



ST. MARY'S  
ACADEMY TRUST

# **St Mary's Academy Trust**

## **Special Leave Policy and Procedure**

**Date agreed by Board: July 2019**

**Date to be reviewed: April 2021**

## 1.0 **INTRODUCTION**

- 1.1 This procedure applies to all employees of the Trust and is to enable employees to take Special Leave of absence from work in circumstances which are not covered by other Trust procedures.
- 1.2 This policy is intended as a guide to Headteachers and ensures a fair, consistent and reasonable approach when considering approval to applications for Special Leave.
- 1.3 The Trust is sensitive to the needs of employees. In certain circumstances, Special Leave can be authorised for employees, with or without pay, at the discretion of the Headteacher.
- 1.4 All forms will be sent to HR to ensure a consistent approach is applied across the Trust. Data will be submitted to the CEO for analysis.

## 2.0 **SPECIAL LEAVE PROVISIONS**

- 2.1 Prior to approving an application for Special Leave, whether on a paid or unpaid basis, it is important for Headteachers to examine the particular circumstances.

Considerations should include:-

- Whether the matter could be reasonably dealt with outside normal working hours
- Whether another family member could deal with the matter
- Whether approval could indirectly cause discrimination to other employees
- Whether the leave is requested to allow the employee observance to their religion or faith. In these circumstances, please refer to the Religious Observance in the Workplace guidance.

- 2.2 The Headteacher should apply a consistent and reasonable approach when granting any special leave application.

## 3.1 **TYPE OF SPECIAL LEAVE**

The following examples are circumstances where Special Leave **may** be considered. Please note that these examples are neither exclusive nor exhaustive and there may be other similar requests which are not listed.

### 3.2 **Bereavement Leave**

- 3.2.1 Headteachers should consider the emotional impact and the level of distress that bereavement may cause when considering a request of this nature.
- 3.2.2 Bereavement leave includes attendance at a funeral.
- 3.2.3 Paid bereavement leave will be granted to the employee in circumstances of the death of a close relative which includes spouse or significant partner, child, parent, brother, sister, grandparent, grandchild; or the death of someone who has been a significant part in the life of the employee, such as another close relative or friend.
- 3.2.4 Advice should be obtained from HR to decide the number of days granted for both paid and unpaid bereavement leave, to ensure consistency across the Trust.

### 3.3 **Holidays/Social Functions in Term time**

- 3.3.1 Requests must be submitted at least 2 months prior to the date. Approval is at the discretion of the CEO and will be in all circumstances unpaid.

- 3.3.2 Consideration will be given to a number of factors including: - if the employee has control over the date/venue; the length of absence requested; the impact/cost to school and the employees absence record
- 3.3.3 It is recommended that employees do not book holidays/venues/travel etc. unless approval has been given to avoid any cancellation fees should the request not be approved.

### **3.4 Compassionate Leave**

3.4.1 Compassionate leave may be requested in circumstances:

- Where a close relative, who includes spouse or significant partner, child, a child the employee is registered to care for, parent, brother or sister, grandparent or grandchild or someone who has a significant part in the life of the employee, is terminally or seriously ill
  - Where an employee is suffering stress and hardship beyond their control
  - Where parents lose a child have the right to request 14 days leave within a 52-week period. This will be paid.
  - For an employee who suffers a stillbirth from 24 weeks of pregnancy, please refer to the appropriate maternity policy.
- 3.4.2 If there is a likelihood that this could persist, every effort should be made to support an employee during these difficult times and avoid the need for the employee to be absent due to sickness. Headteachers and employees could consider amending the working arrangements i.e. by a voluntary reduction in working hours or a change in their patterns of work, by flexible working or unpaid leave.
- 3.4.3 In such cases where an employee is finding it difficult to cope whilst at work and where Special Leave could alleviate the situation then advice should be obtained from HR by the Headteachers to decide the number of paid days granted taking into consideration the employee's personal and cultural circumstances, and to ensure consistency across the Trust.

### **3.5 Time off for Dependants**

- 3.5.1 The Employment Relations Act 1999 provides employees with a statutory right to take a reasonable amount of time off to deal with certain unexpected/sudden emergencies and to make any necessary longer term arrangements for a dependant.
- 3.5.2 A dependant is defined as a husband, wife, significant partner, child, or parent of the employee. It could also include an elderly aunt or grandparent, but would not include a tenant or boarder living in the family home. A dependant may also be someone who reasonably relies on the employee for assistance i.e. some- one the employee looks after outside of work or where the employee is the only person who can help in an emergency, for example where an elderly neighbour has had an accident and they are the closest on hand at the time.

Emergencies may include:

- A sudden breakdown in care arrangements, for example, the childminder failing to call/collect a child.

- The dependant suddenly falling ill/having an accident/or a sudden deterioration in an existing condition. Such injuries/illness may be physical or mental and could be to comfort or help the dependant.
- To make longer term care arrangements for a dependant who becomes ill or injured and may need placing in respite or residential care or other care provision or to make arrangements for a relative or anyone the employee has a close relationship with, to look after the dependant or accompany the person to see a GP or other medical practitioner. **The right does not cover time off to nurse the dependant for the duration of their illness.**
- An unexpected incident involving the employee's child during school hours which could include the child being distressed, injured or excluded.

3.5.3 It is important to note that in the majority of instances, it may not be possible for the employee to give prior notice. However, the employee will still have a duty to inform their Headteacher that they will either be late or unable to attend work by communicating their absence at the first available opportunity.

3.5.4 In serious circumstances, a dependant may have more than one carer who works for the Trust. Serious situations may permit both employees using their right to take time off for their dependant.

3.5.5 Employees will have up to 5 days (pro rata) paid Special Leave within a rolling 12 month period. Further unpaid special leave may be granted. Headteachers should obtain advice from HR to ensure consistency across the Trust.

### **3.6 Parental Leave**

3.6.1 The Parental Leave Policy is available to all employees who have completed ones year's satisfactory service.

### **3.7 In Vitro Fertilisation Treatment (IVF)**

3.7.1 All employees who have 12 months continuous service at the time of applying who require IVF fertility treatment may be granted Special Leave for treatment.

3.7.2 The policy applies to female employees who require fertility treatment and to male employees who may also require treatment during the IVF process.

3.7.3 Employees are asked, where possible, to arrange appointments outside of work, however where this is not possible, an employee may be granted up to 5 working days (pro rata for part time staff) of paid IVF fertility leave in any 12 month period in order to receive and recover from IVF treatment. Documentary evidence of appointments should be given to their Manager and attached to the application form.

3.7.4 The fertility treatment leave can be taken in either 5 consecutive days or separate days, half days or hours.

3.7.5 If any employee requires any additional time, or is requesting time to support their partner during this process, then alternative arrangements should be agreed with their Headteacher such as unpaid special leave. The Headteacher should obtain advice from HR to ensure consistency across the Trust.

### **3.8 Public and Community Duties**

Special Leave will be granted to employees who serve on public bodies and to employees who undertake community duties in accordance with the following:-

#### 3.8.1 Magistrates Duty

An employee who is a Magistrate is entitled to a maximum of 15 contractual days paid special leave or 30 contractual half days paid special leave in any one financial year, in respect of all Magisterial duties which they are called upon to perform.

#### 3.8.2 Jury Service

For employees who are requested to attend Jury Service, they will be entitled to paid special leave for the duration of the jury service. The Headteacher must ensure that the absence is recorded as Jury Service on SIMS in the Public and Communities section.

The employee will continue to be paid by the Trust for the duration of the Jury Service and any normal salary deductions will continue to be made from the employee's earnings. This is on the understanding that the Court fees are then deducted from the employee's salary once they receive payment from the Court following jury service.

The employees will receive a "Certificate of Loss of Earnings or Benefit form" in their jurors pack from the Court. Although this form states that it should only be completed if the employer is **not** paying the employee their normal salary whilst on jury service, this form will still need completing in order for a deduction to be made from the employee's salary once they have received payment from the Court following their attendance. The employee must ensure that their Headteacher completes the form indicating whether the employee can return for any half days that the employee is not required at Court. Once complete, the form must be forwarded to Payroll in order for them to complete the net loss of earnings and declaration sections on the form. The form should then be returned to the employee as they will need to hand the form in to Court officials on the first day of attendance for Jury Service. The employee should also request on their first day, a certificate of attendance.

On completion of the Jury Service the employee will receive a certificate of attendance and a remittance advice which should be equal to the allowance the employee has received from the Court. The employee **must** ensure they complete the Jury Service – Deduction from Salary Authorisation Form and forward this to Payroll, along with copies of the remittance advice and certificate of attendance received from the Court to ensure that an amount equal to the allowance received from the Court is deducted from the employee's pay. A deduction from salary will be made accordingly.

If the employee fails to inform Payroll of the allowance received, the matter will be regarded as misconduct and will be dealt with as unauthorised absence under the Disciplinary Procedure.

#### 3.8.3 Witness in Court, Tribunal or claim for Industrial Injury

If an employee is required to attend a court or tribunal during working hours as a witness for the Trust or to give evidence in relation to the discharge of their duties on behalf of the Trust then they are acting in the course of their employment and do not require authorisation to attend.

Where employees attend Court or Tribunal on behalf of a third party, including attending as a witness on behalf of another employee, they are required to do so in their own time. If, however, an employee is required to attend as a witness for a third party in response to a witness summons or a subpoena, they will be authorised paid special leave to attend on production of evidence.

### 3.9 Public Bodies Activities

3.9.1 Employees must notify the Trust when they have been appointed to serve on a public body. Paid special leave will be granted to an employee, subject to the prior approval of their Headteacher in the following instances:

- A School Governor
- A Special Constable (348 hours – 4 days per month)

### **3.10 Service on non-regular forces (Territorial Army)**

3.10.1 Special leave required for camp will be granted with pay. Special Leave with pay will also be granted in times of conflict and where there are shortages of staff within the armed forces and the employee is called up. The Trust will continue to pay the employee's wages. Should the employee receive an allowance for loss of earnings from the Territorial Army for these duties, either for attending camp or for undertaking national duty, the allowance should be paid directly to the Trust.

### **3.11 Study Time**

3.11.1 Study time can be defined as time required to revise for examinations or to undertake assignments, research, and project work or compile a portfolio of evidence in relation to training and development. Guidance on study time entitlements is given in the Training and Development Policy and Procedure. |

### **3.12 Attendance at an Interview**

3.12.1 Employees will be allowed paid time to attend an interview within The Trust, Local Government and within the public sector as identified by the Redundancy Modification Order.

3.12.2 Interviews with any other external organisation shall take place within the employee's own time. If this is not possible unpaid Special Leave may be approved.

3.12.3 Employees who are considered at risk of redundancy with the Trust have a statutory entitlement to take reasonable paid time off to attend an interview on production of appropriate evidence.

### **3.13 Inclement Weather and Disruption to Public Transport**

3.13.1 If it is the Trust's decision to close a school and it is not appropriate for the employee to work from home, then paid special leave will be approved. If the school remains open and employees are unable to travel to work, and it is not appropriate for the employee to work from home, the following will be taken into consideration when determining if a request for special leave will be paid or unpaid:-

- a) Place of work
- b) Where the employee lives
- c) Their mode of transport
- d) Disability and Impairment Related Leave Policy
- e) Can they work at another Trust building

### **3.14 Other types of Special Leave**

#### **3.14.1 Paid Leave**

- Trade Union activities (Please refer to the Trade Union Facilities Agreement with regards to Special Leave)

- Paid Special Leave must be authorised where an employee is selected to represent the Country as an ambassador for a sporting event and no payment is received from the event.
- Paid Special Leave for hospital appointments **may** be approved however employees **MUST** try to make appointments for after 2pm in the first instance. Appointment cards or other documentary evidence will be required prior to any Special Leave being authorised for up to 6 appointments over a 12 month period. Beyond this, appointments are authorised on a case by case basis, based on: -
  1. The Situation
  2. Absence Levels
  3. Cost of Cover
- Paid Special leave for an employee to take their own child, a child they are registered to care for (up to 18 years of age) or a dependant (defined as a husband, wife, significant partner, child or parent/grandparent of the employee) to a hospital appointment **may** be approved however employees **MUST** try to make appointments for after 2pm in the first instance. Appointment cards or other documentary evidence will be required prior to any Special Leave being authorised.
- Paid special leave will be approved to support their own child, a child they are registered to care for or a dependant (defined as a husband, wife, significant partner, or parent/grandparent) at significant events.
- Paid Special Leave will be given for antenatal appointments.
- For ongoing hospital appointments and for a condition, treatments defined as a disability in accordance with the Equality Act 2010 please refer to the Disability Leave Policy i.e. dialysis, chemotherapy, radiotherapy. Evidence of appointments will be required in all cases.

### 3.12.2 Unpaid Leave

- All employees are expected to arrange dental, optical (apart from Health and Safety vision screening), doctor's and donation, i.e. blood (other than where surgery is required) appointments in their own time.
- Where appointments cannot be made in the employees own time unpaid Special Leave may be approved. Where it is approved pay will be deducted ½ or a full day, based on the employees contracted hours. Therefore, if the absence is a short period of time, the Head Teacher should consider asking the employee to work the time back.
- Time in lieu is the paid time off work an employee gets for having worked additional hours. Lieu means "instead". So, if an employee works time in lieu, they then take extra time off work instead of being paid overtime. This is more appropriate for doctors/dentist appointments where it has not been possible to arrange an appointment outside of working hours. Please note this may not be suitable for all posts and in these cases a ½ of a full day will be deducted from pay based on employees working hours.

#### **4.0 PROCESSING APPLICATIONS**

- 4.1 In many circumstances it may not be possible for an employee to give their Headteacher sufficient notice within which a decision can be made. It is important that the Headteacher makes sufficient enquiries at such times to determine the details for the absence and to consider granting special leave in the context of the circumstances known at that time, taking advice from HR where appropriate.
- 4.2 It should be noted that circumstances facing one employee are likely to be different to that of another, even if the reason appears to be similar; therefore the Headteacher needs to consider each request independently.
- 4.3 The Application for Special Leave (SL1) form can be obtained from the Trust's shared drive. Employees must read the policy before completing on application form.
- 4.4 Application forms must be completed by the employee and forwarded to their Headteacher for consideration within reasonable timescales, dependent on circumstances, even if this is done retrospectively.
- 4.5 The Headteacher should inform the employee if their request has been authorised with pay or without pay or if their request has been refused detailing reasons for this decision.
- 4.6 A copy of the completed Application for Special Leave (SL1) form must be scanned and saved emailed to the HR and Payroll inbox.

#### **5.0 ABUSE OF THE SCHEME**

- 5.1 Any employee found to have abused the Special Leave scheme will be subject to an investigation in accordance with the Trust's Disciplinary Procedures.

#### **6.0 GRIEVANCE PROCEDURE**

- 6.1 Employees not satisfied with the decision taken with regard to their request, will have a right to appeal through stage 2 of the Trust's Grievance Procedure.
- 6.2 The employee must submit an appeal by completing a Grievance Notification (GN1) form within 14 days of receiving the response to their request.

An appeal will be to the HR Committee. The panel will include at least 3 members who have not been involved in the case or decision connected with the original outcome.

- 6.3 In accordance with the Trust's Grievance Procedure an Appeal Hearing will be arranged without delay on receipt of the written appeal. The employee will be informed in writing, giving 10 working days' notice, of the requirement to attend the Appeal Hearing.
- 6.4 The decision of the Appeal Panel (HR Committee) should normally be given verbally to the employee at the conclusion of the meeting and confirmed in writing, within 5 working days. However in exceptional circumstances it may be necessary with the employees agreement to communicate the outcome in writing rather than verbally.
- 6.5 The Appeal Panel (HR Committee) may confirm or revoke the original outcome; however the decision will be final.

#### **8.0 EQUALITY AND DIVERSITY**



- 8.1 This policy has been impact assessed by Human Resources. If on reading this policy you feel there are equality and diversity issues, please contact the Trust who will, if necessary, ensure the policy is reviewed.

**9.0 DATA IMPACT ASSESSMENT**

- 9.1 At all stages of this procedure data obtained will be used for the purpose for which it is intended and will be stored securely with restricted access to those involved in the process. Following the process, data will be stored on the electronic personal file for the duration of the employees' employment with the Trust and for 6 years thereafter. The data will be destroyed at this time using a confidential shredding service.

**10.0 INCOME TAX AND NATIONAL INSURANCE IMPLICATIONS**

- 10.1 There are no income tax and national insurance implications arising as a result of this procedure.