

INVICTUS

Education Trust

**STAFF DISCRETIONAL LEAVE
POLICY**

Approved by Board of Directors
2nd July 2018

To be reviewed by Board of Directors
July 2021

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1. Introduction

- 1.1 Leave of absence is not an entitlement to a number of days off per year. The purpose of leave of absence is to ensure that employees are able to manage particular circumstances that may occur in their lives where it is not possible to arrange these during school holiday periods and time off may be required. It is expected that requests will only be made for leave of absence in term time once all other possible alternatives have been considered.
- 1.2 Employees should ensure that, other than in emergency situations, they make their request for leave in advance to enable the School to consider the request carefully and to ensure that cover can be implemented where required.
- 1.3 The amount of leave of absence granted and reasons for doing so can differ between teaching and support staff and from one employee to another. It is also important to bear in mind that such entitlements must be considered against the overall working arrangements of the different categories of staff and, in particular, the need for arrangements to be made to cover such absences.
- 1.4 All periods of leave of absence will be recorded and considered on a rolling 12-month basis.
- 1.5 Any employee who is suspected to have abused the provision for time off may be subject to disciplinary proceedings in line with the Trust's Disciplinary Procedure.
- 1.6 This policy does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

2. Scope and Purpose of this Policy

- 2.1 The purpose of this policy is to ensure that employees within the Trust understand how requests for leave will be considered by the Headteacher. It will also ensure that staff across the Trust are treated in a fair and consistent way when requesting time away from work.
- 2.2 The procedure applies to all employees regardless of length of service excluding those in their probationary period. It does not apply to agency workers.
- 2.3 This procedure is used to deal with requests for absence from work for the reasons contained within this policy. It does not cover requests for flexible working, maternity, paternity, parental, or adoption leave. Information on these can be found in the relevant policy within the Trust.

3. Bereavement Leave and Compassionate Leave

- 3.1 Up to 3 days paid bereavement leave may be granted to help employees cope with the death of a close relative, to deal with necessary arrangements and attend their funeral.
- 3.2 Up to 3 days paid compassionate leave may be granted to help employees where they need to deal with necessary arrangements for or assist a close relative who is seriously or critically ill. This does not apply in the case of domestic emergencies, or where normal caring arrangements have been disrupted.
- 3.3 Bereavement leave and compassionate leave may be granted in relation to a spouse, civil partner or partner, child, stepchild, grandchild, parent, step-parent, parent-in-law, grandparent, brother or sister, stepbrother or stepsister, or brother or sister-in-law. The Headteacher may exercise their discretion in relation to any other relative or close friend, depending on the circumstances. When agreeing the amount of leave the School will take into account the circumstances and relationship of the employee to the deceased.

- 3.4 The Trust recognises that it may not always be possible to request bereavement leave or compassionate leave in advance. However, where it is possible, employees should make a request to the Headteacher, giving them the reasons for the request and the number of days leave that are required.
- 3.5 Where it is not possible to request leave in advance employees should contact the Headteacher as soon as possible to tell them the reason for the absence and the number of days leave that are required.
- 3.6 In exceptional circumstances we may have to refuse a request for bereavement leave. If so the Headteacher will give you a written explanation for the refusal. If you are dissatisfied with this decision you may appeal to the Executive Headteacher/CEO in writing OR make a complaint under our Grievance Procedure within 10 days of receipt of the written reasons for the refusal.

4. Dependants (Time off for)

- 4.1 The law recognises and we respect that there will be occasions when you will need to take time off work to deal with unexpected events involving one of your dependants OR someone close to you. All employees have the right to take a reasonable amount of unpaid time off work when it is necessary to:
- (a) provide assistance when a dependant falls ill, gives birth, is injured or assaulted
 - (b) make longer-term care arrangements for a dependant who is ill or injured
 - (c) take action required in consequence of the death of a dependant
 - (d) deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependant; and/or
 - (e) deal with an unexpected incident involving their child during school hours (or those of another educational establishment).
- 4.2 A dependant for the purposes of this policy is:
- (a) an employee's spouse, civil partner, parent or child
 - (b) a person who lives in the same household as the 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 paragraph 4.1.
- 4.3 Employees are only entitled to take reasonable time off under this policy where there is an immediate crisis and it is necessary to take action in relation to a dependent. This will depend on the nature of the problem, the closeness of the relationship between you, and whether someone else is available to assist. Reasonable time off will not normally be more than one day and in most cases will be less than a day. However, we will always consider each set of circumstances on their facts.
- 4.4 If you know well in advance that a problem might arise or you wish to take time off to care for a dependant yourself, rather than make alternative arrangements, this policy will not apply. You should make other arrangements to deal with such situations.
- 4.5 You will only be entitled to time off under this policy if, as soon as is reasonably practicable, you tell the Headteacher:

- (a) the reason for your absence; and
- (b) how long you expect to be away from work.

4.6 If you fail to notify us as required by paragraph 4.5, you may be subject to disciplinary proceedings under the Trust's Disciplinary Procedure for taking unauthorised time off.

4.7 Where it is possible to do so in advance or when you return to work after taking time off under this policy, we might ask you to provide evidence for your reasons for taking the time off. Suspected abuse of this policy will be dealt with as a disciplinary issue under the Trust's Disciplinary Procedure.

5. Domestic Reasons

5.1 Up to 3 days leave of absence without pay may be granted for domestic reasons (urgent or otherwise). It is expected that those employees who have the option to choose when to take their leave will use their annual leave entitlement before making a request for domestic reasons. Leave to be granted under this provision may include:

- Moving house

Employees should normally make arrangements for moving house outside normal working days. Where this is not possible, up to 1-days leave may be granted by the Trust.

- Wedding or civil partnership ceremony

Employees should make their own wedding/civil partnership arrangements outside normal working days. Leave may be granted by the School to enable employees to attend a relative's or close friend's wedding or civil partnership ceremony where this is held during normal working hours.

- Other special events

The Trust recognises that in exceptional circumstances there will be special events in an employee's family life that cannot be arranged outside normal working days e.g. graduation ceremonies, school productions, sports day. The School will consider requests for time off for these purposes.

- Urgent domestic business

This would enable school staff to deal with emergencies of a domestic nature e.g. flooding, structural damage, burglary etc.

5.2 The Trust recognises that it may not always be possible to request domestic leave in advance. However, where it is possible, employees should make a request to the Headteacher, giving them the reasons for the request and the number of days leave that you would like to take. Where it is not possible, you should contact the Headteacher as soon as possible to tell them the reason for your absence and the number of days you expect to be absent.

6. Health and Welfare

6.1 Employees are expected to make routine medical appointments on their non-working days/outside working hours. Where it can be demonstrated that it is not possible to obtain appointments outside of working hours the School/Trust may grant paid time off for reasons of the personal health and welfare of an employee. For example, visits to a doctor, dentist, optician, clinic and hospital. The

School/Trust will expect employees to provide evidence of their requirement to attend any medical appointments.

- 6.2 All employees are encouraged to attend medical appointments for preventative screening, such as smear tests, mammograms, prostate examinations. These appointments are covered by this policy.
- 6.3 Employees who donate blood or other medical tissue are encouraged to do this outside of working hours. Where this is not possible requests for time off to attend these appointments will be considered under this policy.
- 6.4 Requests for time off for medical appointments in relation to adoption, pregnancy or disability will be considered under the Trust policy that covers these circumstances.
- 6.5 Employees who are planning to undergo a course of fertility treatment or are planning to become a surrogate should discuss with the Headteacher their treatment plan and requirements for time off. The School/Trust will consider these cases based on the individual circumstances.

7. Interviews

- 7.1 The Trust accepts that employees will have little or no control over when an interview will take place and, therefore may grant up to 1 day off for interviews with pay.
- 7.2 Employees must inform their Headteacher of the time, date and duration of the interview as soon as they have this information so that the request can be considered promptly to avoid disappointment. The School can ask employees to provide evidence of interview.

8. Time off for public duties

- 8.1 The Trust supports employees to perform certain public duties that they may be committed to undertake and will give them time off to do so where it does not conflict with the operational needs of the School. The Trust is not obliged to grant employees paid leave for these purposes. The circumstances in which we are prepared to do so are set out below.

Jury Service

- 8.2 Employees should tell the Headteacher as soon as they are summoned for jury service and provide a copy of the summons if requested.
- 8.3 Depending on the demands of the School we may request that the employee applies to be excused from or have the jury service deferred.
- 8.4 The Trust is not required to pay employees while they are absent on jury service. You will be advised at court of the expenses and loss of earnings that you can claim. We pay basic pay to employees who are doing jury service less any amounts you can claim from the court for lost earnings for up to 10 working days. Payment for time off beyond 10 working days may be paid at our discretion.

Voluntary Public Service

- 8.5 Employees are entitled to a reasonable amount of unpaid time off work to carry out certain public duties. All employees may be granted up to 3 days' paid leave to perform voluntary public service duties. Any additional leave will be granted on an unpaid basis subject to the exercise of our discretion to grant further paid leave.
- 8.6 Public service duties include service as a:

- (a) Tribunal member
- (b) Magistrate
- (c) Local councillor
- (d) Member of an NHS Trust
- (e) Prison visitor
- (f) Lay visitor to police stations
- (g) School/Academy/Trust governor

- 8.7 If you are unsure whether a public service that you perform is covered by this Policy, you should speak to the Headteacher.
- 8.8 As soon as you are aware that you will require time off for performance of a public service you should notify the Headteacher in writing, providing full details of the time off that is being requested and the reasons for your request.
- 8.9 The School will agree to requests for time off to undertake public duties wherever reasonably possible, having regard to the criteria set out in this policy. If it is not possible to accept a request you will be given written reasons for our decision.
- 8.10 Each request for time off will be considered on its merits, in the circumstances in which it is made including:
- (a) Whether the activity is reasonable in relation to your employment.
 - (b) How much time off is reasonably required for the duty in question.
 - (c) How much time off you have already taken for the public duty in question.
 - (d) What affect your absence will have on the School

Reserve forces duties

- 8.11 We are aware that employees who are members of the Reserve Forces (the Territorial Army, Royal Navy Reserve, Royal Marines Reserve or Royal Auxiliary Air Force) may be called-up at any time to be used on full-time operations and will be expected to attend regular training.
- 8.12 Employees who need time off for reservist commitments are expected to use existing holiday entitlement. In exceptional circumstances we may grant additional leave (either paid or unpaid) in order for these commitments to be met.
- 8.13 Whilst we will do everything possible to meet your request for leave it may not always be possible for operational reasons. If we receive notice that you have been called-up there may be occasions when we need to apply to an adjudication officer for the notice to be deferred or revoked if your absence would cause serious harm to the School (which could not be prevented by the grant of financial assistance).
- 8.14 Once your military service has ended you may submit a written application for reinstatement to your employment. This should be made by the third Monday following the end of your military service and you should notify us of the date on which you will be available to restart work.

- 8.15 If it is not reasonable and practicable to reinstate you into your former employment, we will offer you the most favourable occupation on the most favourable terms and conditions which are reasonable and practicable.
- 9. Professional Examination Duties**
- 9.1 The School will authorise leave for teachers to undertake professional duties in connection with GCSE, GCE A Level and other public examinations in line with the provisions of the Burgundy Book (Section 6). This also gives details of how the school may be reimbursed when a teacher has to be released.
- 10. Redundancy – support for Job Seeking**
- 10.1 Employees who have been identified by the Trust as redundant will be allowed reasonable time off to support them with securing alternative employment. The amount of time-off is at the discretion of the Executive Headteacher/Headteacher. Each case will be considered on its merits.
- 11. Religious Festivals**
- 11.1 Employees whose religious beliefs require the observance of festivals which fall on days upon which they would normally work, may be granted up to 3 days leave without pay.
- 11.2 Employees must inform the Headteacher at the start of each academic year of any dates that they may need to request time off for. Where this is not possible employees should provide this information as soon as they are able to and no later than 10 working days before the date of the requested leave.
- 12. Time off for Trade Union Duties and Activities**
- 12.1 The Trust wishes to support employees with time off for Trade Union activities.
- 12.2 Trade Union Representatives are entitled to reasonable paid time off to carry out Trade Union duties and activities, to undergo training and to accompany a worker to a grievance or disciplinary hearing. A Trade Union Representative means an officer of the union or an employee elected or appointed in accordance with the union's rules to be a representative of union members in the workplace.
- 12.3 Union learning representatives have a right to reasonable paid time off to perform their duties and undergo training.
- 12.4 Union members have a right to reasonable unpaid time off when taking part in Trade Union activities.
- 12.5 Employees should be aware that there will be occasions where, for operational reasons, or where the School believe the time off to not be reasonable, requests can be declined. Each application for time off will be assessed on its merits and the determination will ultimately depend on the needs of the School at the time of the request and consideration will be given to:
- (a) the nature and timing of the request;
 - (b) the amount of time off previously granted or planned for the future;
 - (c) the number of representatives or members seeking time off within a given period; and
 - (d) the legitimate need of the union representative or union learning representative to discharge their functions.

- 12.6 If a union representative, union learning representative or union member is aggrieved by a decision to refuse time off to undertake their duties, training or activities, they should raise the matter in accordance with Trust's Grievance Policy.

Time off for Union Representatives Duties

- 12.7 Employees who are representatives of an independent Trade Union recognised by the Trust for collective bargaining are permitted reasonable paid time off to:
- (a) carry out their duties in connection with:
 - (i) negotiations in relation to collective bargaining
 - (ii) the performance of other permitted functions related to collective bargaining;
 - (iii) information and consultation over collective redundancies or TUPE transfers and
 - (iv) agreeing new terms for the workforce following a TUPE transfer in an insolvency situation
 - (b) undergo training in aspects of industrial relations relevant to those duties which has been approved by the Trades Union Congress or by the trade union.
 - (c) accompany a fellow worker to a disciplinary or grievance hearing

Time off for Union Members - Activities and Learning

- 12.8 An employee who is a member of an independent Trade Union recognised by the Trust in relation to their position is permitted reasonable unpaid time off to take part in a Trade Union activity or to consult a union learning representative. Examples of Trade Union activities include voting in union elections and attending relevant workplace union meetings, but not participating in industrial action

Time off for Union Learning Representatives

- 12.9 Employees who are members of an independent Trade Union recognised by the Trust can take reasonable time off to perform duties as a union learning representative, providing that the union has given the School notice in writing that the employee is a learning representative of the Trade Union and that the representative is, or will be, sufficiently trained to carry out the learning representative duties. The purpose of a learning representative includes arranging training, promoting the value of training and analysing training needs

Requesting time off - Trade Union representatives and learning representatives

- 12.10 Employees that are Trade Union representatives or Trade Union learning representatives should ensure that their Trade Union has provided written confirmation of this to the School.
- 12.11 The Headteacher will meet with the employee to discuss their union role and the amount of time and facilities that the School believes to be reasonable to enable the employee to carry out their union duties.
- 12.12 When making a request for time off the employee should provide as much notice as possible and give further details, such as the location, timing, duration and purpose of the time off. The Headteacher will look at each request and the circumstances before deciding what is reasonable.
- 12.13 Both parties accept the need to be flexible within this process and recognise their duties and obligations to the School. The parties will seek to agree a mutually convenient time for the duties or

activities, with minimum disruption to the teaching and learning at the School. Where possible, the recognised Trade Union(s) will arrange workplace meetings towards the end of the working day or near break times.

Requesting Time Off - Trade Union Members

12.14 Employees who want to request time off for Trade Union activities during working hours should make a request to the Headteacher giving as much notice as possible and provide further details, such as the location, timing, duration and purpose of the time off. The Headteacher will look at each request and the circumstances before deciding what is reasonable.

13. Unpaid Special Leave

13.1 The following is intended to complement the paid leave provisions, particularly in relation to compassionate leave. They cover special absence for personal or family reasons, e.g. to visit relatives who live abroad or to nurse a sick person. The guidelines apply:

- (a) for types of unpaid leave not covered elsewhere by specific agreement e.g. in national or local conditions of service;
- (b) only in exceptional circumstances e.g. of a personal or domestic nature;
- (c) where the employee has a minimum of one year's service at the date of commencement of the leave.

13.2 The employee should submit the request in writing giving details of the absence required and the reasons.

14. Retention and Data Protection

14.1 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

- (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 Privacy Notice, our Retention and Erasure Policy and in line with the requirements of the Data Protection Legislation.

15. Review of Policy

15.1 This policy is reviewed every three years by Invictus Education Trust Board of Directors. We will monitor the application and outcomes of this policy to ensure it is working effectively.



REQUEST FOR DISCRETIONAL LEAVE OF ABSENCE

Section 1 Completed by Employee		
Employee Name:	Payroll Number:	
Location/School:	Position:	
Leave of Absence start date:	Leave of Absence end date:	
Reason for discretionary leave of absence:		
Employee Signature:	Date:	
When Section 1 is completed by the employee, the form should be submitted to the Headteacher		
Section 2 to be completed by designated person	Yes	No
This request for discretionary leave of absence is granted with pay		
This request for discretionary leave of absence is granted without pay		
This request for discretionary leave of absence has not been granted for the following reasons		
Number of days of discretionary leave of absence already granted in 12-month period	Days:	
Headteacher Signature:	Date:	
A copy of the completed form should be returned to the employee and the original version should be retained on employee's file.		