3.3.1 Parental leave is planned unpaid leave taken to care for a child.
- 3.3.2 Employees are entitled to parental leave if:
- they have one year's continuous service and
 - are the parent (named on the birth certificate) of a child born after (15 December 1999) who is under five years old (or under 18 years old if the child is disabled); or
 - have adopted after (15 December 1999), a child under the age of eighteen. The right lasts for five years from the date on which the child is placed for adoption; or until the child's eighteenth birthday, whichever is the sooner; or
 - have acquired formal parental responsibility for a child born after (15 December 1999) who is under five years old.

In the case of multiple births - 13 weeks will be provided for each child.

Entitlement

- 3.3.3 If the conditions outlined above are met the entitlement is:
- 13 weeks unpaid leave (in total, not per year) for each child born after (15 December 1999) up to their fifth birthday (or up to five years after the placement date of an adopted child)
 - 18 weeks for each disabled child up to the child's 18th birthday.

Procedure for taking parental leave

- 3.3.4 Up to four weeks parental leave can be taken per year, in blocks of one or more weeks at a time. Where parental leave is taken to care for a disabled child it may be taken in single days, or multiples of a day, up to a maximum of four weeks per year.
- 3.3.5 Employees must give 21 days written notice to their headteachers/line managers of their intention to take parental leave. The exception to this is fathers who want to take leave straight after the birth of a baby or prospective adoptive parents who want to take leave straight after the child is placed with them and may not be able to give the exact date. In the case of fathers, the normal rules governing Paternity and Maternity Support Leave would apply.
- 3.3.6 Once the leave has been agreed, the employee should complete Leave card, which will record the leave taken.
- 3.3.7 Timing of Parental Leave should be arranged, where possible, to fit in with service requirements. Parental Leave can be postponed by the School/Council to an agreed date where the needs of the service require or to a suitable period but cannot be postponed for more than 6 months.

- 3.3.8 For part time employees parental leave entitlement will be proportionate to the time worked, for example, work 2 days per week, entitlement will be 26 days leave.

3.4 Sabbatical leave

- 3.4.1 Subject to school business demands and a minimum of 2 years service with the School/Council, an employee may request unpaid sabbatical leave for a maximum period of up to 3 months in any 5 year period.
- 3.4.2 The employee will be required to make an application in writing to their Headteachers/Chair of Governors outlining full details of why they wish to request a period of unpaid leave, the benefits this will bring to both the individual and the School/Council and a proposal of how their position could be covered in their absence without the School incurring any undue additional costs.
- 3.4.3 Employees should be aware that annual leave will not accrue throughout any period of unpaid sabbatical leave. The Chair of Governor in consultation with the headteacher/line manager will make a decision based on the demands placed on the School and the resources currently available thus ensuring equality and consistency.
- 3.4.4 Employees should also be aware that neither employee nor employer pension contributions will be made during unpaid sabbatical leave. Employees should contact the Lambeth pension service for further information,
- 3.4.5 The headteacher in consultation with the Chair of Governors may authorise extended unpaid leave of more than 3 months in exceptional circumstances based on the employee's personal circumstances and school requirements although in these cases, precedents will not be set within the School/Council. In these circumstances, there is no automatic guarantee that the postholder will return to the same job.

3.5 Flexi Leave / Toil

- 3.5.1 There is no council wide provision for flexi-leave or TOIL (Time Off In Lieu) as any flexi schemes in operation must be determined in a local agreement at school level and at the discretion of the relevant Chair of Governors.
- 3.5.2 For more details, please refer to the School's Council's Flexible and New Ways of Working Policy.

3.6 Doctor/Dentist/Hospital appointments

- 3.6.1 Wherever possible, health appointments should be arranged outside of normal working hours. Where this is not possible, flexi-leave (where applicable) or annual leave should be used to attend these appointments. Where the appointment is at management's request or arises from an Industrial Injury or from a disability as defined by the Disability Discrimination Act (1995 & 2005), time off within working hours will normally be granted where it is not possible for alternative arrangements to be made. For further guidance concerning disability related absence, please refer to the headteachers/line Managers' guidance on disabilities in employment.

3.7 Jury Service

- 3.7.1 Leave with pay will be granted to employees appointed for jury service. Any allowance for loss of earnings must be claimed from the courts and will be deducted from pay.

3.8 Religious festivals and observance

- 3.8.1 Employees who have particular religious or cultural needs which conflict with normal working arrangements will be allowed to take annual leave, flexi leave (where applicable) or unpaid leave subject to service needs, or working arrangements will be adapted to enable such needs to be met where reasonably practicable.

3.9 Non regular forces

- 3.9.1 Volunteer members of the non-regular forces who attend summer camp will be allowed up to an additional two weeks leave.
- 3.9.2 Members of the Territorial Army who are required to undertake training in addition to attending summer camp and who are unable to arrange it outside working hours may also be granted reasonable paid leave.

3.10 Examination leave

- 3.10.1 Examination leave to sit an exam will be given for qualification and short courses relevant to the area of work and / or sponsored by the School/Council.

3.11 Job interviews

- Interviews outside the Council – no paid time off.
- Interviews within the Council – paid time off.
- Redeployees - reasonable paid time off to attend interviews both inside and outside the Council.

3.12 Election duties

- 3.12.1 Employees appointed as presiding officers or poll clerks for local government and parliamentary elections will be granted annual leave, flexi leave (where applicable) or unpaid leave subject to service needs.

3.13 Leave for Parliamentary Candidates

- 3.13.1 This applies to employees not in “politically restricted posts” as defined in the Local Government and Housing Act 1989. Unpaid leave may be granted to an employee who has been adopted as a parliamentary candidate to devote time to their election campaign. Unpaid leave may be granted for any specified time from the start of the election campaign up to the election itself. Employees should give notice of their need to take leave as soon as their candidacy is confirmed, through an application for special leave.

3.14 Maternity/Adoption leave

- 3.14.1 Refer to the School/Council's [Maternity/Adoption Leave Policy](#).

3.15 Leave for ante-natal care

- 3.15.1 Any pregnant employee has the right to paid time off for ante-natal care. After the first appointment, evidence of appointments must be provided if requested.

3.16 Paternity or Maternity support Leave (for nominated carer)

- 3.16.1 Paid Paternity or Maternity support leave of up to ten days can be granted to the child's' father or the partner or the nominated carer of an expectant mother at or shortly after the time of the birth. A nominated carer will be required to demonstrate that they are the primary provider of support for the mother.
- 3.16.2 Paid Paternity or Maternity support leave can be authorised providing that the length of the father's, partner's or nominated carer's Lambeth or Continuous Local Government service is equal to the complete duration for the pregnancy. Paternity & Maternity support leave can be taken:

- On or shortly after the day of the baby's expected or actual birth
- Within a number of days or weeks after the actual birth

Your leave can start on any day of the week (but not before the actual birth), but has to finish within 56 days of the baby's birth and must be taken in continuous blocks of either 1 or 2 week periods (and not taken in individual days). For cases of multiple births, the same amount of Paternity or Maternity Support leave will be granted as for a single birth.

- 3.16.3 Expectant fathers, partners or nominated carers must provide evidence of their intention to take leave to their line manager in advance of the birth by way of providing a copy of the mother's MATB1 certificate and completion of the Paternity & Maternity Support Leave application form.
- 3.16.4 Adoptive fathers must provide evidence of their intention to take leave to their headteacher/line manager in advance of the adoption by way of providing a copy of the certificate of adoption and the proposed week of matching.

3.17 Time Off for cancer screening

- 3.17.1 Necessary paid time off will be granted for cancer screening by agreement with the headteacher/line manager.

3.18 Blood /bone marrow donors

- 3.18.1 Reasonable time off with pay will be granted for blood donors to attend local blood donation centres and to bone marrow donors.

3.19 Gender re-assignment

- 3.19.1 Employees undergoing gender reassignment shall have reasonable paid time off from work for specialist appointments. Any time taken off for surgery or for sickness as a result of the surgery will be treated in line with the Lambeth School's Sickness Absence Procedure.

3.20 Cosmetic surgery

- 3.20.1 Where employees elect to have cosmetic surgery they should inform their headteacher/line manager at the earliest possible time, requesting annual leave, unpaid leave or a combination of the two. Any time taken off for

sickness as a result of the surgery will be treated in line with the Lambeth School's Sickness Absence Procedure.

3.21 Fertility treatment

- 3.21.1 Employees undergoing fertility treatment shall have reasonable paid time off from work for specialist appointments. Any time taken off for surgery or for sickness as a result of the surgery will be treated in line with the Lambeth School's Sickness Absence Procedure.

3.22 Time Off for Public Duties

- 3.22.1 The Governing Body will allow reasonable paid time off for employees to carry out certain prescribed public duties and any training relating to those duties including:

- Justice of Peace
- Member of a local authority
- Member of a statutory or employment tribunal
- Governor of a school or other educational establishment

- 3.22.2 Where possible such employees should take annual leave or flexitime (where applicable), however in circumstances where this is not possible a maximum of 10 days per annum additional paid leave may be granted. Employees are advised to discuss any public appointment with their headteacher/line-manager before accepting and to seek advice from Schools HR services; any such interests must be registered under the Declaration of Interests for Employees.

3.23 Disability Leave

- 3.23.1 Employees who are disabled as defined in the Disability Discrimination Act 1995 & 2005 may be granted disability leave as a reasonable adjustment for a disability-related unexpected incident, for example, when a guide dog falls ill or when an employee's wheel chair breaks down or for training with a guidance/assistance dog. For further guidance on disability related absence, please refer to the headteachers/line Managers' guidance on disabilities in employment.

3.24 Recognised Professional Association/Union Duties

- 3.24.1 Leave for union duties by accredited school representatives is guided by any facilities agreement reached between the local authority and the recognised trade unions. The Governing Body will grant reasonable time off to employees to carry out certain duties concerned with employee relations between the employer and employees or to undergo training in aspects of industrial relations which is relevant to those duties and approved. Time off must be applied for and reasonable notice given.
- 3.24.2 Accredited school representatives shall be allowed reasonable paid time off for training related to their union duties in compliance with the Employment Rights Act. Time off must be applied for and reasonable notice given.

3.25 Secondment

- 3.25.1 This is prolonged leave of absence, which allows an employee to work for another school or organisation. The employee returns to his or her job at the end of the secondment. Secondments which last more than a couple of years

may cause problems of reintegration into the School on the employees return so the Governing Body will need to consider very carefully any request to be absent for more than a year or two at a time.

- 3.25.2 The leave of absence for secondment will be unpaid if the employee receives a salary from the school or organisation to which s/he is seconded. Otherwise the employee will be paid in full by the school to which the employee is contracted, unless the employee has agreed to unpaid leave.

4 Approval and Variation Process

- 4.1 Where the School/Council wishes to amend this policy, it will consult with the relevant trade unions with a view to reaching agreement over the proposed amendment(s). This policy may be amended by agreement with the relevant trade unions at any time. Where agreement has not been reached with the relevant trade unions arising from consultations, the School/Council reserves the right to implement its proposed amendment(s) by giving one month's notice to employees of its proposal(s).