

# St Joseph's Catholic Primary School, Malmesbury

## Leave of absence policy for teaching and support staff



***“Walking in the footsteps of Jesus, loving and serving together”***

### **Policy statement**

1. It is in the interest of everyone working in St Joseph's Catholic Primary School to maximise attendance levels. Not only does absence impact upon the teaching and learning within our school it also takes its toll on colleagues who must take on additional work. Although teachers and term time only staff are not entitled to take time off work during the school term, the governing body understands that there may be occasions when employees unavoidably need to be absent from work. This policy therefore provides a protocol for treating requests for leave of absence in a fair and consistent manner.
2. This policy recognises:
  - the statutory entitlement to unpaid time off to attend to urgent matters related to dependants
  - the statutory entitlement to parental bereavement leave and pay
  - national and local agreements
  - best practice which seeks to maintain good working relationships between employees and school management
  - the operational needs of the school
3. It is intended that this policy will provide a clear and workable framework to enable requests for leave of absence for employees working in schools to be reasonably and fairly handled. This policy recognises that the operational needs of the school are a clear priority in any decision making and there may be times when the Headteacher has to refuse a request for leave (except in relation to parental bereavement leave).
4. It should be noted that there might be occasions when circumstances arise that are not identified in this policy. In such circumstances the decision regarding leave of absence remains within the discretion of the Headteacher or Chair of Governors. Each case will be judged on its own merits and circumstances. The granting of time off in one case will not necessarily set a precedent for other cases. It is recommended that in such circumstances the Headteacher or Chair of Governors contacts a Schools HR Advisor for further advice.
5. In adopting this policy, the school has taken into account the arrangements available for short term cover for absent teachers and the school's commitment that teachers will only rarely be required to cover for absent teaching colleagues.

6. Care will be taken in applying this policy to ensure compliance with equality legislation and to avoid potential discrimination.

### **Definitions**

7. In this policy, in relation to an employee, the following definitions apply –
  - (a) Dependent means a spouse or civil partner, a child (natural or adopted), including a step-child who lives with the employee, a parent, a person who lives in the same household as the employee otherwise than by reason of being his employee, tenant, lodger or boarder;
  - (b) Near relatives include parents, parents-in-law, adult children, adopted adult children, siblings (including those who are in-laws), uncles, aunts or grandparents and step-relatives.
  - (c) Qualifying relationship has the same meaning as Section 57ZE(7) Employment Rights Act 1996.

### **Scope**

8. This policy has been adopted by the governing body of St Joseph's Catholic Primary School and applies to all school employees. It should be read in conjunction with other relevant documents on contractual terms and conditions (e.g. the Burgundy Book and the Green Book) which cover the terms and conditions of specific groups of employees. Nothing in this document seeks to override those particular provisions.

### **Decisions regarding requests for time off**

9. The Headteacher (or Chair of Governors if it is the Headteacher requesting time off) has the delegated authority to decide whether to grant time off and whether it should be paid or unpaid. This school has adopted the Local Authority's range of minimum recommended leave periods (see toolkit 1) for various circumstances. The Headteacher (or Chair of Governors if it is the Headteacher requesting time off) will grant the levels of leave outlined in that guidance where it is reasonable to do so and subject to the provisions set out in this policy.
10. Any suspected abuse of the policy by employees at the school will be dealt with under the school's Disciplinary procedure.
11. A formal record of requests made, including a description of the circumstances and whether or not the request was granted, should be kept on the employee's personnel record at the school. Where unpaid leave is granted the Headteacher should inform the Schools HR and Payroll Administration team (or any alternative payroll provider) to deduct the pay for the dates it is granted.

### **Data Protection Act 2018 & GDPR (General Data Protection Regulations) 2016**

12. Records will be treated as confidential and kept in accordance with the General Data Protection Regulations (GDPR) 2016 and its Data Protection Act 2018. Data collected when an employee informs the school that they plan to take leave of absence is held securely and accessed by, and disclosed to, individuals only for the purpose of managing the employees leave of absence and pay. Further details on how such data is used and the basis for processing it is provided in the school's privacy notice.

### **Time off for emergencies relating to dependant**

13. 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.
14. Employees taking time off under this right must notify the Headteacher of their absence on the day they take time off and if possible to give notification in advance by following the School's procedure for reporting absence.
15. 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
  - To deal with a death of a dependant (except where this relates to the death of child under 18 years old where the arrangements for parental bereavement leave set out in the policy should be used)
  - To deal with unexpected disruption or breakdown of care arrangements for a dependant
  - To deal with an incident involving the employee's child during school hours

### **Compassionate leave**

16. Paid compassionate leave may be granted in the following circumstances:
  - Sudden, serious illness of near relative, spouse or child – up to 5 days paid leave.
  - Death of a near relative, spouse, partner or child (over 18 years old) – up to 5 days paid leave
  - Death of a child under 18 years old or a still birth over 24 weeks – up to 10 days paid leave, offset against statutory parental bereavement pay
  - Funeral of a near relative, spouse, partner or child – 1 day of paid leave
17. Employees wishing to attend the funeral of other relatives, friends or colleagues in term time may request unpaid leave.

### **Parental bereavement leave**

18. Parental bereavement leave is a statutory entitlement and will be granted to employees who are the parents of a child who dies who is under 18 years old or a stillbirth after 24 weeks of pregnancy.

### **Who can take parental bereavement leave:**

19. Employees can take parental bereavement leave regardless of their length of service if they are the:

- parent of a child who has died; or
- partner of the child's parent, where you live in an enduring family relationship with the child who has died and their parent; or
- "parent in fact" of a child who has died, 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 died, i.e. a parent using a surrogate;
- "natural parent" of a child who has died who is named in a court order, i.e. where a court orders some contact for an adopted child's birth parent; or
- adopter of a child within the UK who has died, where the placement has not been disrupted or the child was living with the employee following their entry into the UK for the purpose of adoption and the employee has received official notification in respect of the child.

### **Parental bereavement pay**

20. All employees will be entitled to two weeks full pay during parental bereavement leave. This is an enhancement to statutory parental bereavement pay.

21. Where applicable the school will offset the entitlement to statutory bereavement pay against the 2 weeks of full pay. To ensure that the school can claim statutory parental bereavement pay, the Headteacher will ask the employee to sign and return a form to provide notice and evidence of entitlement parental bereavement pay.

### **How and when employees can take parental bereavement leave**

22. Employees are able to take the parental bereavement leave as:

- a single block of two weeks; or
- two separate blocks of one week at different times.

23. The leave must be taken within 56 weeks of the date of the death of the child. For example, employees 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.

24. For each child who has died, a bereaved parent can take one or two weeks' parental bereavement leave.

25. Parental bereavement leave is not available as individual days. This is a pro-rata entitlement for part-time employees.

### **Taking Leave and notification**

26. Employees must let their Headteacher know:

- the date of the child's death;

- the date on which they are beginning parental bereavement leave; and
- if they intend to take one or two weeks' parental bereavement leave

27. Where the first period of leave is to take place within 56 days of the death, employees should let the Headteacher know as soon as is reasonably practical that they intend to take leave and whether they intend to take one or two weeks of leave during this period. This can be informally by phone or email.
28. Where the period of leave is after the first 56 days, employees must give the Headteacher at least one week's notice of the date they intend to start leave. Employees must give at least one week's notice if you wish to cancel this leave.
29. Employees cannot cancel a week of parental bereavement leave that has already begun.
30. The Headteacher must arrange to inform their HR payroll provider of any parental bereavement leave arrangements for an employee and the amount of parental bereavement leave the employee is intending to take. If the employee is eligible for statutory parental bereavement pay the Headteacher should ask the employee to complete the parental bereavement leave declaration form in the toolkit, to provide evidence of their entitlement to statutory parental bereavement pay and also provide a copy of this to their HR payroll provider.

#### **Rights during parental bereavement leave**

31. During parental bereavement leave, all terms and conditions of an employee's contract will continue.

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

32. Employees have the right to resume working in the same job when returning to work from parental bereavement leave. If the period of leave is 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, they should refer to the relevant policy relating to the type of leave they are on.

#### **Sick children**

33. It is recognised that it can be difficult for working parents to respond to the need to care for sick children. At this school employees who are parents may be allowed up to 3 days paid leave to care for sick children subject to not exceeding three occasions for such paid leave in the current academic year.
34. Employees also have a statutory right to unpaid time off to make arrangements for the care of a dependent child. If it is impossible to make appropriate arrangements for the care of sick children using the arrangements set out above, the employee in this school may, after discussion with the Headteacher take reasonable additional unpaid leave to care for sick children. This arrangement applies to all employees with dependent children. For the care of seriously ill children reference should be made to the provisions regarding paid compassionate leave set out above.

#### **Leave to attend significant events**

35. The Governing Body recognises that from time to time employees may have the need to attend a significant event during term time such as the graduation ceremony for a son or daughter or the wedding of a close family member.
36. Teachers and term time only staff do not have a leave allowance, which can be taken during term time. This leave of absence policy enables employees to take one day of paid leave in a school year in order to attend a significant event. Employees must seek the express permission of the Headteacher for paid leave 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 for leave of absence.

### **Job Interviews**

37. All employees under notice of redundancy may take reasonable paid leave to attend selection interviews for jobs.
38. Where employees are applying for employment in other schools it is likely to mean an interview will be held within term time. The Headteacher has discretion to allow reasonable paid leave for such interviews. Requests to take leave to attend an interview must be made to the Headteacher in advance of the event.

### **Other leave**

#### **Examination duties**

39. Teachers undertaking professional duties in connection with external examinations may take paid leave under the arrangements contained in Appendix 2 of the Conditions of Service for School Teachers in England and Wales (Burgundy Book).
40. Employees attending examinations approved by the school to obtain professional qualifications relevant to their role and approved by the Headteacher should be allowed paid leave to attend such examinations. Revision or study leave for such examinations is left to the discretion of the Headteacher to determine whether this will be paid or unpaid time off.

### **Jury service**

41. Employers are required by law to allow time off work for jury service. The employer cannot apply for deferral or excusal on their behalf, only the person summoned for jury service may ask for a deferral or excusal based on their own personal circumstances. In the public sector employers are strongly recommended to support staff called on for public duties and services. Employees in schools are therefore given paid leave to undertake their jury service so there is no detriment to them. They are however required to claim the allowance for loss of earnings from HM Courts & Tribunals Service (HMC&TS) and an equivalent amount will be deducted from the employee's salary. This means that the employee is not disadvantaged and receives the equivalent of their normal salary for the period of their Jury Service. Specific guidance on Jury Service arrangements is available as a separate Factsheet on Schools HR Online.

### **Moving house**

42. Paid time off for moving house is normally only allowed on an employee's first appointment with the school or on appointment to another school within Wiltshire requiring relocation. Existing employees are encouraged, if at all possible, to make

arrangements to move house during school closures. However, if this proves impossible, employees may be granted one day of paid leave in order to move house. The Headteacher is permitted to ask for documentary evidence relating to why the move could not take place during school closures.

### **Medical Appointments**

43. Employees are expected to make appointments outside normal working hours wherever possible. However, if necessary paid time off to attend medical appointments will be granted but will be recorded as a sickness absence as per the school's Sickness Absence Policy & Procedure. Employees attending such appointments must seek the permission of the Headteacher before attending. The Headteacher has the right to request to see hospital appointment letters.
44. Paid time off should be permitted for the purpose of cancer screening which will be treated like any other medical appointment
45. Fertility treatment - Employees requesting time off for fertility treatment will in general be supported. The specific needs of the employee for time off will need to be addressed, and the various provisions for leave set out in this policy will be used to enable this to happen where reasonable. This may mean taking time off for medical appointments and making full use of compassionate leave. The compassionate leave may be paid or unpaid depending on the specific circumstances. In any event the situation should be treated with sensitivity. Sickness absence resulting from the treatment should be counted against the employee's sick leave entitlement in the usual way. The nature of the treatment may mean that absences cannot always be planned in advance, but it is reasonable to expect employees to give as much notice of the need for time off as is possible.

### **Time off to attend ante-natal appointments /adoption appointments**

46. The Maternity Regulations provide the right for all women to take paid time off to attend antenatal care. Pregnant employees must produce evidence of appointments if requested to do so by the Headteacher.
47. Employees with a qualifying relationship with a pregnant woman or the expected child are entitled to time off to accompany the pregnant women to antenatal appointments.
48. Where an employee has been notified that a child is to be or is expected to be placed jointly with them and another person for adoption by an approved adoption agency, one of them (where eligible) will be entitled to paid adoption leave to attend adoption appointments prior to the date that the adoption placement commences (see the school's adoption policy) and the other adopter will be entitled to some unpaid leave to attend such appointments. Further details of this entitlement are set out in the school's paternity leave policy.

### **Time off for Public Duties**

49. Employees who are appointed to an important office in public service, e.g., as a Justice of the Peace, Magistrate, or Local Government Councillor will be granted up to 17 days paid leave of absence in a school year. Employees who hold such public office should advise the Headteacher of the obligations of their office at the time of their appointment.

### **Time off for Volunteer Members of HM Forces**

50. Volunteer members of HM Forces will be granted up to two weeks' paid leave of absence (i.e. 10 working days) in any school year to attend summer camp where this cannot be arranged during a school vacation. If volunteers are mobilised the law protects employment and requires reinstatement on return from mobilised service.

### **Leave for Religious Festivals and Holy days**

51. Regulations do not require employers to provide time or facilities for religious or belief observance in the workplace. However, request for time off will be treated sympathetically where it is reasonable to do so. Time off granted will be unpaid and up to 3 days per academic year would be considered reasonable. It is recommended that schools consider whether employee requests for additional breaks in a working day for religious observance are reasonable and practical but where any such breaks are agreed they should be unpaid.

### **Time off to accompany a fellow employee in a disciplinary or grievance situation**

52. Reasonable paid time off will be granted to accompany a fellow worker at a disciplinary or grievance hearing.

### **Trade union and professional association duties**

53. Certain employees undertaking recognised Trade Union, or Professional Association, duties are provided with paid time off as defined in the Local Authority's facility time agreement.

### **Deductions from Pay for unpaid leave**

54. All approvals to allow unpaid leave should be notified to the Schools HR and Payroll Administration team (or any alternative payroll provider) to deduct the pay for the dates granted.

55. Where the time off granted is unpaid, the deduction from salary will be at the following rates:

- Leave of absence without pay to be calculated for Teachers on the basis that one day equals  $1/365^{\text{th}}$  of annual salary.
- In cases of leave of absence without pay for Teachers extending both sides of a weekend e.g. Thursday to Tuesday inclusive, the weekend shall be included in the calculation.
- In cases of leave of absence without pay for one week for a Teacher, Monday to Friday, the calculation shall be for the whole week of 7 days which will include one weekend.
- Leave of absence without pay to be calculated for support staff on the basis that one day equals  $1/5^{\text{th}}$  of their weekly pay.
- For part-time support staff, the amount of unpaid leave to be deducted should be calculated in relation to their normal working week at the time unpaid leave is taken. For example, where an employee works 18 hours per week over 3 days each of 6 hours and they take a day of 6 hours off as unpaid leave, they will have  $6/18 = 0.33$  of a week's pay deducted from their pay.



- In cases of leave of absence without pay for one week for support Staff, Monday to Friday, the calculation shall be for the whole working week which will not include the weekend.
- All entitlements are pro-rata for part-time / job share employees.

56. Except in emergency situations, where an oral request may be granted, all requests for leave of absence under these provisions should be made in writing to the Headteacher on the leave of absence request form with sufficient notice to allow written approval to be given to the employee.

### **Equalities Impact Assessment**

57. This policy has had an equality impact assessment conducted by a joint equality impact assessment panel and the results of these assessments are published on the Wiltshire Council website. If on reading this procedure you feel there are any equality and diversity issues, please contact a Schools HR Advisor who will, if necessary, ensure the policy/procedure is reviewed by the HR Policy Team.

### **Arrangements for monitoring, evaluation and review**

Responsible committee for monitoring & evaluation:	Resources Committee
Policy reviewed by:	Resources Committee
Policy review & approval date:	March 2021
Next review date:	March 2023



# Toolkit 1 - Summary of Leave of Absence Types

These guidelines have been developed by the Local Authority in consultation with the recognised trade unions for use in maintained schools. However, the list below cannot cover every eventuality. Each case will be considered individually taking into account the needs of the school if the reason for absence is not listed below.

## 1. GENERAL LEAVE OF ABSENCE

	Reason for absence	Teaching Staff	Support Staff	Special Comments
A	Compassionate Leave – sudden serious illness of spouse, partner or near relative*	Up to 5 days paid	Up to 5 days paid	*See definition of near relative
B	Compassionate Leave – Death of a spouse, partner or near relative/bereavement*	Up to 5 days paid	Up to 5 days paid	*See definition of near relative
C	Attendance at the funeral of a near relative	1 day with pay	1 day with pay	*See definition of near relative Employees wishing to attend the funeral of other relatives, friends or work colleagues may request unpaid leave **Where significant travel is necessary to attend an additional day may be granted at the Headteacher's discretion
D	Attendance at the wedding or civil partnership of a near relative	1 day with pay	1 day with pay	See definition of near relative **Where significant travel is necessary to attend the event then an additional day may be granted at the Headteacher's discretion
E	House removal	Up to 1 day with pay	Up to 1 day with pay	Only normally on first appointment with Wiltshire

	<b>Reason for absence</b>	<b>Teaching Staff</b>	<b>Support Staff</b>	<b>Special Comments</b>
				Council or on appointment to another school or academy within Wiltshire requiring relocation. The Head teacher/Principal has discretion to allow one day's paid leave in term time to move house where the employee has no other option for their removal date.
F	Job interviews	Headteacher's discretion	Headteacher's discretion	Headteacher has discretion to allow reasonable paid leave in term time for employment interviews
G	Job interviews during redundancy notice period	With pay	With pay	Staff facing redundancy are entitled to take reasonable paid time off to look for work
H	Emergency dental treatment	To be recorded as sick leave	To be recorded as sick leave	Headteacher can exercise discretion as to whether frequency and level of paid leave for routine dental treatment is reasonable
I	Parliamentary Elections	15 days unpaid leave	15 days unpaid leave	For the duration of the election campaign
J	Election to a Local Authority	Up to 17 days with pay	Up to 17 days with pay	In each academic year
K	Justice of the Peace	Up to 17 days with pay per financial year	Up to 17 days with pay per financial year	Headteacher to be notified of planned absences well in advance
L	Governor of Academy or School other than employee's own	Unpaid leave of absence	Unpaid leave of absence	Headteacher to be notified well in advance
M	Staff Governor at own Academy	No entitlement	No entitlement	Considered to be part of normal duties while a staff governor as part of their normal paid work for the Academy.
N	Approved and relevant examinations	1 day with pay	1 day with pay	1 day for each examination

	<b>Reason for absence</b>	<b>Teaching Staff</b>	<b>Support Staff</b>	<b>Special Comments</b>
O	Revision for approved and relevant examinations	Headteacher's discretion	Headteacher's discretion	Headteacher's discretion
P	Religious observance days	Up to 3 days as unpaid leave annually	Up to 3 days unpaid leave annually	HR recommends that schools consider whether requests for additional breaks in a working day for religious observance are reasonable and practical - but that any such breaks agreed should be unpaid.
Q	Volunteer Members of HM Forces	Up to 10 days with pay	Up to 10 days with pay	Includes TA and auxiliary forces where exercises or training events cannot be arranged during school holidays.
R	Not included			
S	Leave to undertake activities for which employees are paid compensation/fees by an external body <i>(Specifically those teachers who have official roles with or on behalf of external examining bodies)</i>	Discretionary – unpaid special leave	Discretionary – unpaid special leave	Headteacher to exercise discretion whether frequency and level of leave is reasonable. Examples of specific entitlements for teachers under Appendix II of Burgundy Book (i) external examiners/markers and awarders; (ii) external moderators; (iii) setters or revisers of question papers; (iv) the Groups' instructors or presenters of INSET courses
T	Hospital appointments	Discretionary – time off with pay	Discretionary – time off with pay	Only if unavoidably in school working hours but will be recorded as a sickness absence as per the Sickness Absence Policy
U	Jury Service	Duration of the Jury Service (usually no more than 10 days) but requires	Duration of the Jury Service (usually no more than 10 days) but requires	See specific guidance on Jury Service and claims for loss of earnings for teaching staff and support staff. Teachers will be asked to check their home or

	Reason for absence	Teaching Staff	Support Staff	Special Comments
		loss of earnings claim	loss of earnings claim	motor insurance policies to see if pay is covered for jury service, and if so, a claim should be made under the policy.
V	Sick children	Up to 3 days paid leave	Up to 3 days paid leave	Subject to there being no more than 3 occasions taken in an academic year. For 'seriously' ill children see W below.
W	Sudden serious illness of a child / hospitalisation of a child	Up to 5 days paid as compassionate leave.	Up to 5 days paid as compassionate leave.	HR recommends that schools take a compassionate view of such situations and to allow up to 5 days paid leave with additional unpaid leave to be used at headteacher's discretion based on the circumstances.
X	Attendance at training courses other than in-house training (INSET) during term time	Paid leave for course duration if Headteacher approved	Paid leave for course duration if Headteacher approved	Headteacher to exercise discretion as to whether frequency and level of leave to train is reasonable and relevant to the school's needs

**\*Near relative** is defined as parents, parents-in-law, adult children, adopted adult children, siblings (including those who are in-laws), uncles, aunts or grandparents and step-relatives. This definition may be extended to include other relatives at the discretion of the Governing Body to whom application should be made through the headteacher.

## 2. GENERAL CONDITIONS

- Leave of absence without pay to be calculated for teachers on the basis that one day equals 1/365<sup>th</sup> of annual salary.
- In cases of leave of absence without pay for teachers extending both sides of a weekend e.g. Thursday to Tuesday inclusive, the weekend shall be included in the calculation.

- In cases of leave of absence without pay for one week for a teacher, Monday to Friday, the calculation shall be for the whole week of 7 days which will include one weekend.
- Leave of absence without pay to be calculated for support staff on the basis that one day equals 1/5<sup>th</sup> of their weekly pay.
- For part-time support staff, the amount of unpaid leave to be deducted should be calculated in relation to their normal working week at the time unpaid leave is taken. For example, where an employee works 18 hours per week over 3 days each of 6 hours and they take a day of 6 hours off as unpaid leave, they will have  $6/18 = 0.33$  of a week's pay deducted from their pay.
- In cases of leave of absence without pay for one week for support staff, Monday to Friday, the calculation shall be for the whole working week which will not include the weekend.
- All entitlements are pro-rata for part-time / job share staff.
- Except in emergency situations, where an oral request may be granted, all requests for leave of absence under these provisions should be made in writing with sufficient notice to allow written approval to be given.