

Staff Special Leave of Absence Policy

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VERSION CONTROL			
Version	Date	Author/Reviewer	Substantive changes since the previous version
DRAFT v0.3	April-July 24	DD/JC/GB	Reviewed alongside Bereavement Policy and Parental Leave Policy. Incorporates the former Believe and Willows Academy Trust Special Leave Policies and arrangements for discretionary leave of absence. Incorporates Carers leave
DRAFT v0.4	July 24	DD/JC/GB	Clarified arrangements for one-off family events

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Appendices

Appendix 1 - Form ONE8-01 Staff Leave of Absence Request

1. Introduction

- 1.1 All employees have a basic entitlement to annual leave (holiday) which is detailed within their contracts of employment. In addition to their entitlement to holiday under their contract of employment, employees may have a statutory entitlement to additional special leave of absence. ONE Academy Trust values its workforce and recognises that employees may need additional discretionary special leave in certain circumstances. A fair and effective policy on special and discretionary leave of absence contributes to the maintenance of employee morale and wellbeing.
- 1.2 This policy has been developed to support ONE Academy Trust's commitment to helping employees achieve a balance between the demands of their personal, public and civic duties. The aim of the policy is to provide a framework in which special and discretionary leave requests can be considered in a fair and equitable manner, balancing the needs of the individual with those of the Trust/school.
- 1.3 It is not possible to cover all circumstances where it is reasonable to grant special leave and whether that will be granted with or without pay. If there is a specific or exceptional situation not covered by this policy, staff should discuss their need for time off with their headteacher (school staff) or line manager (executive team staff). The trust's HR manager must be consulted on any requests that are outside the parameters set in this policy.
- 1.4 The operational requirements of the Trust/school must be considered for each request and therefore there will be times when a request for special leave is refused on operational grounds.
- 1.5 If an employee is found to have deliberately misused this policy, this will be dealt with under the Trust disciplinary policy.
- 1.6 This policy meets the requirements of:
 - Data Protection Act 2018
 - Employment Rights Act 1996
 - Employment: Statutory Code of Practice
 - Equality Act 2010

- Induction for Early Career Teachers (England)
- The Statutory Sick Pay (General) Regulations 1982
- School Teachers' Pay and Conditions Document (STPCD)
- Conditions of Service for School Teachers in England and Wales (the Burgundy Book)
- The National Agreement on Pay and Conditions for Support Staff (the Green Book)

It also reflects best-practice guidance set out in:

- The Advice, Conciliation and Arbitration Service (ACAS)'s guidance on holiday, sickness and leave
- 1.7 This policy reflects legislation at the time when it was last reviewed. Any changes in legislation will take precedence over anything printed in the policy.
- 1.8 Where an employee has transferred into the trust and has enhanced terms that are subject to TUPE then the enhanced terms will continue to apply in accordance with TUPE regulations.
- 1.9 This policy complies with our funding agreement and articles of association.
- 1.10 This policy has been agreed following consultation with staff and the local trades unions.
- 1.11 Our approach to requests for time off outside of annual leave is also covered by other ONE Academy Trust policies and documents including:
 - Parental Leave and Maternity Policy
 - Bereavement Policy
 - Staff Sickness Absence Policy
- 1.12 This policy does not form part of any employee's contract of employment and ONE Academy Trust may amend it at any time.

Equality and Diversity

- 1.13 The procedure will be operated in accordance with the Trust Equality and Diversity Policy. The Trust is committed to developing, maintaining and supporting a culture of equality and diversity in employment. The impact of the procedure will be monitored in accordance with the Equality Act 2010
- 1.14 The board of trustees is aware of the guidance and provisions of the Equality Act 2010 and is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate. If employees need assistance or adjustments to understand and comply with this procedure and/or attend meetings, they should contact their line manager at the earliest opportunity.

Definitions

- 1.15 Unless indicated otherwise, in this policy the term 'teacher' refers to classroom teachers, middle and senior leaders, and the headteacher.
- 1.16 Throughout this policy, reference to working days refers to school days (Monday to Friday during school term time and excluding bank holidays) and the normal daily working pattern of part-time staff.

2. Scope

2.1 This policy applies to all staff employed by the ONE Academy Trust and the schools within the trust.

3. Data Protection

3.1 All discussions and sensitive personal information about staff members will be treated confidentially by all parties concerned. This data will be collected, used and stored in line with the Data Protection Act 2018. Please refer to our privacy notice for staff members for more information on how data will be processed.

4. Statutory rights to leave of absence

- 4.1 ONE Academy Trust will comply with any statutory regulations regarding the allowance of time off for employees. This includes:
 - Public duties
 - Statutory leave
 - Maternity, Paternity, Parental and Adoption Leave Schemes
 - Parental Bereavement Leave
 - Carers leave

Public duties

- 4.2 Under the Employment Rights Act 1996 ('ERA') employees have the right to reasonable time off to carry out certain public duties including:
 - Magistrate (Justice of the Peace)
 - Local Councillor
 - School governor
 - Member of statutory tribunal
 - Member of the managing or governing body of an educational establishment
 - Member of a health authority
 - Member of the Environment Agency
 - Lay observers, appointed under section 81(1)(1)(b) of the Criminal Justice Act 1991.
 These are volunteers who monitor conditions for prisoners under escort and in court custody
 - Specified Trade Union duties
- **4.3** We are not legally obliged to grant paid leave for these purposes. Each request for paid leave of absence will be considered on its merits, in the circumstances in which it is made including:
 - Whether the activity is reasonable in relation to your employment
 - How much time off is reasonably required for the duty in question
 - How much time off you have already taken
 - How your absence will affect the operation of the Trust/school.

Statutory leave of absence

4.4 The Employment Rights Act 1996 (ERA) gives statutory rights to reasonable time off for several purposes including:

- Jury Service leave of absence with pay minus the loss of earnings allowance paid under the Jurors' Allowance Regulations.
- Reasonable time off to look for a new job or to arrange training for future employment when under notice of redundancy (with 2 years' service).

Statutory dependent care leave

- **4.5** Employees have a right to take a reasonable amount of **unpaid** time off work when it is necessary to:
 - provide assistance when a dependent falls ill, gives birth, is injured or assaulted;
 - make longer-term care arrangements for a dependent who is ill or injured;
 - take action required in consequence of the death of a dependent;
 - deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependent; and/or
 - deal with an unexpected incident involving their child during school hours (or those of another educational establishment).
- **4.6** A **dependent** for the purposes of paragraph 4.5 is:
 - an employee's spouse, civil partner, partner, parent or child;
 - a person who lives in the same household as an employee, but who is not their tenant, lodger, boarder or employee; or
 - anyone else who reasonably relies on the employee to provide assistance, make arrangements or take action of the kind referred to in 4.5 above

Unpaid carers leave

- 4.7 Employees are entitled to unpaid leave to give or arrange care for a 'dependant' who has:
 - a physical or mental illness or injury that means they're expected to need care for more than 3 months
 - a disability (as defined in the Equality Act 2010)
 - care needs because of their old age
- **4.8** The dependant does not have to be a family member. It can be anyone who relies on them for care.
- 4.9 Employees are entitled to carer's leave from their first day of work for their employer.

 Their employment rights (like holidays and returning to their job) are protected during carer's leave.
- **4.10** Employees can take up to one week of unpaid carers leave in every 12 months. A 'week' means the length of time the employee usually works over 7 days. For example, if someone usually works 3 days a week, they can take 3 days of carer's leave.
- **4**.11 An employee can either take a whole week off or take individual days or half days throughout the year.
- 4.12 If an employee needs to care for more than one person, they cannot take a week of carer's leave for each dependant. They can only take one week every 12 months. They can use the week of leave on more than one dependant.
- **4.**13 If an employee is a parent, they can take up to 18 weeks' leave, as set out in the parental leave and maternity leave policy. This is separate to carer's leave.

- **4.14** Employees need to give notice to their line manager/Headteachers before they want their leave to start.
 - If the request is for half a day or a day, the notice period must be at least 3 days.
 - If the request is for more than one day, the notice period must be at least twice as long as the requested leave. For example, if the request is for 2 days, the notice period must be at least 4 days.
 - The notice period needs to be in full days, even if the request includes half day amounts.
- 4.15 Any requests for carer's leave should be submitted using the special leave form.
- 4.16 Employees do not need to give evidence of their dependant's care needs.
- 4.17 If an employee needs to look after someone in an emergency, this would fall under the time of for dependent leave category of this policy. In these circumstances, they can take time off for this purpose without giving a notice period.
- **4.18** A request for carer's leave cannot be refused but the line manager/Headteacher can ask the employee to take it at a different time. They can only do this if the employee's absence would cause serious disruption to the school/trust.
- 4.19 If the line manager/Headteacher delays the leave, they must:
 - agree another date within one month of the requested date for the leave
 - put the reason for the delay and new date in writing to the employee within 7 days of the original request, and before the requested start date of the leave.

Maternity, Paternity, Parental and Adoption Leave Schemes

4.20 Further information is set out in the Parental Leave and Maternity Policy.

Parental Bereavement Leave

- 4.21 The Parental Bereavement (Leave and Pay) Act 2018 entitles parents who lose a child under the age of 18 or suffer a stillbirth from 24 weeks of pregnancy, to a period of statutory bereavement leave.
- **4**.22 Please see the ONE Bereavement Policy (ONE60) for more information and guidance on how to apply for statutory parental bereavement leave and pay.

Trade union activities

4.23 Employees who are official workplace representatives of recognised trade unions have a statutory right to take a reasonable amount of paid time off to carry out trade union duties. Time off will be granted in line with the ACAS Time off for Trade Union Duties and Activities Code of Practice.

5. Non-standard terms and conditions

5.1 Staff transferring into the trust under The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) arrangements, have the right to retain their existing terms and conditions. After one year, an employer can renegotiate terms and conditions in collective agreements if overall it does not make employees' terms and conditions less favourable, and in consultation with the recognised trade unions.

6. Sick leave

- 6.1 Further information is set out in the ONE Sickness Absence Policy (ONE06)
- 6.2 Provided the conditions are met, an employee who is absent from school due to illness, which includes injury or other disability, is entitled to receive sick pay for the periods of absence set out in the sickness absence policy.

7. Annual leave entitlement

Teachers' annual leave

7.1 There is no provision for annual leave entitlement for teachers. They are required by statutory order under the School Teachers' Pay and Conditions of Service Document to be available for work for 195 days each year, of which 190 shall be days on which they may be required to teach pupils. The headteacher should not normally receive any requests from teaching staff to take a holiday within term-time and any requests within term-time should be by exception and will be unpaid.

Support staff annual leave

- 7.2 Entitlement to annual leave for support staff is as specified in their individual contracts of employment. The taking of annual leave is subject to the prior approval of the headteacher/CEO, unless they delegate this responsibility to another senior member of staff (a line manager).
- 7.3 Support staff employed in a trust school must take annual leave within the school holiday periods. The headteacher should not normally receive any requests from school-based support staff to take annual leave within term-time and any requests within term-time should be by exception. For term-time staff if any term-time leave is authorised it will be unpaid. For staff on all year contracts, if, by exception, any term-time leave is authorised it will be deducted from the annual leave entitlement set out in the employee's contract.

8. Special leave of absence

- 8.1 See para 1.6 for the definition of working days. Where working patterns vary, special leave will be calculated on a pro-rata basis for part-time staff (based on the number of contractual hours worked).
- 8.2 Due to the wide range of potential urgent and unforeseen circumstances, it is not practical to provide an exhaustive list of the situations covered for unplanned, personal and family reasons.
- 8.3 When considering whether to grant discretionary leave with or without pay the following factors will be considered:
 - the circumstances surrounding the request
 - any previous requests for leave of absence
 - the employee's attendance and absence record
 - the number of day's leave requested to date
 - staff cover arrangements and workload
 - cover arrangements
 - the viability of the employee being able to make up the time lost

- 8.4 Employees will not normally be granted more than **5 days paid** and **5 days unpaid** discretionary leave of absence in a rolling 12-month period unless there are exceptional circumstances (or a statutory right).
- 8.5 At the discretion of the headteacher (schools)/line manager (headteachers and executive team) and taking into account the operational needs of the school/trust, time off in lieu may be approved to cover special leave which is authorised but would otherwise be unpaid. In these circumstances there will be no change to pay.
- 8.6 At the discretion of the headteacher (schools)/line manager (headteachers and executive team), arrangements for special leave may be made locally where there is flexibility in working patterns to enable staff to take special leave and to work a different pattern to cover the time taken. Such requests may be dealt with informally by agreement between the employee and the headteacher (schools)/line manager (headteachers and executive team). Any such arrangement will take into account the operational needs of the school/trust. If an agreement cannot be reached informally that is satisfactory to both parties, a formal request must be made.
- 8.7 For the purposes of leave of absence **with or without pay** the definition of a 'near relative' will be the following relationships: spouse, civil partner or partner^{1*}, parent/step-parent, child^{2**}/step child, sibling, parents-in-law and brother/sister-in-law. In addition, there are occasions when despite the lack of a direct family relationship, it is clear that there is a close/dependent personal relationship and the person concerned should be regarded as a near relative. Thus, the term 'near relative' shall include any other person with whom the member of staff has a close personal relationship which, in the opinion of the line manager, justifies leave of absence.

Paid leave of absence

8.8 The types of leave of absence outlined below provide details of the circumstances where it is considered reasonable to grant leave of absence with pay. It is also the responsibility of the headteacher/CEO to ensure that the number and pattern of absences do not individually or collectively adversely affect the smooth-running of the trust, the school or the education of pupils. It may be appropriate to agree on leave of absence with pay for other reasons and such cases should be considered on their own merits and in the context of maintaining effective and efficient smooth running of the school and the trust.

Examples of discretionary and statutory time off work that may be granted with pay (non-exhaustive list)		
Examples of leave normally granted with pay	Days per rolling 12-month period	
Urgent personal and domestic leave	Period reasonably necessary	
 Urgent personal or domestic emergency e.g. property damage due to fire, flood, storm, impact, subsidence, or burglary. 	Not normally more than 5	
- Serious illness of a near relative.	working days	
 To attend to the care of a dependant where no other care is immediately available and to make arrangements for alternative care. 		
This does not apply to planned events such as domestic repairs, installations, deliveries etc.		

¹ *Partner includes someone with whom the employee is co-habiting but is not the employee's spouse or civil partner.

² **Child includes children in respect of whom the employee is the adoptive parent and legal guardians and carers.

Examples of discretionary and statutory time off work that may be granted with pay (non-exhaustive list)			
Examples of leave normally granted with pay	Days per rolling 12-month period		
Personal and domestic leave This category includes moving house, illness of spouse, partner, children, or other dependent relatives which is not serious illness and weddings of near relatives (see definition of near relatives above).	Period reasonably necessary Not normally more than 3 working days		
- Some foreseen events e.g. hospital appointment or planned operation for a child or partner.			
Bereavement			
 Death (including funeral) of an immediate family member (spouse, civil partner or partner*, parent/step-parent, child**/step child, sibling, or a person with whom the employee is in a relationship of domestic dependency) 	Period reasonably necessary Not normally more than 5 working days		
Death (including funeral) of grandparent, mother/father-in-law, brother/sister-in-law, son/daughter-in-law, grandchildren)	Period reasonably necessary Not normally more than 2 working days		
Death of an aunt/uncle	1 working day for attendance at the funeral		
In exceptional circumstances, up to 3 days leave may be granted on the death of someone with whom the employee had a close personal relationship. These circumstances would include (but are not limited to) situations where the employee is responsible for funeral arrangements or has to travel abroad to attend the funeral.	Period reasonably necessary Not normally more than 3 working days		
NB: Parents have a statutory entitlement to 2 weeks of parental bereavement leave for the loss of a child under 18 or a stillbirth from 24 weeks of pregnancy. Please see the ONE Bereavement Policy for more information and guidance.			
Accepted impossible travel because of adverse weather or other public crisis (does not apply when the school/trust premises are closed)	Period reasonably necessary but not normally more than 1 working day		
Interviews for jobs in the education service	Period reasonably necessary but not normally more than 3 working days		
Dependent care leave	Period reasonably necessary		
To attend to the care of a dependant where no other care is	In normal circumstances not more than 1 working day on		
immediately available and to make arrangements for alternative care. Employees may only take paid time off to provide personal care for a dependent where there is an immediate crisis	each occasion. Not normally more than 3 working days in the rolling year.		
(There is a statutory right to take unpaid leave)			
Reasonable time off for medical or dental appointments which cannot be made outside school hours.	Reasonable time off (working time may need to be made up)		
ONE08 – Staff Special Leave Policy			

Examples of discretionary and statutory time off work that may be granted with pay (non-exhaustive list)		
Examples of leave normally granted with pay	Days per rolling 12-month period	
Any personal reason e.g. one-off family events, which it is not possible to schedule during non-working day or time or within annual leave.	Reasonable time off (working time may need to be made up)	

Medical appointments

- 8.9 Wherever possible, members of staff are required to arrange medical appointments such as GP, dentist, hospital or medical screening appointment outside of normal working hours. Where this is not possible members of staff will be granted reasonable paid time off to attend the appointment, but may be required to make up working time lost. Evidence of the medical appointment letter/card is required before any leave is granted for this purpose. Where any additional time off is required following an appointment for a medical procedure, this will be treated as sickness absence and will be recorded in line with the absence management policy.
- 8.10 Where regular appointments are required, the employee should discuss the timing/frequency of such appointments with their line manager to minimise any impact on the workplace and service delivery.

Cosmetic surgery/procedures

8.11 Where any employee chooses to have surgery or a medical procedure for cosmetic purposes, this should be arranged in the employees' annual leave. These are not classed as medical procedures for the purposes of this policy.

Leave of absence without pay

- 8.12 The types of leave of absence outlined below provide details of the circumstances where it is considered reasonable to grant leave of absence without pay. It is also the responsibility of the headteacher/CEO to ensure that the number and pattern of absences do not individually or collectively adversely affect the smooth-running of the trust, the school or the education of pupils. It may be appropriate to agree on leave of absence without pay for other reasons and such cases should be considered on their own merits and in the context of maintaining effective and efficient smooth running of the school and the trust.
- 8.13 This list is not prescriptive nor comprehensive. It may be appropriate to agree on leave of absence without pay for other reasons and such cases should be considered on their own merits and in the context of maintaining effective and efficient smooth running of the school and the trust.
- 8.14 Leave of absence without pay should not be granted to enable employees to pursue private interests or to extend periods of holiday but up to 5 day's unpaid leave may be granted following a period of paid leave granted for an urgent or domestic situation which is ongoing.

Examples of discretionary leave that may be granted without pay (non-exhaustive list)		
Examples of absence normally granted without pay	Days per rolling 12-month period	
Any personal reason other than those above for which it was not possible to schedule a non-working day or time or schedule within annual leave	Not normally more than 3 working days	

	Examples of discretionary leave that may be granted without pay (non-exhaustive list)		
	Examples of absence normally granted without pay	Days per rolling 12-month period	
-	Driving Test - Part day (where these cannot be arranged outside school hours).		
-	Attendance at one-off family occasions		
-	Participating in county, regional, national, or international sporting or cultural events.		
Le	ave of absence for religious observance	Reasonable time off not exceeding the threshold for discretionary leave.	

9. Procedures

Leave of absence due to illness

9.1 Please see the ONE Sickness Absence Policy for further guidance.

Leave of absence for public duties

9.2 As soon as you are aware that you will require time off for performance of a public service you should request leave of absence from the headteacher/CEO using the special leave form at Appendix 1.

(a) Jury Service

You must inform your line manager as soon as you are summonsed for jury service and provide a copy of your Jury Service Summons and the accompanying Loss of Earnings form. Where, in our view, the release of an employee for jury service raises significant teaching or operational problems, assistance will be provided to the employee in order to appeal to the court to re-arrange or cancel the dates of service.

Employees attending Jury Service are usually able to claim compensation from the court for loss of earnings. We will make up the Loss of Earnings allowances to your normal level of earnings. We must complete the Loss of Earnings form and you must give the completed form to the Clerk of the Court on your first day of Jury Service.

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 your return to work.

Your 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 Trust for the same days.

Where jury service lasts for less than half a day you must return to work for the remainder of the day wherever practicable. You must keep your line manager regularly informed about how long you are likely to be away from work.

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.

Special leave of absence (with or without pay)

- 9.3 Except in emergencies, authorisation to take special leave of absence must be requested as soon as the need for the leave is known using the special leave form at Appendix 1 to the headteacher (school staff) or CEO (headteachers and executive team staff) for authorisation. Where, due to exceptional circumstances, it is not possible to complete the form in advance of taking the leave, it should be submitted as soon as is practicably possible.
- 9.4 Requests for leave of absence and approval/refusal of such will be dealt with fairly and consistently, having regard to the nature of the request, statutory obligations, the educational provision for pupils, service needs, eligibility, any previous requests and the degree of flexibility that you already have in your current working arrangements. Non-emergency leave of absence must not be taken unless and until it has been approved on the special leave form (Appendix 1).
- 9.5 Where an **emergency** arises, you must notify your line manager by telephone as soon as is reasonably practicable, giving the reason for the absence and how long you expect to be absent from work to deal personally with the emergency which cannot be dealt with by anyone else.
- 9.6 If an employee takes leave without permission, the leave may be considered unauthorised and treated as unpaid leave and may result in disciplinary action being taken against the employee. All employees must follow the relevant procedures in place before taking leave (for whatever reason).
- 9.7 The trust aims to be consistent in granting requests for special leave and this policy helps to define appropriate circumstances and provide guidance. However, the trust accepts that by their very nature, such requests are often highly individual and need to be dealt with on a case-by-case basis. Requests are often confidential and therefore it will be inappropriate and breach confidentiality to explain to staff why specific requests are authorised and other similar requests are not authorised.
- 9.8 A confidential record of requests for leave of absence and whether or not the request was granted will be maintained. The granting of leave will be monitored and reviewed regularly to ensure the fair and consistent application of the procedures for all employees.
- 9.9 HR will monitor overall patterns of absence. In particular, the trust will seek to ensure that requests are treated equally wherever possible, in conjunction with the ONE Academy Trust's commitment to Equality, Diversity and Inclusion.

10. Right of appeal

- 10.1 Where a leave of absence request is refused there is a right of appeal.
- 10.2 The employee's appeal must:
 - (a) be in writing and dated;
 - (b) set out the grounds on which they are appealing; and
 - (c) be sent to the HR Manager within 5 working days of the date on which they received the leave of absence decision.
- 10.3 The appeal will be heard by a senior manager at least one level of seniority above the employee and who has had no prior involvement in the initial decision.

10.4 The appeal manager's decision is final.

11. Monitoring and review of the policy

- **11**.1 The HR Manager is responsible for monitoring the implementation, use and effectiveness of this policy/procedure and will report on these matters annually or more frequently if necessary.
- 11.2 This policy/procedure will be reviewed by the Trust Board as necessary and every three years as a minimum.

Special Leave Form

<u>All</u> requests for special leave of absence should be submitted on a Leave of Absence Request form and must be authorised by the headteacher (school staff) or CEO (headteacher and trust executive team staff).

Staff Nam	ie:		Role:	
First day	of absence/depart time:	Last day	of absence/return time:	Total days requested:
(Please not	ate the reason for this leave te that Leave of Absence during or to the Leave of Absence Polic	term-time is	s only authorised in certain or	exceptional circumstances.
	d and understood the special nd and accept that if leave of			affect my pension entitlement.
Signature	:			Date:
Your regu	lest for leave is:			
Approved	with pay: ☐ Tir	me to be ma	ade up: Yes □ N	0 🗆
Approved without pay: □				
Not appro	ved for the following reasons	:		
	☐ Operational difficulties in covering absence			
	Loss of entitlement/continuity of educational provision for pupils/students			
	Leave of absence limits already reached			
	Other. Reason(s) for non-approval	l:		
	ed by:		Date:	of trustees). Copy to be retained
	sonnel file and one copy to be f			or trustees). Copy to be retained