



## STAFF DISCRETIONARY LEAVE OF ABSENCE POLICY

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1.1	02.06.20	Updated to include regulations on Parental Bereavement Leave
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## 1. Policy Statement

The Samara Trust (the Trust) regards the excellent attendance of both pupils and staff as integral to the success of their academies. For the purpose of this policy, the term Trust refers to The Samara Trust.

The Trust recognises that the effectiveness of the academy depends on the commitment of all staff. We also acknowledge that a fair and balanced policy on leave of absence and time off work contributes to the maintenance of staff morale and thereby to the success of the academy.

The Trust recognises that absence from duty by staff may be unavoidably required for a wide variety of reasons including compassionate grounds, jury service or for other family, personal, religious and professional reasons. All leave of absence requests are discretionary.

High levels of absence among teaching and support staff can pose a serious problem for academies in terms of disruption to teaching programmes, pupil's learning and other areas of the academy's work. Absence of any staff employed in academies during term time means some impact on the children's education. Therefore, requests from any member of staff to be taken during term time must be regarded by all as the **exception**. Requests for leave of absence for the purpose of taking holidays and/or contributing to holidays will **not** be granted.

The Trust expects that teachers and term time support staff will arrange their holidays during academy closure periods. It is also expected that staff will consider for all absences how these may be arranged to cause the least inconvenience for the academy. Whilst all requests for leave of absence will be considered in a balanced way, other than in exceptional circumstances or on compassionate grounds, leave of absence will not normally be approved in term time except as covered by statute.

## 2. Procedure for considering requests for planned leave of absence

### 2.1 Requesting Leave of Absence

Requests for planned leave of absence should be made in writing using Appendix 2 – Leave of Absence Request Form". This should be submitted to the CEO/Head Teacher (or nominated SLT member) and should include the full reasons for the request, which make clear why the leave cannot be taken during a normal academy closure period, and the dates and length of the period of leave of absence requested.

The Head Teacher will use the same process except that the request should be submitted to the Chair of Governors who should then discuss all planned absences with the CEO of the Trust. In the case of the CEO, the request should be submitted to the Chair of Trustees.

**Staff should not, under any circumstances, make arrangements until approval for the absence has been given.**

### 2.2 Deciding on Leave of Absence requests

Requests for leave of absence will be considered taking into account

- The principles of this policy
- The best interests of the children and the academy

- Treating staff in a fair, reasonable and consistent way

The CEO/Head Teacher shall normally decide on requests for discretionary Leave of Absence on a paid or an unpaid basis, having regard to the policy of the Trust within 10 working days. In the case of extended leave and other exceptional circumstances, if the CEO/Head Teacher rejects an application based on impact to service provision, staff would be entitled to appeal the decision to the Local Governing Body, or Trust in the case of central staff.

The CEO/Head Teacher will consider all requests for non-discretionary absence (e.g. Jury Service, paternity leave etc) in accordance with legislative requirements, and irrespective of the length of the absence. If the CEO/Head Teacher rejects an application based on impact to service provision, staff would be entitled to appeal the decision to the Local Governing Body, or Trust in the case of central staff.

All decisions will be confirmed in writing. In the case of refusal, reasons will be given.

### **Appeals**

If the request is refused, the member of staff may appeal to the LGB, or Trust in the case of central staff. The appeal should be made in writing within 10 working days of the original decision being given, stating the grounds for the appeal. The Trust's staff complaints & grievance procedures will be used. There is no further level of appeal.

NOTE: All parties need to be mindful of the time that could be required for the decision making process, including any potential appeal.

### **2.3 Unpaid leave**

Employees are not covered by the sickness absence scheme whilst on unpaid leave and therefore, are not entitled to receive occupational sick pay. Employees may be entitled to Statutory Sick Pay (SSP) and so should submit any medical certificates direct to the Payroll Team.

### **2.4 Unauthorised leave of absence**

The taking of unauthorised leave of absence is automatically unpaid and may lead to disciplinary action. This may result in a formal warning being issued, or dismissal where the circumstances would justify such action.

Overstaying and late returns will be considered as unauthorised leave of absence. Staff **must** preserve any documentary evidence, which shows that a late return was unavoidable (tickets, sick-notes etc.).

## **3. Guidance on Statutory Entitlements to leave of Absence**

### **3.1 Time off to accompany a colleague to a discipline, grievance or flexible working hearing**

Employees have the legal right to take paid time off work to accompany fellow employees of the same employer to certain disciplinary and grievance hearings.

### **3.2 Time off for job hunting or to arrange training when facing redundancy**

An employee who is being made redundant is entitled to take reasonable time off with pay to look for another job, or to arrange training for future employment. The employee, who must have at least one year's continuous service (at the date the redundancy will take effect), can take time off within working hours while under notice.

### **3.3 Time off for Trade Union duties (including Union Learning Representatives) and for Safety Representatives**

Employees carrying out these roles are entitled to reasonable paid time off work to undertake those duties and to undergo training.

### **3.4 Time off for occupational pension scheme trustees and directors of trustee companies**

Employees who are trustees of an occupational pension scheme or directors of Trustee companies are entitled to reasonable time off with pay to carry out any of their trustees' duties or to be trained for those duties.

### **3.5 Study Leave and Attendance for Examinations (discretionary and non-discretionary)**

For courses of training and study that are not directly related to the employee's job, or have not been specifically approved by the governors, leave may be granted at the academy's discretion without pay.

For courses of training and study approved by the governors or which directly relate to the employee's job, leave with pay will be granted as necessary. Any leave agreed to prepare for examinations will be approved subject to any practical and organisational constraints affecting the academy.

### **3.6 Bad Weather Conditions**

There may be circumstances when the employee is unable to attend work due to bad weather, but the academy remains open as usual. All reasonable efforts should be made to attend work, including when the academy is closed to students. Alternative arrangements may be agreed with the CEO /Head Teacher, e.g. Working from home or at a different location. Where this is not possible, non-attendance will normally be treated as unpaid leave, but exceptional circumstances may warrant paid leave.

### **3.7 Attendance at Court Proceedings**

#### **Jury Service**

Staff required to attend for jury service should arrange for the loss of earnings certificate to be forwarded to the academy's payroll team. The certificate will be returned to the member of staff completed to show to what extent the salary will be stopped during their absence. The amount will then be claimed from the court.

#### **Witness summonses and subpoenas**

Staff subject to a witness summons or subpoena should be allowed paid time off work to attend court

### **3.8 Time off for Medical Appointments**

Where possible, academy employees are expected to make GP and Dentist appointments out of academy time, on non-working days for part-time staff, during school closures for term-time only staff, or as close to the start or end of the academy day as possible. Where appointments are not available out of working hours, requests for paid attendance at appointments during working hours will be considered on a discretionary basis. Blood donor sessions will be paid. All time off for appointments should be requested as far in advance as possible. An appointment letter/card or text confirming that an appointment has been made must be attached to the application to qualify for paid leave.

*N.B Employees covered by the Equality Act 2010, do not have a specific right to take reasonable time off to attend medical appointments, however employers have a duty to make reasonable adjustments where appropriate, which can include appropriate time off to attend medical appointments. What is reasonable for the employer to do will depend on the circumstances of the particular case? Please ask your HR advisor for more specific advice.*

### **3.9 Time off for Dependants**

Employees have a right to take a reasonable amount of time off work to deal with certain unexpected or sudden emergencies and to make any necessary longer-term arrangements. The emergency must involve a dependant of the employee.

According to the regulations, a dependant is the husband, wife, child or parent of the employee. It also includes someone who lives in the same household as the employee. For example, this could be a partner or an elderly aunt or grandparent who lives in the household.

In cases of illness or injury, or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only one who can help in an emergency; for example, an aunt who lives nearby who the employee looks after outside work falls ill unexpectedly, or an elderly neighbour living alone who falls and breaks a leg, where the employee is closest on hand at the time of the fall.

The right to time off does not extend to time off for domestic emergencies such as a breakdown of a heating boiler and unpaid time off for incidents of this kind is at the Head Teacher's discretion.

### **3.10 Time off for Religious Observance**

The Trust allows staff to request up to three days leave with pay for this purpose in each academic year (providing the academy has not made the decision to close and/or that the festival does not fall over a weekend). The days can be taken only for the purpose of attendance at a religious ceremony or for observation of a religious festival, which the member of staff is under a moral obligation to attend or observe by reason of his/her membership of, or office in, a church or religious order.

If the leave is authorised, please note that the Trust will decide which days can be taken.

The arrangements do not provide for paid time off to prepare for festivities or days, which may be used as family celebrations, which are not the specified dates for the religious event. It is expected that each member of staff will travel to and from the event in their own time.

If the religious ceremony or festival falls at a weekend the time off is not transferable to the following working day.

The academy's policy on the extended leave needed for Hajj is included at section 4 of this document.

Other requests for substantial religious leave will be considered on the same basis.

### **3.11 Time off for public duties and activities**

Subject to the needs of the academy, employees are entitled to reasonable time off in order to carry out public duties and activities.

### **3.12 Parental Bereavement Leave**

Up to two weeks' parental bereavement leave (PBL) for parents, with parental responsibility, to help them cope with the death of a child under the age of 18 will be granted. This includes birth parents, adoptive parents, individuals who are fostering to adopt, legal guardians, most foster parents, (excluding short term and emergency foster care) and parents who suffer a still birth after 24 weeks or more into pregnancy. There is no minimum service requirement to take this leave.

Employees may be entitled to statutory parental bereavement pay (SPBP) and/or normal pay covering some of this period, for parental bereavement leave if they meet the below criteria:

- Have 26 weeks' continuous service with the Trust ending on the Saturday before the child died;
- Have normal weekly earnings in the eight weeks up to the week before the child death that are not less than the lower earnings limit for NI contributions

Parental bereavement leave will be granted as a single block of 2 weeks or two separate blocks of 1 week at different times. This leave must be taken within 56 weeks of the loss of the child.

If parental bereavement leave is taken straight away and during the first seven weeks after the child has died, there is no requirement to give advance notice of PBL. However employees should make contact with the Trust to inform the reason for their absence.

Any parental bereavement leave taken after the initial period will be subject to one weeks' notice to the employer.

Employees taking parental bereavement will be asked to produce a written declaration confirm they are entitled to the leave.

Entitlement to maternity leave and pay is not affected if a child has died or been stillborn. Maternity leave can be taken in addition to parental bereavement leave.

## **Bereavement leave**

All requests for bereavement leave will be treated sympathetically and, although granted at the discretion of the CEO/Head Teacher or Chair of Governors, will not normally be refused without good reason.

For all staff the leave need not be taken continuously and can be taken in accordance with the practical needs and circumstances of each case.

### **3.13 Time off to visit relatives abroad – Extended leave**

It is recognised that some employees have close relatives abroad whom they may wish to visit for an extended period. In such circumstances, an employee may apply to take an extended period of unpaid leave. All requests will be considered taking into account both the needs of the staff member and the needs of the academy. Staff are requested to arrange any extended leave to coincide with the main periods of academy closure. If the period of leave would cause particular difficulty for the academy the request may be refused or the staff member asked to reconsider the period for which leave has been requested.

It is the policy of the Trust that permission to take extended leave to visit relatives abroad would not normally be granted more frequently than once in every five academic years although compassionate grounds will be taken into account.

Overstaying an approved absence may be considered as unauthorised absence (unless there are substantial grounds for having done so – staff in this situation should keep any evidence) and could lead to disciplinary action.

### **3.14 Secondments, extended leave of absence, career breaks and extended study leave**

In the event that a member of staff requests an extended period of unpaid leave the Head Teacher will consider the request taking into account any financial, organisational or educational effects on the academy, and the circumstances and reasons given by the individual. The Trust CEO must be consulted on all proposed secondments.

The Trust will not normally approve absences of more than two years in length and may require that the dates of commencement and ending are consistent with the practicalities of recruiting temporary cover staff.

### **3.15 Right to Request Training**

Employees with at least 26 weeks service on the date that they make their request have a statutory right to request time off to train. If the employer accepts the request for time off for training (either in full or part), there is no duty to pay the employee for the time they are absent from work to undertake the training and no duty to meet the cost of the training or qualification.

## **4. Collation of Discretionary Leave of Absence Requests**

The Trust will collate and monitor all Discretionary Leave of Absence Requests above the allowance set in Appendix 1 centrally. This is to ensure fair and equitable treatment of staff across our schools.

In these exceptional circumstances, once a request for discretionary leave is approved the CEO /Head Teacher must send the request form in Appendix 2 or electronic version to their admin team with confirmation of whether the request has been agreed, rationale for decision and number of working days impacted.

## 5. Retention and data protection

Through the application of this policy, the Trust may collect, process and store personal data in accordance with our data protection policy. We will comply with the requirements of the Data Protection Legislation (being (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998). Records will be kept in accordance with our Workforce Privacy Notice, our Retention and Destruction Policy and in line with the requirements of the Data Protection Legislation.

## 6. Leave of Absence Schedule

Leave will normally be granted in accordance with the following schedule. Discretion lies with the CEO/Head Teacher and LGB/Trust in the first instance. See Appendix 1.

### **Appendix 1**

<b>Schedule for Discretionary leave of absence</b>			
	Reason for absence	Max. period of absence (school days)	
1		Up to 5 days	With pay

	Death of member of immediate family (defined below) – <b>please see guidance above for parental bereavement leave</b>		
2	Wedding of member of immediate family	1 day in any 12 months	With pay
3	Wedding of member of family (other than immediate family)	1 day in any 12 months	Without pay
4	Jury Service	As defined by Court	With pay (employee must claim an allowance from Court)
5	Attendance at interviews	Up to 3 interviews in any 12 months	With pay
6	Attendance at meetings of GCSE, A Levels Examiners or other approved examinations	As necessary	With pay
7	Attendance at courses related to role (and for examination study and for examination) approved by the Head Teacher	Head & LGB to retain discretion	With pay
8	Other examinations leave and study where not directly related to the job.	As approved by the Trust at the Head Teacher's recommendation	Without pay
9	Attendance at annual camp as volunteer member of the reserved forces and the like where this is clearly unavoidable	Up to five day And Remainder	With pay and Without pay
10	Attendance at a religious ceremony or observation of religious festival which the staff member is under a moral obligation to attend or observe by reason of his/her membership of, or office in, a church or religious order	Up to three days per year provided that the Academy has not made the decision to close and/or that the festival does not fall over a weekend (excluding preparation and travel time)	With pay
11	Removal of home, when buying/selling home	1 day in any 12 months	With pay
12	Representatives of trade unions attending annual conferences and taking part in formal consultations with representatives of this Trust or at national or provincial level		With pay
13	Illness of member of immediate family	2 days in any 12 months	With pay
14	Hospital attendance of self		With pay

	And Of immediate member of family with the exception of grandparents and grandchildren	1 day on production of an appointment letter And 1 day in any 12 months	Or With pay
15	Attendance at University Graduation Ceremony etc. where self or member of immediate family is receiving a degree, diploma or certificate	1 day in any 12 months	With pay
16	Other urgent or private family business	Up to 1 day in any 12 months	Without pay
17	Attendance of father/partner at the birth of their child  NOTE: this leave is only applicable to the person who does not qualify for paternity leave	Up to 2 days at the discretion of the Head Teacher	With pay

**NOTES:**

Definitions of "immediate family". For the purpose of this scheme "immediate family" shall include:

<i>Wife</i>	<i>Mother</i>	<i>Mother-in-law</i>	<i>Stepfather</i>
<i>Husband</i>	<i>Father</i>	<i>Father-in-law</i>	<i>Stepmother</i>
<i>Partner/Civil Partner</i>	<i>Brother</i>	<i>Grandmother</i>	<i>Stepchildren</i>
<i>Son</i>	<i>Sister</i>	<i>Grandfather</i>	<i>Stepbrother</i>
<i>Daughter</i>	<i>Guardian/Ward</i>	<i>Grandchild</i>	<i>Stepsister</i>

\* EXCEPT for "Wedding of any member of immediate family" where immediate family does not include:

*Self, Grandparents, Parents-in-law and Grandchildren*

**Appendix 2. Staff Discretionary Leave of Absence**

**LEAVE OF ABSENCE REQUEST – EMPLOYEE PROFORMA**

<b>Staff Member's Name:</b>	<b>Staff Member's Line Manager:</b>

**To the employee:**

Please provide the reasons for your leave of absence request:

**To the employer:**

Please indicate below whether the Discretionary Leave is paid/unpaid and the reasons for awarding:

Approved	YES	NO
Number of days		
Rationale		

**Employee Signature:**

**Date:**

**CEO /Head teacher Signature:**

**Date:**

Once completed, please ensure that a copy of this form is placed on the employee's personnel file and uploaded onto the central system for absence management.





