



*Doing our best to achieve our best*

# **Clarendon Primary School, Nursery & Children's Centre**

## **Special Leave of Absence Policy**

### **1. Statement of Intent**

The Governing Body of Clarendon Primary School & Children Centre recognise the importance of consistency, openness and equality in responding to requests from staff for special leave of absence for family and personal reasons or in order to fulfil professional duties other than those immediately related to employment.

This policy recognises:

- the statutory entitlement to unpaid time off to attend to urgent matters related to dependants;
- national and local agreements recognised by the school;
- best practice, which seeks to maintain good working relationships between staff and management;
- the operational needs of the school.

It is intended that this policy will provide a clear and workable framework to enable requests for leave of absence to be reasonably and fairly handled whilst recognising that the operational needs of the school are a priority and there may be times when a request for leave will be refused.

There may be occasions when circumstances arise which are not specifically identified in this policy. The decision regarding granting leave of absence in such cases falls to the discretion of the Headteacher or Chair of Governors, as appropriate.

### **2. Time Off For Dependants**

The Employment Rights Act 1996 provides all employees with the right to take reasonable unpaid time off to deal with certain unexpected or sudden emergencies relating to dependants.

What constitutes a reasonable amount of time off is not specified by the legislation and will depend upon individual circumstances, such as:

- the nature of the incident;
- the closeness and level of dependency in the relationship and
- the availability of anyone else to help with the situation.

Whilst there is no legal restriction on the number of occasions upon which an employee can exercise this right, the amount of time off taken is nevertheless subject to a consideration of what is reasonable in each circumstance. In most cases, a few hours or a day will suffice to deal with the immediate emergency.

For the purposes of this right, a dependant is an employee's spouse, civil partner, child or parent or another person who lives in the same house as the employee (other than as a tenant, boarder, lodger or employee). In addition, it includes anyone who reasonably relies on the employee for assistance or to make arrangements for care when that person falls ill or is injured or assaulted, and anyone who relies on the employee to arrange the provision of care.

Members of staff seeking to exercise their right to time off are requested to notify the Headteacher/line manager (as outlined in section 4 of the staff attendance management policy &

procedures) of their absence and its likely duration as soon as possible. Wherever possible, notification should be given before the absence is taken.

Circumstances when an employee may take time off are:

- If a dependant falls ill, or has been injured or assaulted;
- When a dependant is having a baby;
- To make longer term care arrangements for a dependant who is ill or injured (see also Section 4, 'Care of Sick Children');
- To deal with the death of a dependant;
- To deal with an unexpected disruption or breakdown of care arrangements for a dependant;
- To deal with an incident involving the employee's child during school hours (see also Section 4, 'Care of Sick Children').

**3. Compassionate Leave**

There is no specific statutory right to claim time off work, whether paid or unpaid, on compassionate grounds (except in those circumstances covered by 'Time Off for Dependants', Section 2). The Headteacher, or Chair of Governors in the case of the Headteacher's own circumstances, may, at their discretion, grant special leave of absence (with or without pay) depending on the circumstances of the case.

In considering requests, the Headteacher will take account of the reason for the request, the likely duration of absence, the employee's length of service, the impact of refusing a request and what cover arrangements can be made for the absence. The following will be used as a guideline, but is not intended to represent a minimum or maximum contractual entitlement:

Sudden, serious illness of near relative, spouse or child	Up to 5 days' paid leave
Death of a near relative, spouse, partner or child	Up to 3 days' paid leave
Funeral of a near relative, spouse, partner or child	1 day of paid leave
Funeral of other relatives, friends or colleagues	1 day of unpaid leave

**4. Care of Sick Children**

The Governing Body recognises that it can be difficult for working parents and guardians to respond to the need to care for their own children when they become unwell during working hours. Members of staff have a statutory right to unpaid time off to make arrangements for the care of a dependant. It is important, however, to understand that this entitlement is only to take time off to make arrangements for the care of a child, not to provide that care personally. It should not, therefore, normally be necessary to take more than a part or whole day off work on each occasion. There is no contractual or statutory entitlement to take time off to provide direct care for a sick child and it is therefore important that working parents give advance consideration to what arrangements they can put in place to care for sick children at short notice. In exceptional circumstances, where other care arrangements cannot be made, the Headteacher may agree that a member of staff can take unpaid leave to care for a sick child.

**5. Leave to Attend Significant Events**

The Governing Body recognises that, from time to time, staff may have the opportunity to attend a significant social event during term time. Examples might include:

- Graduation ceremony for a son or daughter

- Wedding of a close family member

Support staff who are employed full year have an annual leave entitlement and may therefore request paid annual leave for such events. Teachers and term time only staff do not have a leave allowance and are not usually allowed to take time off during term time. However written requests for such leave can be made to the Headteacher/Governing body who will decide whether this can be granted as paid or unpaid leave. (see section 9)

All staff must seek the express permission for leave in advance of the event. The operational needs of the school will be considered before granting leave and there may be times when there is a need to refuse a request for leave.

## **6. Religious Festivals**

Members of staff who wish to attend significant religious festivals which fall during school term time may request to take unpaid leave to attend the festival. Requests for such unpaid leave must be made to the Headteacher as early as possible in advance of the event. The operational needs of the school will be considered before granting leave and there may be times when the Headteacher will need to refuse a request.

## **7. Job Interviews**

All members of staff may take a reasonable amount of paid leave to attend selection interviews for jobs. Requests to take leave to attend an interview must be made to the Headteacher in advance of the event. In considering whether the request can be granted, the Headteacher will take into account:

- The operational needs of the school;
- The amount of time off requested;
- The number of paid days (or part days) of leave already granted for interviews in the previous 12 months.

## **8. Other Leave**

### **8.1 Examination Duties**

Teaching staff undertaking professional duties in connection with external examinations may take paid leave under the arrangements contained within Appendix 2 of the Conditions of Service for School Teachers in England and Wales ('Burgundy Book').

### **8.2 Jury Service**

Employees may request leave to undertake jury service and should inform the school as soon as possible after receiving the summons. The school will make up the difference between the loss of earnings allowance which may be claimed from the court and the employee's normal pay. The employee is responsible for claiming the allowance and an equivalent amount will be deducted from the employee's salary.

### **8.3 Moving House**

Members of staff are encouraged, wherever possible, to move house during one of the school closure periods which occur throughout the year. Where this proves impossible, the Headteacher has the discretion to grant members of staff one day of paid leave in order to move house. In considering such requests, the Headteacher may ask for supporting evidence to demonstrate why the move must take place during term time.

## **8.4 Medical and Dental Appointments**

Employees are encouraged to make medical and dental appointments outside normal working hours and, with routine appointments, this should usually be possible. Where it is not possible to make an appointment out of hours, or where the appointment is urgent, paid time off to attend appointments will be granted at the discretion of the line manager or Headteacher, from whom permission must be sought in advance. Evidence of appointments may be requested.

The same provisions will apply where an employee is seeking time off work to accompany a dependant to a medical or dental appointment, although it is expected that in such circumstances time off will usually be unpaid or must be made up at another time.

Where an ongoing series of medical appointments has been requested, the Headteacher will have discretion to determine whether they will be paid or unpaid.

## **8.5 Antenatal Appointments**

All pregnant employees have the right to take paid time off to attend antenatal appointments. Except in respect of the initial appointment, evidence of appointments must be provided if requested by the Headteacher or employee's line manager.

Prospective fathers / partners of pregnant women may take unpaid time off to accompany her to up to two antenatal appointments, subject to a maximum limit of 6.5 hours per appointment. Such employees may be required to complete a form declaring their eligibility.

## **8.6 Trade Union / Professional Association Duties and Activities**

Staff undertaking duties or attending activities in relation to their membership or role within a recognised trade union will be granted time off in accordance with any locally agreed facilities agreement in place at the time of the request, taking into account the provisions of the ACAS Code of Practice on Time Off for Trade Union Duties and Activities.

## **8.7 Other Leave Not Covered**

If an employee wishes to request time off for a form of leave not covered in this policy, he/she should approach his/her line manager in the first instance explaining the circumstances, including when, and for how long, he/she wishes to take leave. In considering whether or not to grant the request and whether it should be paid or unpaid, the line manager and/or Headteacher will bear in mind any statutory provision, local or national agreement recognised by the Governing Body in relation to the particular leave request, as well as custom and practice, if any, relating to similar circumstances. Ultimately, unless there are particular provisions to which the school is required to adhere, the leave will be granted at the discretion of the Headteacher or Chair of Governors, bearing in mind the operational needs of the school.

## **8.8 Other Guidance relating to Absence or leave from work.**

**Appendix 1** Adverse Weather Policy and Guidance for Staff

**Appendix 2** Guidance on Managing Staffing issues Arising from Exceptional School Closures

**Appendix 3** Sabbatical Leave & Career Breaks

**Appendix 4** Parental Leave

## **9. Discretionary Payment Arrangements relating to the above Absences**

The Governing body have agreed three discretionary paid days per rolling year for the following reasons for absence.

- Time off for dependants
- Care of sick children

- Leave to attend significant events
- Religious festivals
- Medical, Dental & hospital appointments for dependants (where time cannot be made up).

## **10 Abuse of Time Off and Unauthorised Leave**

Whilst the school's approach is to endeavour to grant special leave in line with this policy where the request is reasonable and it is operationally feasible to do so, employees should be aware that taking unauthorised leave (such as taking leave which has previously been refused) or making a dishonest request for leave (for example by requesting leave for false reasons) will be treated as a serious disciplinary matter potentially leading to dismissal for gross misconduct.

## **11. Data Protection**

When an employee makes a request to his/her line manager for time off under this Special Leave Policy, personal data collected will be processed in accordance with the School's data protection policy. In particular, only the personal information required to deal with the employee's request for time off should be recorded and this information kept only for as long as necessary to deal with the request.

## **12. Status of Policy and Review**

The content and operation of this policy is reviewed on a regular basis by the Governing Body. The policy is discretionary and does not confer any contractual rights.

### **Review**

Date reviewed by governing body: Autumn term 2018

Date due for review: Autumn term 2021

## **Appendices**

**Appendix 1** Adverse Weather Policy and Guidance for Staff

**Appendix 2** Guidance on Managing Staffing issues Arising from Exceptional School Closures

**Appendix 3** Sabbatical Leave & Career Breaks

**Appendix 4** Parental Leave

# Appendix 1- Adverse Weather Policy and Guidance for Staff

## 1. Introduction

The School recognises that disruption caused by adverse weather conditions may sometimes make it difficult or impossible for staff to travel into work as normal. The purpose of this policy and guidance is to clarify the expectations of staff in respect of attending work when weather conditions cause disruption and how absences will be treated when individuals are unable to work as normal.

The School's primary aims are to ensure that disruption to the education of pupils is minimised whilst giving due regard to its duty to ensure the health and safety of all employees and other visitors to the site, as far as is reasonably practicable.

Although the focus of this policy and guidance is on disruption caused by adverse weather, the principles will equally be applicable to other circumstances which may impact on the ability of staff to get to work, such as industrial action affecting public transport.

## 2. Expectations of Staff

### 2.1 Severe Weather Overnight Affecting Travel into Work

The School will remain open as far as is reasonably possible taking into account local conditions.

Unless notified in advance that the School will be closed for the day, all members of staff should endeavour to travel to work as normal. Where usual travel arrangements are disrupted, individuals are expected to explore all possible alternatives. This might include:

- Using alternative means of transport, such as public transport instead of travelling by car, or walking if the distance is reasonable;
- Where public transport is affected, travelling later than normal, using a different operator or an alternative rail/tube station or bus stop if the disruption is localised;
- Taking an alternative route (such as main roads which have been cleared and gritted instead of back roads) and allowing extra time to travel.

In assessing alternatives, members of staff should give due regard to health and safety considerations and not take unwarranted risks that might jeopardise their safety or that of others. Staff should take into account information on the prevailing weather conditions and the advisability of travel available from local news services, the Met Office, motoring associations or public transport information services, as appropriate, as well as any advice provided by the School.

Extra care must be taken when travelling to and from work in severe weather conditions.

Members of staff who are attempting to travel into work but who know that they will not arrive by their normal start time should inform their line manager as soon as possible. Members of staff who have managed to get into work, albeit late because of travel disruption, will not normally be asked to make up any lost time or experience any loss of pay.

Where the individual has explored alternative travel arrangements but has judged that there is no reasonable and safe route into work, he/she should contact his/her line manager by telephone at the earliest opportunity, leaving a message if necessary, explaining the circumstances. The line manager will discuss and agree alternative working arrangements where these are feasible, such as working from home if this is appropriate to the individual's role. Where such alternatives are

impractical, the manager should explain how the absence will be treated to ensure that the employee is clear about this from the outset. If the manager is unsure about this, he/she may need to seek clarification from the headteacher and inform the member of staff subsequently. See also section 3 below about the treatment of absences.

## **2.2 Severe Weather During the Working Day**

Where the weather deteriorates during the working day and conditions suggest that this may adversely affect travel home, the headteacher will consider the information and advice available and make a decision on whether to close the School. If the School is closed and members of staff are sent home early as a result, no deduction from pay will be made and staff will not be required to make up the working time lost. In some cases it may be appropriate to allow some members of staff to leave early even if the school is not closing early, e.g. because of the distance they have to travel home or the mode of transport used. Individuals should raise any concerns they may have about getting home safely with their line manager or headteacher so that these can be taken into account when assessing operational needs and who may need to leave earlier than normal.

Wherever possible, staff will be informed in advance of arrangements for the following day. Unless the decision has already been taken to close the School, staff should endeavour to travel to work as normal or follow any other instructions given to them. If difficult travelling conditions prevail the next day, the arrangements outlined under 2.1 above for getting into work will apply.

## **2.3 Severe Weather Disrupting Care Arrangements**

Where an employee with childcare responsibilities has to stay at home or leave early unexpectedly due to a breakdown in childcare arrangements or a school/nursery closure caused by adverse weather conditions, he/she will be eligible to take leave in accordance with the statutory right to take time off for dependants.

In such circumstances, it is expected that the member of staff will alert his/her line manager as soon as it is known that he/she will require time off and inform the line manager how long he/she expects to be absent. Usually in such circumstances, leave will only be required for long enough to make alternative care arrangements, bearing in mind that associated travel disruption may make this more difficult than normal.

The same principles will apply to employees with responsibilities for dependent adults when normal care arrangements fall through because of the impact of severe weather.

Consistent with the School's normal policy on time off for dependants, leave will usually be unpaid. In the context of absences resulting directly from adverse weather situations, however, the School will ensure that those who are absent as a result of caring responsibilities are treated consistently with comparable employees who are absent through travel disruption, even if this may result in a departure from normal policy. See section 3 for more information about treatment of absences.

## **3. Treatment of Absences**

The School reserves the right to retain a degree of flexibility over the treatment of absences caused by adverse weather conditions and other such disruptions, in recognition of the fact that exceptional circumstances can prevail. In general terms, however, the School's policy will be as follows:

- Provided any absence due to weather conditions has been notified at the earliest reasonable opportunity to the line manager, absence will be treated as authorised.
- Unless the line manager has authorised home working or some other arrangement whereby the employee can work remotely, the default position is that the day or days of absence will be classed as authorised unpaid leave.
- Employees who are engaged on a full-year basis will be able, on request, to use outstanding annual leave entitlement to cover the period of absence.

- The headteacher may, at his/her sole discretion, authorise individuals to receive normal pay. This would usually be on the basis that such individuals will be expected to make up some or all of the working time lost on another date. Whilst such a decision will be made with a view to consistency of treatment across the staff affected, the decision will also take into account to what extent it is realistic for the time to be made up and whether working at another time is of any benefit to the School. Each individual's working hours, contract and role will therefore have some bearing on this judgement and may justify different outcomes.

In the latter case it may not be possible to reach a decision about the treatment of absence until after the disruption is over. In such cases, members of staff should be informed at the time of notifying absence what the default position will be, pending a review after the event.

Members of staff who are unhappy about how a period of absence has been treated should raise their concerns, initially informally, using the School's Grievance Procedure.

#### **4. Responsibilities of Line Managers**

Line managers are expected to communicate proactively with their staff during periods of disruption to ensure that the headteacher has up-to-date information about the numbers of staff who are likely to be absent and to ensure that staff understand their responsibilities and how any periods of absence will be treated.

All staff should be treated fairly and consistently, but with appropriate regard to individuals with particular conditions or vulnerabilities, such as those relating to a disability, pregnancy or age, whose circumstances may justify different consideration.

If a line manager is in any doubt about how to treat a particular case or how to advise an individual, he or she should seek guidance from the headteacher.

#### **5. Reference to Other Procedures**

This policy and guidance should be read in conjunction with any more detailed arrangements or procedures which may apply to specific groups of staff or departments, such as absence reporting mechanisms, which can differ depending on role and working patterns.

## Appendix 2 - Guidance on Managing Staffing Issues Arising from Exceptional School Closures

### Introduction

During normal term time periods there may occasionally be circumstances when there is a need to close a school due to exceptional circumstances, e.g. adverse weather, health and safety reasons or use of the school as a polling station. The following gives schools some general guidance on how to manage the staffing situations that arise out of such closures. Advice may also need to be sought from the school's attached Personnel Consultant or the Personnel Helpline on particular circumstances.

### 1. Adverse Weather Conditions

Whilst schools can expect their staff to work their normal contractual hours during adverse weather conditions, nevertheless they should bear in mind the need to be flexible to respond to individual circumstances when weather conditions affect attendance at work.

For example, depending on where individual employees live, some staff may be more badly affected by the extreme weather than others and schools will want to avoid encouraging their employees to travel in dangerous conditions. In addition, there may be employees with particular needs for whom reasonable adjustments may need to be made, or employees who due to school closures may need to take time off to care for dependants.

If the decision is taken to close the school completely, or employees are instructed not to travel to work, the employee is prevented from working on that day and, as this is through no fault of their own, they should receive pay as normal for that day.

If the school is closed to pupils but is open to staff, then employees can be expected to attend for work as normal. However consideration will also need to be given to the travelling conditions for individuals depending on where they live.

It would be reasonable for schools to request staff assist with arrangements for preparing the school to open, e.g. clearing snow. However consideration will need to be taken of any health and safety issues and of individual's particular circumstances, e.g. health conditions.

### School Responses to Absence and Lateness

Managers and staff should discuss as soon as possible how any absence from the workplace or lateness caused by extreme weather conditions should be treated. Schools may therefore wish to consider a range of responses when employees have difficulty in carrying out their work as normal. The possible responses are:

#### Working from home:

Home working may be feasible for some staff, particularly teachers. It is not suggested that employees seek to work at another school due to potential difficulties over safeguarding checks.

#### Flexible working or leave:

Employees who will be delayed or who wish to leave work early because of worsening conditions should agree this with their manager. Schools may decide to pay these employees, or require them to make up these lost hours at another time, or, if necessary, treat as unpaid leave.

### Nil pay for periods of absence or lateness:

Technically, an employee is not entitled to be paid for periods when they do not fulfil their full contractual working hours. This would not be an unlawful deduction from wages, provided that pay is only withheld for the relevant period of absence. However the option of withholding pay should only be a last resort. Schools are advised to discuss with affected employees all of the appropriate alternatives to cover the absence before deciding to withhold pay, such as home working, flexible working, or treating the absence as part of the employee's paid annual leave (where possible, e.g. full-year support staff). Equally, employees should be told in advance that the periods of absence or lateness will be unpaid. Decisions should be taken on a consistent and fair basis, to minimise the risk of claims of discrimination and/or constructive dismissal.

## **2. Use of School as a Polling Station**

As schools will have some notification that it will be used as a polling station, arrangements can be discussed and agreed in advance. In most circumstances the school will only be closed to pupils and staff will still have access to the school site and therefore can be expected to attend for work as normal. However for classroom based staff alternative work will need to be identified. This could include planning, preparation and assessment work or arranging an Inset day/additional training. Alternatively, agreement could be reached for some staff to work from home for the day. For lunchtime staff reasonable alternative working arrangements are unlikely to be possible, therefore they should receive their full pay for the day.

## **3. Closure of School due to Health and Safety Reasons**

Occasionally a school may need to close because of an identified health and safety reason, e.g. heating system failure. In such circumstances the range of options already outlined in this guidance should be considered.

## **4. Absence due to Childcare Commitments Because of Unexpected School Closures**

As a result of an unexpected closure at another school, some employees may need to take time off to care for their dependent children even though their employing school is not closed. Employees have a statutory right for unpaid time off to deal with unforeseen events relating to their dependants. However this does not provide the right to take extended leave, but only the right to take off what time is reasonable to allow the employee to deal with the unforeseen event. Similar principles should be followed in relation to other dependants, including older or disabled relatives.

## **5. Employees Who Abuse the System**

If there is reason to suspect that an employee is abusing a school's flexible approach to lateness or absence, there will need to be an investigation into the employee's reasons for their absence to find out the true extent of the transport disruption and the impact on others who travelled from the same area. If abuse is established, schools are entitled to treat this absence or lateness in the same way as other unauthorised absence. A failure to act reasonably may result in claims for unfair deductions from wages where pay is withheld, or even constructive or unfair dismissal.

## **6. Fairness and Consistency in Exercise of Policies**

Whichever options schools adopt in response to disruption to the working week of their employees, they should ensure that managers implement the policy fairly and consistently, while taking into account the particular needs and circumstances of individual staff members. A policy or guidance for managers to use at these times will ensure a level of consistency and avoid confusion, and hopefully avoid employee relations complications or possible tribunal claims.

## Appendix 3 Sabbatical Leave & Career Breaks

### Introduction

Terms such as 'sabbatical leave' or 'career break' tend to be used to refer to longer periods of unpaid leave than would normally be requested within a school or college on a day-to-day basis. There is no statutory definition of, or entitlement to, a sabbatical or career break (both terms are used interchangeably in this guidance) and therefore such schemes tend to be highly tailored to individual cases. The decision whether or not to grant such a request generally rests with the headteacher, although the governing body may ratify the decision (and will of course be responsible for considering any such request received from a headteacher).

Requests for sabbaticals in schools and colleges may arise periodically although usually not frequently enough to justify the creation of a specific policy. Schools/colleges that choose to make a statement on sabbatical leave (e.g. in the staff handbook) may wish to confine it to confirmation that there is no specific policy in place but that requests will be considered on an individual basis.

This guidance considers some of the key issues to bear in mind when faced with such a request.

### Factors to Consider

When the headteacher (or governing body) receives a request for any period of unpaid leave beyond a very short period, he/she will need to consider a number of factors before reaching a decision on whether to grant it. It is advisable to secure the request in writing to ensure that it can be dealt with and responded to formally. It is notorious difficult in these sorts of cases – and particularly following a change of staff – to establish at a later date what was requested and agreed upon in the absence of any paperwork. Whilst the school/college may not have a policy in place, it is advisable to ensure that requests are based on consideration of similar factors and dealt with in a timely fashion, to ensure equitable treatment.

#### Some Relevant Factors When Considering a Request

- How long the employee has been with the school;
- The purpose of sabbatical leave;
- The intended duration of leave;
- When the employee would wish the leave to start;
- The benefits (if any) to the employer of granting the leave (e.g. if the leave is to study a relevant qualification or learn a relevant skill);
- The impact on the school/college of the employee's absence, including the impact on other staff and pupil provision (where relevant);
- The school's/college's particular circumstances (e.g. whether it is in an Ofsted category);
- The ease, or otherwise, with which the employee's absence may be covered and any cost or quality implications;
- Whether any other individuals within the school are already absent taking sabbatical leave.

The headteacher may feel that the employee's request cannot be accommodated as it stands, but could be on a different basis, e.g. a shorter period of absence or a different start date to minimise the impact on the school/college. Any such alternatives may therefore be proposed for discussion as an alternative to turning the request down completely.

In granting a request, it is particularly important that the implications for the employee's contract of employment and conditions of service are made very clear. The key implications are considered below.

## **Implications for Continuous Service**

When unpaid leave is granted for comparatively short periods – for example, a couple of months agreed unpaid leave to care for a sick or terminally ill relative – it would be normal practice for the employee's contract of employment to continue in force and his/her continuity of employment thus remain unbroken. The whole period of employment, before, during and after the unpaid leave, would therefore be counted as one seamless period of employment. Such relatively short arrangements are generally more straightforward and are not considered in any more detail in this guidance, although it is always advisable to put arrangements of more than a week or so in writing: your Personnel Consultant can help to draft something appropriate.

During a career break of longer duration – perhaps a year or more – the school/college must determine, and be very clear with the employee, whether or not it is intended that the contract of employment remains in force during the break. Generally, the longer the break, the more likely it will be that the employer would seek to terminate the contract and break the period of continuity. Whilst the operation of the contract can cease 'by agreement', there is a risk that an employee could subsequently claim that employment was continuous across the break because there was an agreed expectation of re-employment at the end of the period of absence. It may therefore be advisable that the employee is asked to resign on the basis of an undertaking to re-engage him/her on a specified future date. This will strengthen the employer's position that it was intended that the contract would cease during the sabbatical/career break. A model letter is available on the Babcock 4S website to cater for both options.

## **Implications for Pensions**

The pension implications will depend on whether or not the contract of employment is to remain in force during the break.

Contract of Employment Not in Force: When it has been agreed that the contract of employment is to cease during a period of sabbatical (i.e. the employee is to resign), all terms and conditions of employment will no longer apply and the period will thus be a break in pensionable service.

Contract of Employment Remaining in Force: When it has been agreed that the contract of employment will remain in force during the break, the treatment of pension entitlement will depend on the scheme

It is a good idea to contact your pension fund administrator for advice on the particular circumstances so that the employee is clear about the impact on his/her pension and the options for paying additional contributions.

## **Implications for Annual Leave Entitlement**

In sabbatical/unpaid leave arrangements where it is agreed that the contract of employment remains in force during the period of absence, it is likely that annual leave will continue to accrue.

Whilst there is no decided case law on this point, recent case law related to the interaction between sick leave and annual leave implies that there is no requirement for an employee to actually undertake any work during the period in question for annual leave to continue to accrue, provided a contract of employment governs the period of no pay.

For teaching staff, such periods of annual leave will generally be accounted for by past and future paid school closure periods and thus no further entitlement to annual leave tends to arise, but support staff are likely to be entitled to additional annual leave which they could decide to claim on their return to work.

## Other Considerations

Conditions Attached to Granting Leave	The headteacher/governors may wish to consider whether any conditions should govern the period of leave, such as whether or not the employee is allowed to undertake other employment during the period (or needs to seek permission before so doing).
Notice Periods	The confirmation letter should set out what period of notice the employee must give to confirm his/her intention to return on the pre-arranged date plus also what the employee needs to do if he/she is not intending to return following sabbatical leave.
Contact During Sabbatical	It is advisable to agree what, and how much, contact there will be between the school/college and the individual during the break. If the employee will be expected to attend any meetings or briefings during the period of absence, this should be agreed in advance. Promotion opportunities should also be considered: does the individual want to be notified of appropriate vacancies during the career break? And what will happen about performance management reviews or appraisals that would otherwise fall during the period of absence?
Re-engagement on Return	There will usually be an expectation and agreement from the outset that the individual will be re-engaged at the end of the sabbatical/career break. It is advisable to state that this would normally be to the same post as occupied immediately prior to the leave, but where this is not reasonable practicable, this could be to a broadly similar post on comparable terms and conditions. This is to allow for the consequences of restructuring or other staffing changes during the period in question.

## Setting a Precedent

Headteachers and governors may be concerned that, by considering and granting a request for a sabbatical, the school/college will be setting a precedent for future cases. It is good practice to consider all such requests on their own merit: the option of a sabbatical or career break is very unlikely to become a contractual entitlement over time purely by virtue of the fact that others have been granted similar requests. Where schools/colleges should be consistent is in stating that, whilst all requests will be considered, they are always subject to scrutiny of the individual circumstances (both the employee's and the school's/college's) at the time the request is made and are subject to prior approval. In turning down a request, it is particularly important to give reasons to minimise the likelihood of any challenge.

Many schools and colleges receive very few, if any, requests. In settings where requests have become more frequent, the governors may decide to put in place a few parameters which determine whether a request would be considered. This might, for example, include a minimum period of service, limiting the number of staff who may take a sabbatical at any one time or limiting the period of the break that would be considered (e.g. to 6 months or less).

## Terminating a Sabbatical Arrangement

The arrangements governing a sabbatical or career break should always be confirmed in writing but may be varied by mutual agreement during the period of sabbatical.

There should be provision in the agreement for the employee to end the arrangement if he/she decides not to return to the school/college at any point. Similarly, it should be clear that the school/college will cease the arrangement if the employee can no longer meet any specified commitments under the agreement, moves away, obtains another job or other key factors change.

## **Returning to Work**

Generally, the employer will agree to re-engage the employee on a set future date. As the employer will usually be engaging cover for the period in question, it will not be possible for the employee to return to work sooner than the agreed date unless the employer is able and willing to accommodate this.

It is advisable to ensure that the employee is obliged to contact the school/college by a set date prior to the agreed return date to confirm his/her intention to return. This is to ensure that the school can make appropriate arrangements for his/her return, or to recruit permanently to the position if the employee has decided not to resume the post after all.

Clearly, after a period of extended absence, the employee will need some support to reintegrate into work and therefore a re-induction should be arranged to facilitate a successful return to work.

## **Declining a Sabbatical Request**

Whilst schools are not obliged to do so, it is good practice to provide written reasons for declining a request for a sabbatical, clearly explaining why the request cannot currently be balanced with the school's needs or is otherwise not deemed to be justifiable in the circumstances.

## **Appendix 4 – Parental Leave**

### **1. Introduction**

This guidance explains who has the statutory right to take parental leave and the rules about when and how it can be taken. It is relevant to all managers with responsibility for handling such requests and is also aimed at individual employees who wish to have an understanding of their entitlement. This guidance reflects the statutory scheme for parental leave which will apply in most cases. Schools that operate an enhanced scheme should provide any additional details relating to a local scheme to their employees.

Entitlement to parental leave is separate from, and should therefore not be confused with, maternity leave, paternity leave, adoption leave or shared parental leave for which alternative guidance is available.

### **2. Eligibility for Parental Leave**

To be eligible to take parental leave, an employee:

- Must have a minimum of one year's continuous service by the date that the parental leave is to be taken;
- The employee must have (or expect to have) parental responsibility for the child in question;
- The leave must be taken for the purpose of caring for the child;
- The leave must be completed before the child's 18th birthday.

Parental leave is available to both male and female staff but only to employees.

'Caring for the child' is not specifically defined but examples of activities for which time off might be requested are to stay with a child who is in hospital, to make school or childcare arrangements and help them settle in, or simply to spend more time with their child.

### **3. How is 'Parental Responsibility' Defined?**

A person has parental responsibility for a child if he/she:

- Is named on the child's birth certificate;
- Is named on the child's adoption certificate;
- Has legal parental responsibility for the child.

The employee does not have to live with the child to exercise the right to parental leave, provided he/she has retained formal parental responsibility for the child.

Foster parents are not eligible for parental leave.

### **4. Evidence of Eligibility**

An employer may ask an employee, at its discretion, for evidence to support a request for parental leave. This could be, for example:

- The child's birth certificate or certificate of adoption;
- Evidence of the child's entitlement to disability living allowance (if the child is disabled);
- A signed declaration from the employee that the purpose of the requested leave is to care for the child.

## 5. Entitlement to Parental Leave

Under the statutory scheme, a parent may take up to 18 weeks' leave in respect of each child they have responsibility for, up until the child's 18th birthday.

**Pattern of leave and maximum in any year:** Under the statutory scheme, the leave cannot be taken in blocks of less than one week (except where the child is disabled) and the maximum that can be taken in any one year is four weeks in respect of each child. If an employee only wishes to take one day's leave, this will be counted as a week for the purposes of calculating outstanding entitlement, except where the leave is being taken in relation to a disabled child, in which case the entitlement to parental leave will be calculated in equivalent days.

**Changing employer:** The entitlement to parental leave is static, even if the parent changes employer. If an employee has already taken eight weeks of parental leave with a previous employer, for example, he/she will only have ten weeks remaining at a new employer. He/she will also need to work a full year for the new employer before becoming eligible to take the remaining entitlement.

Note for these purposes that employees moving between employment by the local authority (including within community and voluntary controlled schools) and employment by the governing body of a school maintained by the same local authority (i.e. in a foundation or voluntary aided school) does not break continuous service for statutory purposes provided there is no break of at least a week running Sunday to Saturday (or otherwise a break that would be deemed continuous due to a temporary cessation of work, such as a school closure period) and therefore would not have to work a further year with the second school before they could request parental leave.

Schools/colleges may ask a previous employer for information about number of weeks' parental leave taken by an employee, but there is no statutory obligation for a former employer to respond to such a request.

## 6. Giving Notice to Take Parental Leave

Generally, employees must give at least 21 days' notice of their intention to take parental leave, specifying the start and end dates. This does not have to be in writing, though the school/college may ask for written confirmation.

However, fathers who wish to take parental leave when their child is born must give notice at least 21 days before the expected week of childbirth. Where parental leave is being requested to begin on the placement of an adopted child, the employee must give notice at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as reasonably practicable thereafter.

## 7. Postponing Parental Leave

An employer cannot postpone an employee's parental leave if the period of leave has been requested to coincide with the child's birth or placement for adoption.

In other cases, however, an employer can postpone an employee's parental leave if the timing of the leave would cause undue disruption to the school/college. To do so, the employee must be written to within no more than 7 days following receipt of the employee's request, stating:

- That the employee's parental leave is to be postponed;
- Why the postponement is necessary; and
- Giving suggested alternative dates for parental leave (of the employee's chosen duration) within the next six months.

## **8. Pay and Benefits During Parental Leave**

Parental leave is unpaid, although the contract of employment remains in force during the period of absence and thus service continues to accrue.

For pension purposes, unpaid parental leave will not be deemed pensionable employment for the purposes of the Teachers' Pension Scheme. For LGPS purposes, parental leave is treated as unpaid leave of absence. Contact your pension scheme administrators for further information.

## **9. Returning to Work After Parental Leave**

Employees notify their intended return to work date before they commence parental leave and thus there is no need for any further notice to be given and the employee will simply be expected to return to work on the date previously notified.

Where the period of leave has lasted for four weeks or less, the employee is entitled to resume working in the same job as previously. Where the leave has lasted for more than four weeks the employee has the right to return either to the same job or, if this is not reasonably practicable, to another appropriate job on terms and conditions no less favourable.

If an employee fails to return to work on the appointed day, he/she will be treated in the same way as any other employee who has taken unauthorised absence with the line manager investigating the reasons for the absence before considering whether any other action needs to be taken.

## **10. Keeping Records of Parental Leave**

Schools/colleges should keep records of when employees have taken parental leave in order to be able to demonstrate that employees have been given access to their entitlement and to monitor how many weeks have been taken. This will also allow information to be provided to future employers if requested.