Diocese of Norwich Education and Academies Trust

Discretionary and Statutory Leave of Absence Policy

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Our Christian Ethos and Values

All policies within the Diocese of Norwich Education and Academies Trust (hereafter referred to as "the Trust"), whether relating to an individual academy or the whole Trust, will be written and implemented in line with our Christian ethos and values.

We have high ambition for all, and we truly value the wider educational experience.

We walk and talk our Christian values. We put people at the centre of the organisation and want to see them flourish and grow. Our schools are inclusive, welcoming those of all faiths and none.

Overall accountabilities and roles

The Trust has overall accountability for all its academies and staff. Through a Scheme of Delegation for each academy it sets out the responsibilities of the Trust, its Executive Officers, the Local Governing Body and the Principal / Headteacher. The Principal / Headteacher of each academy is responsible for the implementation of all policies of the Trust.

All employees of the Trust are subject to the Trust's policies.

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1. Introduction

1.1 The Trust recognises that the success of the Trust depends upon the contribution of all employees and gives full acknowledgement that a fair and effective policy on Discretionary and Statutory Leave of Absence contributes to the maintenance of employee morale and thereby Trust success.

1.2 This Policy sets out the Discretionary and Statutory Leave of Absence provisions to make sure requests for leave of absence are dealt with in a fair and consistent way.

The operational needs of Trust and its schools are the priority, and therefore there will be times when a request for leave is refused. The examples of discretionary leave given are non-exhaustive, and where circumstances arise which are not identified in this Policy, Headteachers have authority to make the decision on whether or not leave is granted, and whether it is with or without pay.

1.3 This Policy also sets out what employees must do in the event that they must take leave of absence because they have a personal emergency.

1.4 This Policy does not cover leave which is included in the policies and procedures listed below:

- Annual leave
- Maternity/Paternity/Parental/adoption leave
- Flexible working
- Sickness absence
- Redundancy

1.5 This Policy applies to all employees within the Trust. This Policy is non-contractual and may be amended at any time following consultation.

2. Procedure and decision making

2.1 Except in emergencies, authorisation to take leave of absence must be requested from employees as soon as the need for the leave is known using the form at Appendix 1.

2.2 Requests for leave of absence, and the approval/refusal of such, will be dealt with in a fair and consistent manner, having regard to the nature of the request, statutory obligations, service needs, eligibility, any previous requests and the degree of flexibility that employees already have in their current working arrangements. Non-emergency leave of absence must not be taken until it has been approved on the form at Appendix 1.

2.3 Where an emergency arises employees must notify the Headteacher, as soon as is reasonably practicable, giving the reason for the absence and how long they expect to be absent from work to deal personally with the emergency which cannot be dealt with by anyone else. Employees must then confirm this in writing (which can be by email). The form at Appendix 1 will need to be completed retrospectively. Employees should be advised that the decision regarding whether the leave of absence is being granted with or without pay will be advised on the completed Appendix 1 form. Any requests for leave of absence from a Headteacher or Central Trust Team member should be submitted to the CEO or another member of the Trust leadership Team nominated by the CEO. In respect to requests made by the CEO these should be approved by the Board.

2.4 Where a leave of absence request is refused there is right of appeal. Any appeal must be made on the form at Appendix 1 within 5 working days of receipt of the leave of absence decision. The appeal will

be considered by the CEO (or if against an initial decision by the CEO, the Human Resources Director) whose decision is final.

2.5 A confidential record of requests for leave of absence and whether or not the request was granted will be maintained. Members of the LGPS scheme will need to follow the steps detailed on the Appendix 1 form regarding the impact of taking unpaid leave on their pensionable service.

3. Discretionary leave of absence - Examples of discretionary time off work that may be granted with pay

Summary non exhaustive examples of leave normally granted with pay	**Days Per Rolling 12 month period**
Compassionate Leave illness or injury of a significant other person giving rise to serious domestic difficulties	period reasonably necessary, but not normally more than 5 days
Bereavement Leave death (including funeral) of a significant other person	period reasonably necessary, but not normally more than 5 days. Additional travelling time may be also granted where applicable.
Emergency /personal emergency Leave i.e. an event which, if response were to be delayed, would result in significant personal loss to the employee such as fire or flood	one day
Dependent Care Leave employees may only take **paid** time off to provide personal care for a dependent where there is an immediate crisis. (There is a statutory right to take **unpaid** leave see 7.1 below)	In normal circumstances not more than one day on each occasion. Up to 3 days per rolling 12-month period
Leave of absence for religious observance	One day

4. Discretionary leave of absence - Examples of discretionary leave that may be granted without pay

Summary non exhaustive examples of absence normally granted without pay	**Days Per Rolling 12 month period**
Moving House where it cannot be arranged for a non-working time	one day

Any personal reason other than those above which it was not possible to schedule for a non-working day or time or within annual leave e.g. dentist, optician, medical appointment, driving test, important one-off family occasions.	maximum of 3 days
Travel Accepted impossible travel because of weather or other public crisis.	period reasonably necessary, but not normally more than 1 day per event
Interviews For jobs external to the Trust	Period reasonably necessary, but not normally more than 2 days or 2 separate interviews (where a process involves more than one day)
Attendance as witness either on subpoena or other direction from a court or at the direction of the police, or voluntary attendance at an inquest as witness not representing the Trust	period of attendance necessary
Leave of absence for religious observance	reasonable time off

4.1 Medical appointments

4.1.1 Upon production of a medical appointment letter/card, unpaid leave may be granted to attend an appointment at hospital (to include medical screening and blood donation but excluding any appointment associated with elective surgery) where it has proved impractical to attend outside normal working hours. Employees should liaise with the CEO/Headteacher to agree a mutually convenient time so that the operational requirements of the school/Trust are met and then request leave using the form at Appendix 1.

4.2 Attendance in court as a witness

4.2.1 If employees are subpoenaed or summonsed to attend a Court (including an Employment Tribunal) as a witness and they are not representing the Trust, then on production of proof of required attendance, they must request leave using the form at Appendix 1, and they will be granted unpaid leave to attend. If employees wish to attend Court as a witness on a voluntary basis then they should request leave of absence as soon as the need for the leave is known using the form at Appendix 1, and a decision will be made on a case by case basis.

4.3 Leave of absence for religious observance

4.3.1 Employees may request unpaid time off work to attend religious festivals, pilgrimages, time off for prayer or may request an adjustment to their working time to accommodate periods of fasting or requirements to cease work by a particular time using the form at Appendix 1. Requests for time off will be considered sympathetically and on a case by case basis, taking into account the needs of the Trust and surrounding circumstances. Employees should request time off at the beginning of

the academic year if possible, otherwise as soon as possible, so that plans for covering the absence can be made in good time.

4.4 Hajj

4.4.1 When considering requests for leave for Hajj, it is important to be aware that all Muslims, if they are physically and financially able, must attend the Hajj. It is a once in a lifetime obligation that takes place in the twelfth month of the Islamic calendar. The request for leave may involve the employee being absent for a period of 5 or 6 weeks. This request needs long-term planning and a great deal of consideration will be required. Two days paid leave will be granted (this is not an additional two days leave) and the rest of the absence will be unpaid.

4.5 Illness of a close relative

4.5.1 Employees may be granted leave with pay to look after a close relative in the event of serious illness. In the case of a serious illness of a relative, including an employee's own child, the number of days leave may be increased to 10 in any year without pay.

Each request for further time off in excess of the 10-day period will then be considered on an individual case by case basis subject to the specific circumstances of the request and mindful of matters of consistency and fairness, and where granted, this additional time off may be granted without pay.

4.5.2 In this event, it may be appropriate to consider other flexible working arrangements which may be suitable and which may better support the employees needs at that time. Long term absences that require a number of absences will be treated as "one occasion". This provision will only be made when there is no other person/provider/carer available to look after the sick relative.

4.5.3 "Serious illness" is defined as that which makes it necessary for the employee to make urgent and special arrangements (e.g. following discharge from hospital), for the care of the relative. If the outcome of the serious illness is such that the patient requires long term care, a reasonable period of unpaid leave may be granted (see guidance above).

4.5.4 The employee may be required to submit medical evidence in respect of the sick dependent, at an appropriate point. There is also an expectation of shared care, if a child is involved and has both parents. It is advised that requests to nurse a terminally sick child, relative or partner, close friend or companion should be treated with particular sympathy, granting paid leave of absence for a limited period in the first instance and reviewing the situation regularly.

4.6 Overstaying/delayed returns

4.6.1 If employees, returning from a holiday abroad or returning from extended leave for religious/cultural reasons, are delayed in returning from the country they have visited, for reasons such as transport strikes, delayed flights, accidents etc. then in such circumstances it is the employee's responsibility to maintain communication with the Trust/school and to keep to an absolute minimum any unforeseen overstay.

4.6.2 When the employee returns, consideration needs to be given to the reasons for the delay. If the circumstances are not covered by any other policy the period of absence would be without pay,

assuming compensation is available from the travel company. If the employee is employed throughout the year then they may take the additional time as annual leave.

4.7 Study/examination leave

4.7.1 Employees who are sitting examinations relevant to their current post or where it will further the employee's professional development may be granted paid leave as necessary at the discretion of the CEO/Headteacher and will be balanced with the needs of the Trust/school, and the impact on the service provision. Evidence of examinations will need to be provided.

4.8 Participation in sporting or other events

4.8.1 Paid leave may be granted to employees participating in sporting or other events in which they represent their country or if they are on trial for selection to represent their country. Each application will be considered on a case-by-case basis. Employees will be required to provide evidence of the sporting event and the duration that they are required to attend.

4.9 Employees Serving on Outside Bodies

4.9.1 Requests from employees to attend meetings of Professional Bodies, Associations, National Committees, etc. subject to a maximum of 4 paid days leave per year may be granted. The employee is entitled to any attendance allowances/expenses in addition to normal pay. Where loss of earnings can be claimed, this must be paid to the Trust/school. In addition, where leave with pay is granted, any fees in respect of these duties must be paid to the Trust.

4.10 Treatment in relation to infertility (IVF)

4.10.1 Reasonable paid time off, up to a maximum of 5 days per year, will be granted for employees who are required to attend medical appointments or who are hospitalised in relation to infertility treatment. However, each case should be considered on an individual basis and employees will be required to provide an appointment card or letter to confirm the details. Consideration should be given to requests for extended periods of time off on an unpaid basis.

5. Statutory leave of absence for public duties

5.1 Employees are entitled to a reasonable amount of unpaid time off work by law to carry out certain public duties. Public duties include service as a:

- Tribunal member
- Magistrate
- Local councillor
- Member of an NHS Trust
- Prison visitor
- Lay visitor to police stations
- School governor

5.2 As soon as employees are aware that they will require time off for performance of a public service they should request leave of absence using form Appendix 1.

5.3 The Trust/school will agree to requests for paid time off to undertake public duties wherever reasonably possible having regard to the criteria set out in this Policy.

5.4 Each request for time off will be considered on its merits, in the circumstances in which it is made including:

- whether the activity is reasonable in relation to the employees employment;
- how much time off is reasonably required for the duty in question;
- how much time off the employees has already taken for the public duty in question;
- how the absence will affect the Trust/school.

6. Jury service

6.1 Employees must inform the CEO/Headteacher as soon as they are summonsed for Jury Service and provide a copy of the Jury Service Summons and the accompanying Loss of Earnings form. Where, in the Trusts/schools view, the release of an employee for Jury Service raises significant operational problems, assistance will be provided to the employee in order to appeal to the court to rearrange or cancel the dates of service.

6.2 Employees attending Jury Service are usually able to claim compensation from the court for loss of earnings. The school/Trust will make up the Loss of Earnings allowances to the normal level of earnings. The school/Trust must complete the Loss of Earnings form and employees must give the completed form to the Clerk of the Court on their first day of Jury Service.

6.3 Upon completion of Jury Service, the Court will pay an employee for travel, subsistence and Loss of Earnings and provide a remittance advice. This advice MUST be forwarded to the HR Team within 3 days of their return to work.

6.4 The employees salary will be reduced by the "Juror's Loss" paid by the Court. Pension contributions are not affected. An employee cannot be paid twice by the Court and the school/Trust for the same days.

6.5 Where Jury Service lasts for less than half a day employees must return to work for the remainder of the day wherever practicable. In the case that the employee is not required to attend for a full day, they must inform school/Trust and attend work. Employees must keep their CEO/Headteacher regularly informed about how long they are likely to be away from work.

6.6 Employees are protected from being subjected to a detriment or being dismissed, as a result of being summoned to attend for service as a juror or being absent from work on Jury Service.

7. Statutory dependent care leave

This Policy clarifies paragraph 3 regarding the circumstances when employees can be granted leave for statutory dependent care leave.

7.1 Employees have a right to take a reasonable amount of unpaid time off work when it is necessary to:

(a) provide assistance when a dependent falls ill, gives birth, is injured or assaulted;
(b) make longer-term care arrangements for a dependent who is ill or injured;
(c) take action required in consequence of the death of a dependent;
(d) deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependent; and/or
(e) deal with an unexpected incident involving their child during school hours (or those of another educational establishment).

7.2 A dependent for the purposes of this paragraph is:

(a) an employee's spouse, civil partner, parent or child;

(b) a person who lives in the same household as an employee, but who is not their tenant, lodger, boarder or employee; or

(c) anyone else who reasonably relies on the employee to provide assistance, make arrangements or take action of the kind referred to in 7.1 above.

8. Parental leave

8.1 Parental leave is a statutory entitlement intended to help both mothers and fathers to spend more time with their children when they are young, and to relieve some of the stresses of working and caring. The leave must be taken to care for the child. It is unpaid, taken in weekly blocks, and needs to be authorised well in advance. Parents of disabled children have the flexibility to have a day at a time.

8.2 Trust employees with at least one year's continuous service and who are parents of a child under the age of 18 years of age are entitled to take parental leave. The main features of which are as follows:

- an entitlement to 18 weeks unpaid leave for each child;
- not more than 4 weeks leave to be taken in any one year (in line with the conditions at paragraph 7.1);
- at least 21 days' notice is required, specifying when the leave period is to begin and end;
- parental leave can be taken at any time up until the youngest child's 18th birthday.

8.3 Employees should make a request for parental leave in accordance with arrangements for other leave, and at least 21 days' notice should be given. If a woman wishes to take parental leave immediately following maternity leave, she should ensure compliance with the 21 days' notice. If the leave is to be taken by a father starting on the day of his child's birth, the notice given must be at least 21 days before the expected week of childbirth and specify the expected week of childbirth and the length of leave which is to be taken.

8.4 The Trust has the right to postpone the leave for up to a maximum of 6 months to avoid substantial prejudice to the operation of the business, except where the request is made by a father in respect of the period immediately following the birth of his child.

8.5 When an employee returns after parental leave, they are entitled to return to the post in which they were previously employed. If it is not reasonably practicable for the school/Trust to allow the employee to return to that post, they must be allowed to return to another which is both suitable and appropriate for them in the circumstances. The terms and conditions must not be less favorable than would have applied if they had not been absent on parental leave.

9. Parental Bereavement Leave

9.1 The Trust recognises that, while dealing with any bereavement is difficult, the death of a child is among the most devastating events that an employee can ever face.

9.2 This entitlement applies to employees who have suffered the loss of a child (i.e. under the age of 18) or who suffer a stillbirth after 24 weeks of pregnancy on or after 6 April 2020.

9.3 Irrespective of the length of service, an employee can take Parental Bereavement Leave if they are the:

- Parent of a child who has passed away;

- Partner of the child's parent, where they live in an enduring family relationship with the child who has passed away and their parent;
- "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, they have been living with the child and had "day to day" responsibility for the child (but they 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;
- "Natural parent" of child who has passed away who is named in a court order, i.e. where a court orders some contact for an adopted child's birth parent;
- Adopter of a child who has passed away.

9.3.1 In practice, this means that most employees with parental responsibility for a child who passes away on or after 6th April 2020 can take Parental Bereavement Leave. Any employee who is unsure about their entitlement to take Parental Bereavement Leave should contact the HR Team.

9.4 For each child who has passed away, a bereaved parent can take one or two weeks Parental Bereavement Leave as follows:

- As a single block of two weeks
- Two separate blocks of one week taken at different times
- The leave must be taken within 56 weeks of the date of death of the child.

This extended period is to recognise that the employee may already be on another type of leave (i.e. maternity) or that they may require some flexibility to cover important dates such as the first anniversary of the date of the child's death or birthday.

9.5 If an employee intends to take Parental Bereavement Leave within the first 56 days after their child's death, they can take the leave straightaway. They do not have to provide a period of notice. This means that they can begin Parental Bereavement Leave by informing the CEO/Headteacher no later than when they are due to start work or, if that is not feasible, as soon as is reasonably practicable by telephone call or email.

9.6 If an employee intends to take Parental Bereavement Leave more than 56 days after the death of the child they are required to give at least one weeks' notice.

9.7 If an employee has asked to begin parental bereavement leave within the first 56 days of the date of their child's death, they can cancel their Parental Bereavement Leave, as long as let the CEO/Headteacher know before they would have been due to start work.

9.8 If an 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 CEO/Headteacher know at least one week in advance.

9.9 An employee cannot cancel any week of Parental Bereavement Leave that has already begun.

9.10 Recognising the need to support bereaved parents, the school/Trust will continue to pay normal pay during parental bereavement leave.

9.11 During parental bereavement leave, all terms and conditions of an employees contract will continue.

9.12 Employees 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.

9.13 Employees are 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 you to the same job.

10. Carers' Leave

10.1 The Carer's Leave Act sets out statutory requirements for employees, allowing employees to request leave for a dependent with a long-term care need. This entitlement can be requested from day one of employment.

10.2 Employees can request up to five days unpaid leave per calendar year to arrange or provide care. Additional time off required over the five days may be granted at discretion of the CEO/Headteacher. The employee will need to complete and submit Appendix 1 to request additional discretionary leave days.

10.3 How the leave can be taken

- Half days, individually
- Full days, individually
- Five full days consecutively at one time.

10.4 As soon as employees are aware that they require time off to care for dependents, they should discuss this with the CEO/Headteacher.

11 Unauthorised leave

If an employee takes leave of absence without obtaining consent from the CEO/Headteacher this will be investigated and could be considered as gross misconduct under the disciplinary procedure for all employees.

Appendix 1 Leave of Absence and Application Form

Section A: LEAVE OF ABSENCE REQUEST (Please attach evidence of appointment if applicable)		
Name:		Date of absence: AM PM All day If part day start & end times:
Role:		
Reason for leave of absence request:		
I have read and understood the discretionary leave policy.	Employee signature:	
Date of request:		

SECTION B – LEAVE OF ABSENCE DECISION

Your request for leave of absence is:

Approved with pay: ☐

Approved without pay: ☐

Time to be made up: ☐

Not approved for the following reasons:

Operational difficulties in covering absence ☐

Loss of entitlement/continuity service provision ☐

Leave of absence limits already reached ☐

The request is outside of the policy framework ☐

Other – explanation for reason(s) for non-approval:

LGPS PENSION INFORMATION: For LGPS pension members unpaid leave will result in a loss of pension contributions. Please refer to the LGPS website to obtain information on how to calculate the loss of the pension contribution and how to buy back the lost pension.	
Signed:	
Job title:	
Date:	

RIGHT TO APPEAL AGAINST A LEAVE OF ABSENCE DECISION

If you wish to appeal against a refusal to grant discretionary leave of absence then you must explain your reasons below and return this form to the decision maker within 5 days of the date of the decision as recorded above. Your appeal will be heard by either the CEO or the Chair of the Board of Directors, depending on who made the original decision. Please attach supporting information where appropriate.