

# Fiveways School

## Leave of Absence Provision Policy



### Policy Review

Review Cycle	Date of Current Policy	Author(s) of Current Policy	Review Date
Annual	October 2023	SSE	October 2024

### Policy Ratification

Role	Name	Signature	Date
Chair of Governors	Malcolm Gulliver pp		9.10.23
Head Teacher	Swavek Nowakiewicz		9.10.23

### Details of Policy Updates

Date	Details
March 2023	Section 10 Updated guidance from SSE
October 2023	Latest guidance from LA

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The purpose of this policy and procedure is to support the effective reporting, recording and management of leave of absence to reduce its impact on service delivery and provide appropriate support to employees.

This policy statement aims to set out Fiveways school's arrangements for managing flexible working for the purpose of providing all staff with information about Local Authority Guidance that the school has adopted. It sets out:

- Procedures in relation to Leave of Absence Provision.
- Details of guidance are available in the attached appendices.

## Leave of Absence Provision

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## **1. PARENTAL LEAVE PROVISIONS**

### **1.1 Introduction**

Parental leave provides unpaid time off from work to employees with parental responsibility to care for their child.

### **1.2 Definition of Parental Responsibility**

This is laid down in the Children Act 1989: it includes a mother, father, guardian or adoptive parent who cares for a child.

### **1.3 Leave Entitlement**

1.3.1 There is an entitlement to 18 weeks unpaid leave which can be taken in blocks of one week (part weeks count as one week) with a maximum of 4 weeks leave in any one leave year (ie, 1<sup>st</sup> April to 31<sup>st</sup> March or other arrangements such as September to August), per child. If the child is disabled, leave can be taken in blocks of one day.

1.3.2 The entitlement will be pro-rata for part-time employees.

1.3.3 Parental leave may be taken immediately after ordinary and/or AML, and in addition to Maternity Support Leave/Paternity leave.

### **1.4 Eligibility to Leave**

1.4.1 An employee with one year's continuous service will be entitled to up to 18 weeks unpaid parental leave for each child (including multiple births) who:

- a) is the parent of a child (named on the Birth Certificate) or who has acquired formal parental responsibility for a child who is under 18 years old; or
- b) is the parent of a disabled child (named on the Birth Certificate) or who has acquired formal parental responsibility for a disabled child, who is under 18 years old; or
- c) has adopted a child who is under the age of 18. The right lasts for 5 years from the date on which the child is placed for adoption, or until the child's 18th birthday, whichever is the sooner (this is in addition to leave under the Adoption Policy).

1.4.2 Where both parents work for the Local Authority/Academy, each one will be entitled to 18 weeks parental leave for each child, in addition to other family leave entitlements.

1.4.3 The following evidence can be requested before granting leave:

- a) proof of a child's age;
- b) proof of parental responsibility (eg Birth Certificate or an Adoption Order);
- c) proof that the parent is in receipt of a Disability Living Allowance.

1.4.4 The previous employer may be contacted to find out what parental leave, if any, the individual has taken.

## **1.5 Requests for Leave**

- 1.5.1 Requests for leave should be made in writing at least 21 days in advance of the required start date. The request should state the exact start and end date, together with the reason for the leave. (Clearly only anticipated start and end dates can be given where parental leave is requested to be taken after the birth or adoption of a child).
- 1.5.2 The Headteacher/Manager will reply in writing within 7 days of the employee's request. A copy of all documentation should be kept on the employee's personal file.
- 1.5.3 Leave can be postponed for up to 6 months when the needs of the service would be unduly disrupted (for example leave may be reasonably postponed to ensure continuation of education), except when the leave will occur immediately after the birth or adoption of a child.
- 1.5.4 The reasons for postponement must be put in writing, together with the proposed permitted leave dates.
- 1.5.5 Where postponement means that the child will be over 18 years old (or has been adopted for more than 5 years), the entitlement to leave will still apply.

## **1.6 Continuous Service**

- 1.6.1 All terms and conditions under the contract of employment will remain, including the right to accrue paid leave and continuity of service. Employees who are members of the Local Government Pension Scheme, contributions must be paid whilst on parental leave, unless the break is longer than 30 days (eg where parental leave is taken immediately after AML). For employees who are members of the Teachers Pension Scheme, unpaid leave is not counted as reckonable service for pension purposes.
- 1.6.2 If an employee wishes, they can elect to pay contributions for the unpaid period of Planned Unpaid Parental leave when they return to work in order that the period of unpaid leave can be counted for pension purposes. If they elect to do this, within 30 days of receipt of

written communication of this option or within 30 days of returning to work, whichever is the later then the employer will pay two thirds of the cost of the lost pension. If the employee elects to do this more than 30 days after returning to work or more than 30 days after receipt of written communication, the full cost of the lost pension is borne by the employee. The contributions payable will be based on the cost of paying for the pension lost during the unpaid period. Peninsula Pensions can be contacted for further advice. Further information can be found by following the link: <http://www.peninsulapensions.org.uk/>

- 1.6.3 If a redundancy situation arises, the employee must be treated as though s/he is at work.

## **1.7 Right to Return**

On return to work after a break of up to 4 weeks, the employee will have the right to return to the same job. Where the break is longer than 4 weeks, eg where parental leave is taken immediately after AML, the employee will have the right to return to the same or another similar job on terms that are not less favourable.

## **1.8 General**

- 1.8.1 The employer has the right to determine that parental leave is taken to care for a child. Evidence that a parent has taken a holiday whilst leaving the child with another relative may result in disciplinary action.
- 1.8.2 Employees will be protected against dismissal or detriment for taking approved parental leave.
- 1.8.3 If an employee feels that parental leave has been unfairly refused, the matter should be taken up through the Grievance Procedure.
- 1.8.4 The school/academy's payroll provider should be informed of any unpaid time off to ensure the appropriate pay is deducted.

## **2. TIME OFF FOR DEPENDANTS**

### **2.1 Introduction**

An employee is entitled to a short period of unpaid time off, during working hours, to make arrangements to deal with specific unexpected circumstances involving a dependant. These provisions are in addition to other leave or flexible working arrangements.

### **2.2 Definitions**

2.2.1 A 'dependant' is defined as the employee's spouse, child or parent, or a person living with the employee in the same household (but not as an employee, tenant, lodger or boarder).

2.2.2 In cases of illness, injury or where care arrangements break down, a dependant can also be a person who reasonably relies on the employee for assistance. This could be an individual for whom the employee has primary caring responsibility, such as an elderly relative not living in the employee's household or someone who is involved in an emergency where the employee is the only person who can help.

2.2.3 References to illness or injury include mental illness or injury.

2.2.4 The incident has to be something which needs immediate attention, where the presence of the employee is required.

## 2.3 **Leave Entitlement**

2.3.1 A reasonable amount of unpaid time off during working hours may be granted depending upon the circumstances; it should be sufficient to deal with the immediate problem and to arrange alternative longer term care, if necessary. In most cases, one or two days will be sufficient.

2.3.2 If an employee has 3 occasions of time off to care for dependants in a rolling 12 month period, the situation should be reviewed with the employee.

## 2.4 **Eligibility**

All employees, regardless of length of service will be entitled to unpaid time off to deal with specific unexpected circumstances involving a dependant.

## 2.5 **Notice**

Where practical, employees should give notice of their need to take time off and have regard to work commitments. However, due to the nature of unexpected circumstances, the employee may not be able to give notice before the event. The employee must inform their Line Manager of the reason for their absence as soon as reasonably practicable and the expected length of time needed to resolve the issue.

## 2.6 **Reasons for Time Off**

2.6.1 To provide assistance or make arrangements for provision of care when a dependant falls ill, is injured or assaulted (including where the victim is hurt or distressed rather than injured physically).

2.6.2 To provide assistance when a dependant gives birth. (Also refer to Paternity/ Maternity Support Leave – Section 8b)

2.6.3 Where the arrangements for care of a dependant are unexpectedly disrupted or terminated, for example: if a child minder or nurse does not turn up.

2.6.4 To deal with an incident involving the employee's child that occurs unexpectedly when the child is at an educational establishment.

## **2.7 Recording and Monitoring Time Off**

2.7.1 The Headteacher/Manager should establish, through discussion with the employee, whether they wish to take the time off using flexible working arrangements, as an alternative to unpaid time off under this Policy.

2.7.2 Time off for dependants must be recorded using the current Absence Monitoring Procedure and stated as unpaid.

2.7.3 Payroll must be informed of any periods of time off to care for dependants, so that the appropriate pay is deducted.

## **2.8 General**

2.8.1 Employees will be protected against dismissal or detriment for taking approved time off to care for dependants.

2.8.2 If an employee feels that time off has been unfairly refused, the matter should be taken up through the Grievance Procedure.

## **3. FOSTER CARE LEAVE**

### **3.1 Purpose**

To provide a period of leave to enable employees who are designated Foster Carers to attend appointments, planning meetings, reviews and training and development events. The leave arrangements are designed to recognise the significant demands placed on foster carers' time in addition to normal child caring responsibilities.

### **3.2 Qualification for Leave**

Applications for leave are open to all Somerset County Council employees who are designated foster carers for children looked after by a local authority. Academies may choose to apply the same principles.

### **3.3 Leave Entitlement**

3.3.1 The employee will be allowed up to 5 days paid leave during any leave year, pro rata for part-time employees.

3.3.2 The following evidence can be requested before granting leave:

- a) Proof of foster caring responsibility



- b) Proof and details of training course, assessment planning, review meeting or specialist consultation.

3.3.3 Requests for leave should be made to the Line Manager as early as possible and must be agreed in advance. The leave entitlement should be flexible to account for special circumstances or requirements for leave at short notice specifically linked to fostering. The leave would not normally be taken in less than ½ a day blocks, however, it may be appropriate on occasions for leave to be taken in smaller blocks to meet the needs of the service and the carer.

3.3.4 Foster Care Leave should not be used in place of other leave entitlements, for example to arrange care for dependants or parental leave, where policies and procedures already exist.

## **4. CAREER BREAK SCHEME – Support Staff Only**

### **4.1 Purpose**

The Career Break Scheme underpins the Equal Opportunities Policy by enabling employees to maximise their potential and meet personal commitments. The scheme is discretionary and enables employees to take voluntarily an unpaid break from their employment contract for minimum of six months and a maximum of five years. The break may be taken as a continuous period or as a series of shorter breaks. The School/college/academy undertakes to support the individual in identifying suitable re-employment opportunities at the end of the break.

### **4.2 Eligibility**

4.2.1 To be eligible to apply, employees must have two years' continuous service. Teachers are not eligible to apply to the scheme but sabbatical, which is also discretionary, may be appropriate.

4.2.2 Requests from fixed term employees with more than two years' service will be assessed proportionately against the reason and duration for the fixed term contract and the length of break requested.

### **4.3 Reasons for Taking a Career Break**

The Scheme may be used for a variety of reasons where a period of extended leave is required which cannot be met through another policy. These may include, but are not limited to, caring responsibilities, further study, travel, pilgrimage, family etc.

### **4.4 Procedures and Responsibilities of the Headteacher and Employee**

4.4.1 Employees are required to resign from their contract of employment giving the required notice as per the terms of their contract of employment. The only exception to the above is when a career break immediately follows maternity leave. Please see the Maternity Policy for further details.

4.4.2 An employee embarking on a career break will be allocated a nominated person within the school/college/academy to act as a point of contact during the break. This will normally be the Line Manager.

4.4.3 Both parties must discuss the employee's request to enter into a Career Break Agreement and the arrangement must be properly documented using the Career Break Agreement Document – [Appendix A - Career Break Scheme Agreement](#)

#### 4.5 **Appeals**

If the employee is refused a career break, they have the right to appeal against the decision. This will be dealt with in accordance with the Appeals Policy.

#### 4.6 **Cover**

If it is operationally viable, Headteachers should consider covering short career breaks of less than 12 months with fixed term staff. The individual is however still required to give 3 months' notice of their wish to return to work.

#### 4.7 **Work Periods**

To maintain contact with the school/college/academy the individual may request to return to work for the school/college/academy for a maximum of 3 weeks per year. The Headteacher will seek to provide paid work, at a level appropriate to their final grade at the start of the career break. This will be at times which are mutually convenient.

#### 4.8 **Re-employment**

4.8.1 There is no guarantee of re-employment at the end of the career break. However, for a period of up to 6 months (3 months before the agreed end of the career break and 3 months thereafter) the individual will be provided with information re vacancies. They will be given the opportunity of an interview, provided they meet the essential criteria of the job.

4.8.2 Re-entry into employment may be phased by part-time or job-share, depending on the circumstances of each case. Appropriate induction will be provided.

#### 4.9 **Terminating an Agreement**

The school/college/academy reserves the right to terminate the agreement if the individual:

- moves away permanently;

- obtains primary employment with a different employer without prior agreement from the employer; or
- on expiry of the agreement does not confirm their wish to return to work.

#### **4.10 Contractual Issues**

4.10.1 The Career Break Scheme Agreement, signed by both parties, will define the arrangements as follows:

- Confirmation that the original contract of employment will be terminated with effect from the start of the career break.
- Where the individual has requested it, the agreed periods of paid work that the school/college/academy will seek to provide and the individual agrees to undertake.
- The support the school/college/academy will provide to the individual in seeking re-employment at the end of the break.
- The requirement for the individual to provide three months' notice of their intention to return to work.

4.10.2 Re-employment at the end of the career break will be the subject of a new, mutually acceptable, contract.

4.10.3 Whilst the break itself will not count as a period of employment, the period of continuous service immediately before the break will be aggregated with continuous service after the break, for the purpose of calculating the following contractual entitlements only; annual leave, sick pay and contractual maternity pay.

4.10.4 For statutory entitlements such as redundancy pay and the right not to be unfairly dismissed, the period of continuous service will be calculated from the date of the new contract (after the career break). Similarly, notice periods for either party to terminate employment will be based upon the actual date of return.

#### **4.11 Pensions**

Individuals can seek advice from the Pensions Service on the possibility of being able to make additional contributions on re-employment.

#### **4.12 National Insurance**

An individual will only make contributions during paid periods of employment. If they wish to maintain payment during the break or to step up payment on return to work, they are advised to make separate arrangements with the DWP.

### **5. LEAVE OF ABSENCE PROVISIONS - STATUS OF PROVISIONS**

- 5.1 These provisions determine the leave of absence arrangements for all staff employed in schools maintained by Somerset County Council. They represent a local collective agreement and, therefore, are part of the conditions of employment of these staff.
- 5.2 Academies may wish to adopt these provisions, however, should they choose to adopt different provisions to those set out in this document they should formally consult with staff and local school based professional association representatives prior to recommending adoption to the Governing Body.

## **6. PRINCIPLES AND DEFINITIONS**

- 6.1 The periods of leave of absence set out in these provisions are the maximum that can be granted. In each instance only the minimum leave required should be allowed unless the particular circumstances determine that discretion up to the maximum is appropriate.
- 6.2 Employees requesting leave of absence must act responsibly by giving the Headteacher the maximum possible notice of their request.
- 6.3 Leave of absence without pay is not reckonable for incremental or pension purposes.
- 6.4 Reference to an entitlement to "working weeks" in the provisions means 5 working days for a full-time employee and for a part-time employee the number of days/hours worked during a full calendar week.
- 6.5 "Leave year" means the period from 1 April to 31 March.

## **7. NON-DISCRETIONARY PROVISIONS**

If the word "will" is used in a provision, there is limited discretion available to the Headteacher or Governing Body. The request for leave of absence must be allowed in accordance with the wording of the provision, other than in exceptional circumstances where there are overriding operational reasons i.e. where the employee's absence would have a direct and damaging effect on the provision of a key activity.

## **8. DISCRETIONARY PROVISIONS**

- 8.1 If the word "may" is used in a provision, there is discretion available to the Headteacher and Governing Body to decide whether or not to allow the request for leave of absence. When exercising discretion, the operational needs of the school/college/academy will be of paramount importance. Other factors will be the degree of importance of the activity/personal need for which the leave is required and the degree of flexibility for the leave to be taken outside of normal working hours.
- 8.2 It is recommended that the Governing Body delegates this discretion to the Headteacher or to another senior member of staff such as a Deputy Headteacher or,

for support staff, Bursar. The Governing Body should deal with all leave requests from the Headteacher or where the Headteacher has a personal or pecuniary interest in the application.

- 8.3 Applications for leave of absence should usually be made in writing and, as far in advance as possible, setting out the period of the absence required and the reasons for the request. Where the information provided is of a sensitive nature, the Headteacher will ensure confidentiality by informing only those members of staff or Governors who need to know in relation to the consideration of the application.
- 8.4 With the approval of the Headteacher, those support staff employed all year round who are granted leave without pay for reasons within or outside the discretionary provisions described in this document, can otherwise choose to take the period of absence as paid annual leave. Also with the approval of the Headteacher, for all support staff, whether employed all year round or term time only, an alternative to leave without pay may be time off in lieu.
- 8.5 If the application is not approved by the Headteacher, the employee has the right to challenge the decision in accordance with the School's Grievance Procedure (see Section 3c). The Governors Personnel and Appeals Committees which hear the grievance must not include Governors who were consulted by the Headteacher prior to his/her decision which resulted in the grievance.
- 8.6 Invoking the Grievance Procedure may not be practical because the leave period requested allows insufficient time for the timescale set out in the Grievance Procedure to be applied fully. In such cases it is recommended that at least two Governors (preferably the Chair of Governors and the Vice-Chair and/or Chair of the Personnel Committee) should consider the reasonableness of the Headteacher's decision to refuse a request. In doing so, these Governors must be made fully aware by the Headteacher of the reasons for the request and the basis for the Headteacher's decision to reject the application. Wherever practical in terms of the timescale, the employee must be given the opportunity to present their case to the two Governors with the right of presentation.
- 8.7 The test of reasonableness, which must be applied to all discretionary decisions, will take account of the employee's contractual annual leave entitlement (i.e. the remaining amount of annual leave available in the leave year and any contractual restrictions on when annual leave can be taken eg during school holiday periods only), the needs of the school/college/academy (managerial, organisational, financial and curricular), consistency with previous decisions taken in relation to the same or similar applications from members of staff at the school/college/academy and the principles of equal opportunities.

## **9. CENTRALLY FUNDED PROVISIONS**

- 9.1 The Local Authority holds a central budget to fund facilities time for approved time off for trade union officials (as a result of maintained schools de-delivering funding and academies "purchasing" the Service"). Previously the LA also held funds for

those staff undertaking specified public duties, but this is no longer the case and individual schools are required to finance any other agreed time off.

- 9.2 An employee wishing to serve as a Magistrate or as a member of a statutory body must, before making an application, gain the approval of his/her Governing Body, these activities are no longer funded centrally and individual schools must meet any costs.
- 9.3 Employees must endeavour to minimise the number of duties undertaken during term time.
- 9.4 Claims for supply cover needed for teachers granted leave with pay under these provisions should be made on the proforma designed for this purpose.

## **10. LEAVE OF ABSENCE OUTSIDE THESE PROVISIONS**

10.1 This covers requests for leave which fall:-

- (a) within the types of leave specified in these provisions but are for periods in excess of those specified
- (b) outside these provisions.

10.2 The principles used to decide whether or not to allow such applications should be those set out in Paragraph 8.7 above.

10.3 Employees have no contractual right to leave with or without pay for reasons other than those specified in the above provisions. Consequently employees should not expect requests for such leave to be approved unless the circumstances are exceptional. For example, a request for leave of absence without pay during term time to enable an employee to take advantage of an off-peak holiday package or to take an extended holiday should be declined.

10.4 However, there will be occasional circumstances for which a sympathetic response to a request for leave without pay during school term time might be appropriate. For example, to extend the leave period covered by the compassionate provisions or if a member of the support staff has a spouse whose holiday is predetermined by his or her employer with no possibility of variation i.e. a "factory fortnight" or equivalent.

10.5 The Governing Body should give the Headteacher discretion to grant leave without pay. If the application is not approved by the Headteacher, the employee has the right to challenge the decision in accordance with the School's Grievance Procedure. The process set out in paragraph 8.6 above should be followed.

10.6 The Governing Body should decide whether or not to allow the Headteacher to grant leave **with** pay without reference to the Governors Personnel Committee.

## **11. DEATHS AND SERIOUS ILLNESSES OF NEAR RELATIVES**

- 11.1 **For Support Staff**, leave with pay will be granted in the event of a death or serious illness of a near relative (see below for definition of a "near relative") or any other relative where there is no other person available to look after the relative. In each leave year, leave with pay will be approved up to a maximum of 2 working weeks **in total** for the deaths and serious illnesses of near relatives.
- 11.2 **For Teaching Staff**, leave with pay will be granted for up to 1 working week in the event of the death of a near relative. In each leave year, leave with pay will be approved for a maximum of 1 working week for each individual death of a near relative.
- 11.3 **For Teaching Staff**, leave with pay will be granted to enable the teacher to care for a near relative or the dependants of a near relative. This provision can be used for paternity leave. In each leave year, leave with pay will be approved for a maximum of 1 working week under this provision. This is extended to 2 weeks in the event of a serious illness of a near relative or the dependants of a near relative. An employee can be asked to provide evidence that it was necessary for him/her to provide the care.

*NB: While the interpretation of what constitutes a serious illness is within the discretion of the Headteacher and Governing Body, it will most commonly be those illnesses/accidents which are life threatening or require lengthy hospitalisation.*

### **Near Relatives**

A 'near relative' means a spouse, partner, child, parent, grandparent, brother, sister or parent in law of the employee. This is not a definitive list, but must be a close relative.

With regard to deaths, a person who stands in loco parentis to the employee e.g. foster parent, aunt, or to whom the employee stood in loco parentis, should also be regarded as a near relative. Discretion can be applied so that other relatives are included eg an aunt or an uncle.

## **12. PARENTAL BEREAVEMENT LEAVE**

- 12.1 **'Parental Bereavement Leave'** applies to employees of a child who has passed away (under the age of 18) or parents who suffer a stillbirth after 24 weeks of pregnancy.

Under the Parental Bereavement Leave Act 2020 parents have a statutory entitlement to leave and pay (if eligible) for one or two weeks.

The definition of a parent is broad and includes:

- biological parents, adoptive parents, step-parents;
- "parent in fact" of a child who has passed away, which means that, for a continuous period of at least four weeks before the child died, you have been

living with the child and had "day-to-day responsibility" for the child (but you have not been paid to look after the child);

- "intended parent" of a child who has passed away, i.e. a parent using a surrogate;
- prospective adopters

## **12.2 Responsibilities:**

- The Headteacher or Line Manager are responsible for treating all requests for compassionate leave/parental bereavement leave with fairness and equity.
- In the case of statutory parental bereavement leave the Headteacher or Line Manager is responsible for completing the Parental Bereavement Leave (PBL) form (see [Appendix B](#)) and sending it to HR Admin and Payroll (this only applies for schools or academies who purchase this service via the Local Authority). For those who have alternative providers, you should contact your provider to agree how this is reported.
- Employees must keep their Headteacher/Line Manager informed of their personal circumstances.

## **12.3 Entitlement:**

In addition to the entitlement to compassionate leave, employees of a child who has passed away (under the age of 18) or parents who suffer a stillbirth after 24 weeks of pregnancy are also able to claim one or two weeks statutory parental bereavement leave.

For each child who has passed away, a bereaved parent can take up to two weeks' parental bereavement leave as a single block of two weeks; or two separate blocks of one week at different times. Parental bereavement leave is not available as individual days.

There is no minimum service requirement, meaning that parental bereavement leave is available to employees from day one of their employment.

The leave must be taken within 56 weeks of the date of the death of the child. This lengthy period recognises that, bereaved parents, may need some flexibility as to when to take the leave. For example, they may:

- wish to take leave around the first anniversary of the child's death or at another particular time that is special, such as the child's birthday; or
- already be on another type of leave, such as maternity leave or sickness absence.

## **12.4 Notice to take parental bereavement leave**

Informal notification, such as a phone call or email to the Headteacher or Line Manager, is sufficient to take parental bereavement leave.



If the employee intends to begin parental bereavement leave within the first 56 days of the date of the child's death, they can take the leave straight away. They do not have to provide a period of notice, meaning that they can let the school or academy know of their intention to take parental bereavement leave at any time before they would have been due to start work.

If the employee intends to begin parental bereavement leave more than 56 days after the child's death, the bereaved parent has to give at least one week's notice of their intention to take parental bereavement leave.

However, this may not be feasible and notice can also be provided as soon as it is "reasonably practicable" to do so. The school or academy is advised where this is possible, to take a flexible approach when it comes to obtaining an employee's notice to take parental bereavement leave.

### **12.5 Cancellation of parental bereavement leave**

If the employee has asked to begin parental bereavement leave within the first 56 days of the date of their child's death, they can cancel the parental bereavement leave, as long as they let the Headteacher or their Line Manager know before they would have been due to start work.

If the employee has asked to begin parental bereavement leave more than 56 days after their child's death, they can cancel their parental bereavement leave, as long as they let the Headteacher or their Line Manager know at least one week in advance. The employee cannot cancel any week of parental bereavement leave that has already begun.

### **12.6 Statutory Parental Bereavement Pay**

To be eligible for statutory parental bereavement pay, employees who are on parental bereavement leave are required to have:

- at least 26 weeks' continuous employment with their employer by the week before the week in which their child passes away, and still be employed by that employer on the day on which the child passed away; and
- normal weekly earnings in the eight weeks up to the week before the child's death that are no less than the lower earnings limit for national insurance contribution purposes.

If the employee takes parental bereavement leave and qualifies for statutory parental bereavement pay, they will be paid at the rate set by the Government for the relevant tax year, or 90% of their average weekly earnings where this figure is lower than the Government's set weekly rate. A non-eligible employee's parental bereavement leave will be unpaid.

The employee must give the school or academy notice of the weeks during which they wish to claim statutory parental bereavement pay. They must normally give the

parental bereavement pay notice within 28 days of the first day for which they are claiming statutory parental bereavement pay. However, if that is not feasible, they can provide the notice as soon as is reasonably practicable.

During parental bereavement leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory parental bereavement pay if the employee is eligible. This means that while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid. However, statutory parental bereavement pay is based on actual earnings, therefore, if the employee is in a salary sacrifice scheme any statutory pay will be based on salary after the salary sacrifice amount has been deducted.

#### **12.7 Completion of the Parental Bereavement Leave Form**

To ensure payment of the statutory parental bereavement pay, the Headteacher/Line Manager can complete the form on the employee's behalf to provide notice and evidence of entitlement to parental bereavement pay and forward it to the school/academy payroll provider ([Appendix B](#)).

Where more than one of an employee's children loses their life (for example in an accident involving multiple fatalities), the employee is entitled to two weeks' parental bereavement leave for each child - in these circumstances, please complete a form for each child who has passed away.

#### **12.8 Returning to work following parental bereavement leave**

The employee will have the right to resume working in the same job when returning to work from parental bereavement leave if the period of leave, when added to any other period of statutory leave (typically maternity leave, paternity leave, adoption leave, or shared parental leave) in relation to the same child, is 26 weeks or less.

However, the employee is only entitled to return to another job that is suitable and appropriate for them, rather than the same job, if:

- the period of leave taken is more than 26 weeks, when added to most other periods of statutory leave taken in relation to the same child; and
- it is not reasonably practicable to return to the same job.

### **13. FUNERALS (OTHER THAN NEAR RELATIVES)**

Leave without pay may be granted to enable an employee to attend a funeral of someone other than a near relative. Leave with pay may be granted to attend a funeral as a representative of an organisation e.g. the funeral of a colleague. An organisation means the Somerset County Council (establishment, department, group, team) or an organisation with which there are/were close working ties.

## **14. COURT ATTENDANCE**

### **14.1 As a Witness (Support Staff only)**

**14.1.1 Witness - Work Related Case:** An employee subpoenaed as a result of their expertise in relation to their official duties, and attends court, will be granted leave with pay. It is not obligatory upon the litigants to offer fees or payments for loss of earnings to witnesses thus subpoenaed. In the event of a fee being paid to the employee, he/she should consult their Headteacher at the earliest opportunity.

The Headteacher will decide whether or not the fees should be deducted from the employee's salary. This will depend on the extent to which, on the one hand, it reflects loss of earnings and, on the other hand, the extent to which it reflects travel/accommodation costs and payment for work which has been undertaken outside of the employee's normal working hours.

**14.1.2 Witness - Non-Work Related Case:** If an employee attends court because of their expertise in a non-work related field (support staff are subject to the provisions of Part 2, paragraph 2 of the Green Book), or because they have witnessed an event, they would be required to take leave as appropriate and be entitled to retain any fees or expenses offered.

**14.1.3 "Conduct Money":** When a witness summons is served, it is normal for the Court to pay the witness a sum of money called "conduct money" which must always be enough to cover their attendance at court and without which the witness is not strictly obliged to travel to attend the Court. Employees should insist that adequate sums are paid at the time the subpoena is served. All employees should immediately inform the Headteacher of the receipt of such conduct money, as this money must be set against any subsequent travelling/subsistence claim by the employee concerned or costs claimed by the school/college/academy from the litigant. In the event that, after having received "conduct money", an employee is not called to court the "conduct money" should be reimbursed to the school/college/academy's budget.

### **14.2 As a Juror (Support Staff only)**

An employee receiving a summons to serve on a jury must notify the Headteacher. There will be no loss of pay for jury service. The employee must claim their full entitlement to reimbursement of earnings from the Court. Deductions equivalent to this amount will be made subsequently from their salary. All certificates relating to jury service should be forwarded to the school/college/academy's payroll provider.

**NOTE:** Absence extending beyond 30 days for support staff: Under the Local Government Pension Regulations, after 30 days' absence no pension contributions are payable and the service thereafter is not reckonable for pension purposes, unless the employee elects to contribute paying contributions based on full pay. Employees

are strongly advised to elect to continue to pay contributions based on full pay to safeguard their pension entitlement.

#### **14.3 As a Juror or Witness (Teaching staff only)**

An employee receiving a summons to serve on a jury must notify the Headteacher.

There will be no loss of pay for jury service. Leave with pay will be granted to an employee called as a witness.

Employees should claim their full entitlement to reimbursement of earnings from the Officer of the Court and deductions equivalent to this amount will be made from their salary. All certificates relating to jury service should be forwarded to the school/college/academy's payroll provider.

### **15. PUBLIC DUTIES LEAVE (Refer to paragraph 9 above)**

#### **15.1 As a Magistrate**

Leave with pay will be granted to an employee who is appointed as a Magistrate up to a maximum of 1½ days per month.

#### **15.2 As a Member of a School or College Governing Body**

Leave with pay may be granted to employees not exceeding 1½ days per month to enable them to attend school or college governing body meetings.

#### **15.3 Candidates for Parliamentary Elections**

15.3.1 All employees in posts designated politically restricted by the Local Government and Housing Act 1989 are not entitled to stand for election to Parliament.

15.3.2 An employee must give their Headteacher and the LA the maximum possible notice of their decision to stand for election.

15.3.3 An employee will be granted leave without pay of up to three working weeks for the purpose of electioneering.

15.3.4 An employee will be granted leave with pay for the Election Day, a further day's leave with pay if the count is extended for a further day and leave with pay for the day on which the result of the poll is declared.

#### **15.4 Candidates for Local Authority Elections**

15.4.1 All employees, except for those who are occupying politically restricted posts (see 14.3.1 above), are entitled to stand for election to any authority other than the Somerset County Council.

15.4.2 An employee must give their Headteacher and the LA the maximum possible notice of their decision to stand for election.

15.4.3 An employee will be granted leave without pay of up to 1 working week for the purpose of electioneering.

15.4.4 An employee will be granted leave with pay for the Election day, a further day's leave with pay if the count is extended for a further day and leave with pay for the day on which the result of the poll is declared.

## 15.5 **Membership of Local Authorities or other Statutory Bodies**

Leave with pay will be granted for up to 1½ days per month to enable an employee to attend meetings of a local authority, other statutory bodies or their committees and sub-committees.

## 15.6 **Standing Advisory Committee on Religious Education (SACRE)**

In the case of an employee elected by his/her colleagues to serve on SACRE, leave with pay will be granted to attend its meetings.

## 15.7 **Leave for Other Public Duties**

In accordance with the Employment Rights Act 1996, leave without pay will be granted to an employee for other public duties such as membership of statutory tribunals, visiting committees to prisons, remand centres, pension scheme trustees, police authorities, relevant health bodies, the Environment Agency or education bodies.

## 15.8 **Service in Non Regular Forces (Training)**

15.8.1 **Support Staff:** An employee who is a member of the non regular forces and who attends annual training may be granted leave with pay for the period of the training (in addition to their normal annual leave entitlement) up to a maximum of 2 working weeks. This includes Territorial Army, RAF Reserve and Naval Reserve activities. An employee who is a member of the Army Cadet Force may be granted leave with pay up to a maximum of 2 working weeks in order to attend annual camps.

15.8.2 **Teachers:** Teachers will be granted leave with pay for 1 working week and leave without pay for 1 working week if they are recalled for annual training with HM Forces or to attend the annual camp for the Territorial Army.

## 16. **OTHER LEAVE**

### 16.1 **Sports Events**

16.1.1 **For Support Staff**, leave without pay may be granted to enable an employee to take part in an international sports event. Leave with pay will be granted for employees selected to take part in matches specifically sponsored by the UNISON's Somerset branch.

16.1.2 **For Teaching Staff**, leave with pay may be granted for up to 5 full days during any academic year to enable an employee to take part in games or athletics meetings at county, regional, national or international level.

16.1.3 **Visits to Schools, Colleges and Other Institutions (Teaching Staff only):** Leave with pay may be granted for visits by employees to other schools, colleges or institutions outside the County in relation to their professional role eg post appointment visits to new schools.

16.1.4 **Leave for Extraneous Duties (Support Staff only):** Leave without pay may be granted to enable an employee to fulfil the duties of a position with any organisation. Prior to accepting a position with any organisation which would require leave of absence, the employee should gain the agreement of their Headteacher. The Governing Body reserves the right to require that an extraneous duty does not take preference

## 16.2. **Reservists (mobilisation and training leave)**

16.2.1 Reservists include the 'regular' and 'volunteer' reserves of the Royal Navy, Army and Royal Air Force. Regular reservists are former full-time servicemen and women who, as part of their contract, have a residual mobilisation liability when they leave the regular forces. Volunteer reservists are members of the Royal Marines Reserve, Royal Naval Reserve, the Territorial Army and the Royal Auxiliary Air Force.

16.2.2 While there is no statutory obligation to grant leave without pay to an employee who is a reservist and who has been called for voluntary mobilisation, Headteachers and Governors should take account of any previous discussions, and should honour any contractual agreements with these employees regarding their release.

16.2.3 Where an employee who is a reservist has been called compulsorily ('mobilisation notice'), leave without pay will be granted. Any application for deferral or exemption by the employer would need to be made within 7 days of the mobilisation notice.

16.2.4 Where an employee has been called for compulsory mobilisation various forms of financial assistance are available to schools to assist with the costs of cover etc. Please contact your HR Adviser for further information.

16.2.5 Where an employee is 'called out', and has been an employee in the 4 week period prior to being 'called out', they are entitled under the Reserve Forces (Safeguard of Employment Act 1985) to be re-employed in the same role on

terms and conditions no less favourable, subject to an appropriate application by the employee.

16.2.6 Reservists who attend annual training may be granted leave with pay for the period of training (in addition to their normal annual leave entitlement) up to a maximum of 2 working weeks.

### 16.3 **Scout and Guide Group Leader**

**Support Staff:** Leaders of Scout and Guide Movements who undertake this duty on a permanent all year round basis, may be granted leave with pay for up to 1 working week in order to take young people to authorised camps. If an employee works in a similar role e.g. as a leader for Duke of Edinburgh's Award, they may also be considered for additional paid leave as above.

### 16.4 **Duke of Edinburgh's Award Scheme**

Leave with pay may be granted to enable an employee to attend the award ceremonies for Duke of Edinburgh Gold Awards.

### 16.5 **Medical Appointments**

16.5.1 The definition of "Medical Appointments" covers those appointments to deal with health problems for diagnosis and/or treatment and/or prevention e.g. screening, or physical or psychological health problems. These appointments are with GPs, hospital specialists or other medical practitioners following a referral by a GP, hospital, dentist or optician.

*NB Any medical appointment not covered by this definition should be considered in accordance with paragraph 8 of these provisions.*

16.5.2 Where possible, the appointment should be made outside normal working hours. However, in exceptional circumstances where the Headteacher/other appropriate senior Manager accepts that this is not practical, leave with pay to attend such appointments will be granted for the minimum period required. The employee should give their Headteacher/other appropriate senior Manager reasonable prior notice of the appointment and, if requested, produce evidence of each appointment.

16.5.3 Leave with pay for medical appointments of a day or less will not be treated as sickness absence for the purpose of sick pay entitlement. Medical appointments which require absence from work for 2 or more consecutive days will be treated as sickness absence and must, therefore, be reported to your payroll provider; leave with pay will be granted in accordance with the Employee's entitlement under the relevant Sickness Payment Scheme.

### 16.6 **Fertility Treatment**

16.6.1 Employees will be granted reasonable leave with pay to attend medical appointments for reasons connected with fertility, this includes appointments for scans, tests etc. Any fertility treatments or procedures that result in the employee being unfit for work will be treated as sickness absence and should be self-certified or certified by a Statement of Fitness for Work and recorded in line with the Sickness Absence Management Policy. If fertility treatment is successful, paid leave for follow up antenatal appointments should be granted in line with the Maternity Leave Policy.

16.6.2 An employee will be able to take reasonable time off to support a partner undergoing fertility treatment by requesting annual leave in the normal way, or agreeing unpaid leave or other flexible working arrangements with their Line Manager.

## 16.7 **Interview Attendance**

16.7.1 **For Support Staff;** leave with pay will be granted to attend interviews for posts within the Somerset County Council or in other local authorities. Leave without pay will be granted to attend interviews for posts outside Local Government service.

16.7.2 **For Teachers,** leave with pay will be granted subject to the interview being for a post as a teacher within the UK and non-teaching posts within the UK's Central and Local Government sector.

16.7.3 An employee within a redundancy pool or selected for redundancy will be granted leave with pay to attend interviews whether within or outside the Local Government service.

## 16.8 **Weddings**

An employee may be granted leave without pay to attend their own, relative's or friend's wedding.

## 16.9 **Moving House**

Employees should ensure that every effort is made to ensure that removals take place during holiday periods. If this is not possible, leave with pay for up to 1 day will be granted except in the case of a support staff member where it is possible to take annual leave.

## 16.10 **Examinations**

16.10.1 **For Support Staff,** leave with pay will be granted to sit examinations that are relevant to, or a requirement, for their role; exceptionally a period of study leave may also be granted. For other types of examination, an employee may be granted leave without pay.



16.10.2 **For Teachers**, leave with pay of up to 2 days may be granted to an employee sitting an examination in relation to their first degree eg BEd, BA. Additional leave without pay for study prior to the examination may also be granted.

#### 16.11 **Meetings of Examiners (Teaching Staff only)**

Leave with pay may be granted to a teacher who acts as an Examiner, Senior Moderator and Moderator for recognised examining bodies to enable them to attend meetings.

#### 16.12 **Degree and Diploma Presentation Ceremonies and Passing Out Parades**

Leave with pay may be granted to enable an employee to receive a degree or diploma or to attend a ceremony at which a spouse/partner, son or daughter is receiving a degree or diploma or is taking part in a passing-out parade.

#### 16.13 **Supporting Colleagues**

Where an employee supports or represents a colleague as part of a formal HR process, most commonly disciplinary, grievance, capability and redundancy, time off with pay will be granted to enable the employee sufficient time to attend meetings arranged by management.

#### 16.14 **Adverse Weather Conditions**

16.14.1 Regardless of the severity of the weather conditions, it is expected that employees make every effort to come into their normal work base to perform their duties. If employees are late or fail to perform their duties as contracted because of the severity of the weather conditions, the employer is under no obligation to pay them for the working time lost.

16.14.2 Where an employee does not report for duty due to adverse weather conditions, leave with pay will be granted provided that the Headteacher is satisfied that it was not practical for the employee to get to work or to report for duty to another maintained school (whether maintained by Somerset or another local authority).

16.14.3 Consequently employees must, if they are unable to report for duty at their own school, make every practical effort to undertake work at another maintained school.

#### 16.15 **Time off for Religious Observance**

16.15.1 Leave of absence without pay may be granted for religious observance or religious pilgrimage.

16.15.2 For support staff, there may be alternatives to leave without pay, that is flexi time, flexible lunch breaks, time off in lieu, reduced hours or alternative working patterns. Wherever practical, similar arrangements should be considered for teaching staff.

## 16.16 Staff Network Groups

16.16.1 These are groups which have been set up corporately in support of the County Council's Equalities and Diversity Policy, to allow employees from minority groups to meet in order to network and to recommend and develop policies which support the County Council's aims in this area.

16.16.2 Headteachers are encouraged to promote employee involvement and, wherever possible, to agree to reasonable requests to attend staff network meetings. Where attendance is approved, the leave will be with pay.

## 16.17. Union Duties

16.17.1 The maximum leave of absence which may be taken by any one representative shall not exceed the amount specified below:-

Category of Representative	Function of Representative	No of Members	Maximum Time Allowed
National	Any	Any	As agreed individually with the LA
County	Secretary	Up to 750	
County	Secretary	751 plus	
County	President/Chairman/ Treasurer	Any	1 day a month
Area or Branch	Secretary/Treasurer	Less than 50	1/2 a day a month
		51 - 100	1 day a month
		101 - 200	1 1/2 days a month
		201 - 300	2 days a month
		301 - 400	2 1/2 days a month
		401 plus	3 days a month

16.17.2 Applications for additional leave over and above this amount, including leave to attend training courses for union representatives, should be submitted through the County Secretary of the Trade Union, who should make a recommendation to the HR Advisor who, in turn, will liaise with the school/college/academy.

16.17.3 Safety representatives elected by the recognised Trade Union have the right to reasonable paid time-off to undertake safety inspections at their

workplace. In many schools this does not cause a problem since the safety representative will have a defined area of the school to inspect and there will, therefore, be no significant impact on his or her time to carry out his or her normal duties and responsibilities. In other schools, particularly those where there is only one such representative, the representative may wish to inspect the whole school site. In order to undertake a meaningful safety inspection, adequate paid time off should be granted. Headteachers should negotiate in advance with safety representatives the extent, timing and pattern of any inspections they wish to carry out and allow them reasonable time off for inspection purposes. What is "reasonable" will depend on the size and complexity of the site and installations of the institution concerned. Any supply cover costs will be met by the school's budget.

## CAREER BREAK SCHEME AGREEMENT

This is an agreement which you enter into with (*name of school/college/academy*) about the contact which will be maintained while you are away and the steps which will be taken when you wish to return.

### 1. Parties to the Agreement

Employer	Employee
Somerset County Council/ Academy (Name) (School/College) (Address)	   (Address)

### 2. Job Title, Grade, Workplace, Date Commenced

You are presently employed as a ( ).  
 Your employment in this post began on ( ).  
 You work ( ) hours per week for ( ) weeks per year.  
 The grade of this post is ( ).  
 Your workplace is ( ).

### 3. Terms and Conditions of the Career Break Scheme

#### 3.1 Resignation

You are required to formally resign from your present post. The date you will resign and start on a Career Break Scheme is ( ). You intend to take a break of ( ) years, ( ) months.

#### 3.2 Maternity

- If you are taking a break for maternity reasons, your Career Break will begin at the end of your maternity leave.
- You will be required to formally resign before taking a Career Break but should leave your resignation until after the birth.
- You are entitled to the first 6 weeks maternity pay in the usual way.
- You will not forfeit the 12 weeks half pay entitlement on the understanding that your commitment to return to the Authority/Academy is fulfilled by taking a Career Break and fulfilling your commitment to the first years programme described in paragraph 3(d) below.
- The Authority/Academy retains the right to reclaim the 12 weeks half pay if you are not prepared to complete your commitment to the Council/Academy under this Agreement and by your signature of this Agreement you undertake to make such repayment immediately on demand.

### 3.3 Prior to Starting a Career Break

You will be invited to discuss with your Line Manager/Headteacher the arrangements for the Career Break, and any anticipated career aspirations on your return. Your school/college/academy will be expected to provide a written reference. These initiatives are for your benefit. They should help to ensure that you return to the Council/Academy in the most appropriate form of employment.

### 3.4 Keeping in Touch

- a) You will undertake at least 3 weeks paid work per year at your normal place of employment, and at a time mutually agreed between you and your Line Manager. This will be funded by your school/college/academy and will be paid at the non-contributory salary for your grade. The grade will be that held at the start of your break. This work may be worked in a single block or broken down into shorter periods. Homework, project and part-time work will all be considered.
- b) Your Manager nominated to act as your mentor during your break is (      ). Their role is to maintain contact and ensure your expertise. Within your paid period of work, there will be a formal annual meeting for you and your nominated Manager to review and explore your training needs as well as to provide career counselling if required. This meeting can also be held with a representative from HR Advisory Service. A formal record of the meeting will be made.
- c) As part of your paid work, you will be invited to any relevant meetings or seminars to keep up to date with school/college/academy matters, changes and developments in the organisation, legislation and technology. You will also be regularly sent newsletters and publications.
- d) Attendance on training courses and the pursuit of appropriate qualifications is encouraged. If you fail to complete the course without good reason you must repay the whole of the financial assistance received from the school/college/academy as normal.
- e) When you attend a training course approved by the school/college/academy you will be paid at the non-contributory salary for your grade. Your out of pocket expenses will also be paid.

### 3.5 Return to Work

You will inform the school/college/academy at least a minimum of 3 months before you wish to return to employment, to allow them to plan an orderly return to work. A shorter notice period can be agreed by your nominated Manager if a specific vacancy arises. A longer period may be more helpful. **Note: NO GUARANTEE OF A JOB CAN BE MADE.**

However, your school/college/academy should make extensive efforts to return you to the same type of role giving due consideration to the grade and type of work

which applied immediately before leaving. If these efforts fail, HR Advisory Service will try to find employment for you through the Redeployment Register\*.

You should be aware that service prior to your career break will count as continuous service for sickness, maternity and annual leave entitlements, but not for redundancy.

**Signatures:**

Signed on behalf of the employer

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

I acknowledge receipt of this statement and understand its contents

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

\*Only include for maintained schools

**Parental bereavement leave: record of employee's notice to take leave**

This form is for the Headteacher/Line Manager to record that an employee has provided notice that they are taking parental bereavement leave, which is available to the parents of a child who has passed away (including where the parents have suffered a stillbirth after 24 weeks of pregnancy up to the age of 18 years old).

This form contains the information that you need to gather from the employee for them to take parental bereavement leave. The employee is not required to complete the form themselves.

Please see the next page for further guidance on filling in this form.

<b>Name of employee:</b>	
<b>SAP number:</b>	
<b>Name of school/academy</b>	
<b>Date of child's death:</b>	
<b>Date on which the employee is beginning parental bereavement leave:</b>	
<b>Does the employee wish to take one or two weeks' parental bereavement leave?</b>	One week / Two weeks (delete as appropriate)
To be signed and dated by the Headteacher/Line Manager	
<b>Signed:</b>	
<b>Dated:</b>	

Please send completed form to HR Admin and Payroll.

## Notes

### *Who should complete this form?*

This form should be completed by the Headteacher/Line Manager - it is not appropriate to require the bereaved employee to complete this form.

Informal notification, such as a phone call or email, is sufficient to take parental bereavement leave. Please ensure that you obtain the necessary information from the employee in a sensitive manner.

### *When to complete this form?*

Complete this form when an employee is taking one or two weeks' parental bereavement leave.

There is no minimum service requirement, meaning that parental bereavement leave is available to employees from day one of their employment.

### *Evidence to take parental bereavement leave*

The employee does not have to provide any evidence of their child's death. You should not, under any circumstances, require the employee to provide you with evidence that their child has passed away.

### *Timing of parental bereavement leave*

Parental bereavement leave operates in units of one week and is not available as individual days. The bereaved employee is able to take the leave as a single block of two weeks; or two separate blocks of one week at different times.

The bereaved employee can take parental bereavement leave within 56 weeks of the date of the death of the child.

### *Cancellation of parental bereavement leave*

If the employee has asked to begin parental bereavement leave within the first 56 days of the date of the child's death, they can cancel their parental bereavement leave, as long as they let the Headteacher/Line Manager know before they would have been due to start work on the first day of the leave.

If the employee has asked to begin parental bereavement leave more than 56 days after the child's death, they can cancel their parental bereavement leave, as long as they let the Headteacher/Line Manager know at least one week in advance.

**An employee cannot cancel any week of parental bereavement leave that has already begun.**