

# TIME OFF WORK FOR SCHOOL BASED STAFF

Adopted by .....Cartmel Primary School Governing Body

On (Date) .....27.11.19.....

Signed .....D.Milner..... Chair of Governors

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Cumbria County Council  
Children's Services

## **TIME OFF WORK, INFORMATION BOOKLET**

### **INTRODUCTION**

The purpose of this booklet is to provide Headteachers with information and guidelines to enable them to deal effectively and confidently with requests for time off work. It is also intended for employees so that they know what provisions are available to them.

All requests for time off work ideally should be made in writing, giving as much notice as possible of when the time off is required. The request should indicate the reason for the request and also the expected duration of the absence.

Headteachers should consider the request and advise the employee of their decision. If there are exceptional reasons why the request cannot be approved, the Headteacher should advise/discuss with the employee of what these reasons are.

Please also make reference to time off work as detailed within the Burgundy Book for Teachers and Green Book for support staff.

Any Headteacher having difficulty interpreting a particular request for time off work should seek advice from their HR Provider in the first instance.

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Statutory time off are legal rights for time off work based on laws passed by Parliament. Requests for non statutory time off for specific reasons may be with or without pay and this document aims to give guidance in dealing with such requests. Non statutory time off work may be with or without pay and at the discretion of the Headteacher / Governing Body where appropriate

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## **STATUTORY TIME OFF WORK:**

### **1. Annual Leave (for support staff) agreed following single status implementation**

A full year's annual leave and bank / public holiday entitlement for support staff is as shown below (full time equivalent).

On appointment 24 days Plus 8 bank / public holidays

In Year 2 25 days Plus 8 bank / public holidays

In Year 3 27 days Plus 8 bank / public holidays

In Year 4 29 days Plus 8 bank / public holidays

In Year 5 30 days Plus 8 bank / public holidays

Entitlements for part-time and part year (eg term-time-only) employees are calculated on a pro-rata basis. Where recognised, continuous service will count towards leave entitlement. An online calculator is available via the School Portal to work out entitlements for part time staff.

In order to stagger the ending of leave years, leave years will run on an individual basis from Birthday to the day prior to Birthday.

Annual Leave entitlement will be proportionate to the number of completed day's service during the annual leave year. Bank / Public Holiday entitlement is given at the time the bank / public holiday occurs (on a pro rata basis for part time / part year employees). All employees (inc full time) must record their Annual Leave and Bank / Public holiday entitlements appropriately on their leave record at the beginning of each leave year.

### **Teachers entitlement is as per the conditions of service stated in the Burgundy Book**

### **2. Antenatal Care**

Under section 55 of the Employment Rights Act 1996 (ERA), any pregnant employee, regardless of their service or hours, is entitled not to be unreasonably refused time off work, with pay, to keep appointments for antenatal care.

To qualify for this they must provide written confirmation of their pregnancy and evidence of their medical appointments e.g. an appointment card.

Antenatal care has been held to include not only standard visits to antenatal clinics but also attendance at relaxation classes and parentcraft classes.

Employees are requested to bear in mind the requirements of their post when arranging such appointments. Although such leave would not unreasonably be refused, the Headteacher does have the right to request a change of time/date if the demands of the School necessitate. We strongly advise that time off is granted wherever possible.

An employer is only obliged to allow time off where this is reasonable. In the case of a part-time employee, an employer might reasonably request that appointments are arranged outside of the contracted working hours, although this will depend on how much control the employee has over the timing of such appointments at the health centre.

### **3. Adoption Leave**

The Employment Act 2002 introduced statutory entitlements for adoptive parents. The entitlements apply to adoptive parents who have been notified of being matched with a child on or after 6th April 2003. The entitlements apply to newly matched adoptive parents only, not for example, to step parents who are adopting their partner's children. The entitlement is for one period of leave regardless of the number of children being adopted.

There is no qualifying length of service in order to be eligible for adoption leave.

Eligible employees are able to take up to 52 weeks adoption leave. There are 2 types of adoption pay available for both teaching and support staff, **Statutory** Adoption Pay (SAP) and **Occupational** Adoption Pay. Statutory Adoption Pay is payable for 26 weeks. Occupational Adoption Pay is paid under the County Council's Adoption Policy and is in addition to SAP. To qualify for Occupational Adoption Pay an employee must have 1 years' continuous service and have made a declaration in writing that they will be returning to work.

The main adopter is able to take paid time off for up to five adoption appointments. The secondary adopter is entitled to take unpaid time off for up to two appointments.

With effect from 1 April 2013 Schools will be reimbursed by the LA for adoption leave taken by Teachers in the same manner as current arrangements for those on maternity leave. For Teachers entitlement to adoption leave and pay please refer to the separate Maternity Policy document for Teachers.

### **4. Maternity Leave & Pay (for support staff) Please refer to separate Maternity Policy document for Teachers**

There are 2 types of maternity leave, **Ordinary** Maternity Leave (OML) and **Additional** Maternity Leave (AML). Each lasts for 26 weeks, giving up to 52 weeks maternity leave in total. There are no requirements for employees to have a minimum length of service or to work a minimum number of hours, so all new and expectant mothers are eligible to take this leave.

There are 2 types of maternity pay, **Statutory** Maternity Pay (SMP) and

**Occupational Maternity Pay (OMP).** SMP is payable for 39 weeks – 6 weeks at 90% of earnings and 33 weeks at the standard SMP rate (or 90% of earnings, whichever is lower). Occupational Maternity Pay is paid under the County Council's Maternity Scheme and is in addition to SMP. There are different qualifying conditions for SMP and OMP. If an employee does not qualify for SMP, they may be entitled to **Maternity Allowance**. This is a statutory benefit paid by Jobcentre Plus Offices and the amount a person receives will depend on their earnings.

OMP is only payable if the employee has declared in writing that they are returning to work and they complete at least 3 months service on their return. If not, the employee may be required to repay some or all of the amount. If the employee is not returning to work, they will receive the SMP entitlement. If the employee is unsure if they are returning or not, they can defer the OMP payment until they have decided whether or not they intend to return.

## **5 Paternity Leave / Maternity Support Leave**

The Employment Act 2002 introduced a statutory right to paid paternity leave. The entitlement applies to employees whose partner's Expected Week of Childbirth (EWC) is on or after 6th April 2003. Under the Council's terms and conditions, there is an existing entitlement to maternity support leave. This gives 5 days leave of absence with pay (pro-rata for part-time employees) to the child's father, or the partner or nominated carer of an expectant mother to assist at or around the time of birth, subject to satisfying certain conditions.

## **6 Elected Health and Safety Representatives**

Elected Trade Union health and safety representatives are allowed time off, with pay, in order to carry out these duties or to receive appropriate training in health and safety matters this is subject to provisions of the Burgundy Book for Teachers and Green Book for support staff.

## **7 Jury Service**

Where an employee is required to attend for Jury Service the procedure is as follows:

- Employee will receive a form from the Court which they should forward to their Headteacher.
- The Headteacher retains a copy of the form on the employee's personal file.
- The school's Payroll Provider will issue their own form to the employee for the employee to hand in to the Court. Part I of the form will certify the employee's daily rate of pay; Part II of the form is to be completed by the Court showing payment made for loss of earnings.
- The Employee will be paid by the Court for their attendance.

- The Court will complete and sign Part II of the form in respect of payment(s) they have made to the employee and will return this form to the employee.
- The employee should return this form to the school's Payroll Provider who will then deduct from the employee's salary payments which have been made by the Court in respect of loss of earnings.

## **8 Parental Leave**

Statutory parental leave came into effect on 15 December 1999. The reasons for the leave need not be connected with the child's health but could for example cover settling the child into a new playgroup.

An employee is entitled to up to 18 weeks' unpaid parental leave per child if s/he meets one of the following conditions:

- S/he is the parent of a child up to 18 years of age
- S/he has adopted a child under the age of 18 (the right to parental leave lasts for a period of five years from the date of adoption or until the child's 18th birthday, whichever is the sooner)
- S/he has acquired formal parental responsibility for a child who is under five years of age
- S/he is the parent or adoptive parent of a child who has been awarded disability living allowance (in this case parental leave can be taken up to the child's 18<sup>th</sup> birthday)

To qualify for parental leave, employees must have completed at least one year's continuous service with the school. Leave can only be taken in blocks of one week or more up to a maximum of four weeks' leave in a year, except where the child is disabled, in which case it may be taken one day at a time.

The employee must give their Headteacher 21 days' notice of taking leave, and the employer can postpone leave for up to six months "where the operation of the employer's business would be substantially prejudiced"

## **9 Requests for Flexible Working**

From 6 April 2007 employees with caring responsibilities for a dependant adult are able to request a flexible pattern of work.

From 6 April 2009, parents with children aged 16 and under (disabled child under 18) are able to request a flexible pattern of work.

Please refer to legislation relating to flexible working and separate Policy Document 'Requests for changes to working arrangements'

Employees must have worked for their employer for more than 6 months in order to make such a request and must not have made a request for flexible working in the previous year. Where a request is accepted it results in a permanent change to the employee's terms and conditions unless a different arrangement is agreed at a later date.

Examples of requests for flexible working can be a reduction in working hours, change to pattern of work, job share, term time working etc

## **10 Public Duties**

Employees who are members of the **Reservists** shall be entitled to attend Summer Camp or similar training activities.

Employers must also co-operate when call-out notices are issued. The rules and regulations governing call-out have been changed as a result of the Reserve Forces Act 1996 which took effect from 1 April 1997.

By virtue of section 50(1) of the ERA, an employer shall permit an employee who is a **Justice of the Peace** to take time off during the employee's working hours for the purpose of performing any of the duties of office. The right includes time spent sitting in court and attending the required training sessions, plus visits to various prescribed institutions.

**Membership of associated committees linked with the role, such as the Probation Committee and a panel such as the Youth Panel of the Court** are also covered.

For employees who are a **Member of a Local Authority** (as defined by Section 40 of the Local Government Superannuation Act 1937), leave with salary up to a maximum of 208 hours (approximately 28 days), (pro rata for part-time employees) may be granted in any one year, together with such additional leave without salary as may be necessary (subject to Departmental/Unit requirements) for duties and attendance at meetings as a Member of a Local Authority or of any Committee or Sub-Committee thereof. (It is not necessary to pay any fees received for attendance at meetings into the County Fund).

Under section 50(2) of the ERA further categories of membership are identified which give employees a statutory right to time off. These are **Membership of a Statutory Tribunal, a Police Authority, a Board of Prison Visitors or a Prison Visiting Committee, a relevant Health Body, a relevant Education Body, or the Environment Agency.**

The amount of time off which an employee should generally be permitted for public duties, is that which is reasonable in all the circumstances. In the event of a dispute, tribunals decide what is reasonable by reference to the following particular factors:-

- How much time off is required for the performance of the duties of the office or as a member of the body in question, and how much time off is



required for the performance of the particular duty for which time off is requested?

- How much time off the employee has already been permitted for public duties, or for trade union duties or activities?
- The circumstances of the employer's business and the effect of the employee's absence on the running of the business.
- In granting leave to cover these supplementary duties, the Head will have regard to the needs of the School and reserves the right to insist that a public duty does not take preference over School duties.

## **11 Trade Union Officials**

Employees who are trade union officials (an employee who has been elected or appointed by a union to be a representative of the union members in a workplace) should be allowed "reasonable" time off work with pay, ("reasonable" means that the employer can take account of the needs of the business), subject to appropriate prior approval, to undertake the following duties:

- (a) collective bargaining with the appropriate level of management;
- (b) informing employee members about negotiations or consultations with management;
- (c) meeting with other lay officials or with full-time union officers on matters which are concerned with industrial relations between his or her employer and any associated employer and their employees;
- (d) interview with and on behalf of employee members on grievance and discipline matters concerning them and their employer;
- (e) appearing on behalf of constituents before an outside official body, such as an employment tribunal, which is dealing with an employee relations matter concerning the employer;
- (f) explanations to new employees whom he or she will represent of the role of the union in the workplace employee relations structure.

Where there is some element of doubt as to whether a matter is a trade union duty, the School must exercise its discretion (it is good practice for the school to consult with both their HR Provider and a relevant full time Trade Union Official).

### **N.B. - Travelling Expenses:-**

Meetings between management and officially recognised trade union representatives are accepted as being authorised trade union duties. Provided such meetings are called - either by management or by the trade union - for a reasonable purpose to discuss legitimate employee relations

business and the number of trade union representatives attending is appropriate for the purpose, then the travelling expenses should be reimbursed by the School.

For meetings which involve only trade union representatives - Branch Executive Committees, Departmental Committees, ad hoc Steward Meetings, etc - the expenses will not be reimbursed by the School or Governing Body.

## **12 Trade Union Safety Representatives**

Employees who are trade union safety representatives are allowed time off, with pay, in order to carry out their duties or to receive appropriate training in health and safety matters.

## **13 Training for Trade Union Officials**

Trade union officials should be allowed a reasonable amount of time off work with pay in order to attend relevant training courses approved by the T.U.C. or Headteacher.

## **14 Trade Union Conferences, Committees and Special Meetings**

Requests by the Trade unions to seek time off with pay to allow representatives to attend annual conferences, local government group meetings or special meetings (e.g.; to discuss a pay claim) are normally made direct to the Headteacher, "en bloc". The Headteacher should seek advice from their HR Provider before replying to the Trade Union, with regard to:

- (a) the appropriateness of the request;
- (b) any restrictions on the granting of leave in view of:
  - the exigencies of the service
  - the length of time off allowed
  - the number of employees affected

## **15 Trade Union Departmental Committees**

Only in exceptional circumstances should Departmental Trade Union Committees be permitted to meet in work time; the exception being where a Chief Officer/Headteacher has put a proposal which affects the staff of his or her Department to the Departmental Committee for their consideration and comment. Where a divisional or district representative has to travel to HQ for a meeting of the Departmental Committee, it would seem reasonable to allow him or her to travel, if necessary, in work time to get to the meeting.

## **16 Under notice of Redundancy**

An employee who has been given notice of redundancy must be allowed to take a reasonable amount of time off, with pay, to look for new employment or to make arrangements for training for future employment.

This right is dependent on the employee having at least one years' continuous employment by the date on which the notice is due to expire, or by the date on which it would expire had the statutory minimum period of notice been given.

### **NON STATUTORY TIME OFF WORK:**

## **17 Fertility Treatment**

Provisions for employees undergoing fertility treatment are currently being reviewed. As an interim measure it is recommended that up to 5 days special leave is granted to staff undergoing fertility treatment.

## **18 Award Ceremonies**

Leave of absence of up to one day would normally be expected with pay may be granted for attendance at degree ceremonies of close family members, subject to the approval of the Headteacher.

## **19 Duties as Partner to a Mayor/Lady Mayor or as Deputy Mayor/ Deputy Lady Mayor**

An employee undertaking duties in the role of partner to a Mayor/Lady Mayor (or as a Deputy) should be allowed time off without pay. There is no specific limit to the amount of time but it should be that which is reasonable in the circumstances.

## **20 Election Leave**

### *(a) Staff assisting as Presiding Officers, Poll Clerks and Counting Assistants*

Leave with pay shall be granted for duties in connection with European, Parliamentary and Local Council Elections, subject to approval by the Headteacher.

### *(b) Prospective Parliamentary Candidates*

Special unpaid leave of absence will be granted from nomination day until the day after the election.

### *(c) Local Council Candidates*

Special unpaid leave for polling day will be granted.

## **21 Examinations & Study Leave**

Leave of absence with pay is to be granted for the purpose of sitting examinations applicable to the role at the School. This must be work related to the employee's post and may have been identified through performance management/appraisal.

In addition up to a maximum of three days leave of absence with pay (dependant upon the number of examinations being taken) may be granted for the purpose of revision for the final examinations at the Headteachers discretion. Normal reasonable time will be one day per final exam.

Employees undertaking a course relevant to their post and in agreement with the Headteacher should be allowed up to one-half day per week paid leave for private study.

## **22 Holiday During term time**

Reasonable time off without pay may be granted to meet cases where the residential partner is compelled to take their main holiday during term time for such reasons as staggering of holidays in industry. Leave for short industrial breaks should not be approved e.g. shift patterns of work. Normal reasonable time will be a maximum of ten working days, subject to the approval of the Headteacher.

## **23 House Removal**

Home owners or tenants in own right who, on appointment, live more than 30 miles from the new place of work and sell their home within a reasonable period, may be granted up to two days paid leave for actual house removal. There is no right to paid time off work for those who move house which is not linked to changing jobs. Unpaid leave is at the discretion of the Headteacher.

## **24 Interviews**

Reasonable time off with pay will be allowed for employees to attend interviews within Cumbria County Council. Reasonable time off without pay will be allowed for employees to attend interviews within Local Government Service. Alternatively, employees may use annual leave or flexi leave (if a flexi scheme is in operation) as appropriate

## **25 Medical Screening**

Employees shall be granted necessary paid time off for the purpose of medical screening. Evidence of appointment should be produced if requested.

## **26 Personal Medical/Dental Appointments**

There is no entitlement to leave with pay for doctors or dental appointments there is an expectation that such appointments will be made in the employees own time.

## **27 School Governors**

Employees appointed as School Governors may be granted up to a maximum of ten half days (five days) paid leave per annum per school.

Additional leave without pay may be granted as necessary by the Headteacher subject to the exigencies of the service and requirements of the school.

## **28 Special Constables**

Employees who are Special Constables shall be granted one weeks paid leave to undergo necessary training.

Unpaid leave will be granted for Special Constables attending as witnesses at trial at the discretion of the Headteacher.

## **29 Trade Union Members**

Employees who are trade union members should be allowed to take reasonable time off work to take part in the following trade union activities:

- (a) to take part, as a representative or delegate, in meetings of the trade union executive committee or annual conference
- (b) voting at the workplace in union elections;
- (c) to attend union meetings called during working hours.

Such time off will normally be without pay unless otherwise agreed and be subject to the prior approval of the Headteacher.

There is **no right** to time off for trade union activities which themselves consist of industrial action.

If an official or a member of a union is refused time off for trade union duties/activities then they have the right to complain to an industrial tribunal within three months of the refusal.

## **30 Urgent Domestic Reasons**

Headteachers can grant special leave in respect of urgent domestic reasons which may include, for example, bereavement, compassionate leave, family

sickness. Each case would obviously need to be judged on its merits but Headteachers are encouraged to give favourable consideration to such applications.

A maximum of seven days leave with pay may be granted to any one employee in any leave year. Paid leave in excess of this shall not normally be granted.

In addition, since December 1999, all employees have a statutory entitlement to a reasonable amount of unpaid time off to deal with domestic incidents, These are defined in the legislation as incidents where it is necessary for an employee to take action which is:-

1. to provide assistance when a dependant falls ill, gives birth or is injured or assaulted
2. to make arrangements for the provision of care for a dependant who is ill or injured
3. in consequence of the death of a dependant
4. because of the unexpected disruption or termination of arrangements for the care of a dependant
5. to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him/her

A dependant is

- a spouse
- a child
- a parent
- a person who lives in the same household as the employee eg a live in partner, but not someone living there as an lodger, tenant or employee

NB for the purposes of 1 and 2 above, a dependant is any person who reasonably relies on the employee for assistance but does not live with them. For the purposes of 4, a dependant is any person who is reliant upon the employee for making arrangements for care eg an elderly relative who does not live with the employee.

### **31 Weddings / Civil Partnerships**

Leave without pay for the day of the wedding / civil partnership of a close family member at the discretion of the Headteacher.

### **32 Witness in Court**

An employee, summoned to attend Court as a technical witness and where their appearance is in a capacity deriving from their employment with the School, will be allowed time off work with pay. A claim should be submitted to the Court for loss of overtime pay where applicable, and travelling and subsistence expenses incurred.

An employee giving evidence under other circumstances, or litigating on his or her own behalf, would be expected to advise the Headteacher who may grant unpaid leave.

### **33 Weather**

In cases of extreme weather conditions or other exceptional circumstances outside anyone's control, employees may have difficulties in getting to work. In such circumstances the key principle is that employees and line managers/Headteachers should agree what arrangements are reasonable in the circumstances. Employees should make every effort to attend for work and they should ensure that their line manager/Headteacher is kept fully informed of the situation, however it may be necessary for them to take time off.