



# Absence and Special Leave Policy

Phoenix Community Primary School

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## Sickness Administration and Monitoring

### Administration

All Sick Absence must be reported to the Headteacher or Deputy Headteacher in the first instance.

#### Self-Certification form

This must be completed by the employee on their return to work if the period of sickness absence has lasted for 7 days or less. The Headteacher (or delegated member of staff) should countersign the form so that they have seen the employee's explanation for absence and to confirm that there is no reason to doubt that the absence was genuine.

#### Medical certificates

if the absence continues for 8 consecutive days or more, including weekends and rest days, the employee must contact his/her doctor to be medically certified unfit for work. Schools should keep details of the certificates but return the originals to the employees. In these cases, the employee should not return to work until the medical certificate has expired or unless certified fit to do so by his/her doctor.

#### Instruction to payroll

The Office Manager will complete the relevant forms both at the beginning and the end of a period of sickness absence: failure to do so could have financial implications for both the employee and the school's budget if the statutory and occupational sick pay regulations are not correctly applied.

## Monitoring

### At employee level

Records are kept for each employee to monitor individual sickness absence. Using a summary form it should be possible to identify patterns (i.e. intermittent but frequent absence, long bouts of sickness) for each employee. It also enables comparisons to be made and provides evidence should an individual need to be approached in respect of sickness absence.

### At school level

Increasingly external organisations such as the DfE are requiring detailed statistics from schools and it is essential that Phoenix retain this information (preferably in DfE format). Completed sickness administration forms referred to above are the source data.

### Return to Work

Guidance procedures are at Appendix 2.

## Management of Special Leave

### Parental Leave

Due to new legislation for additional Paternity Leave the full Schools Personnel Services briefings for Maternity Leave are appended at Appendix 3 for Becoming a Parent (birth of a child) and Appendix 4 for Becoming a Parent (adopting a child)

NB: If an employee attempts to claim parental leave dishonestly, then he/she may be subject to the Governing Body's disciplinary procedure.

### Implications for Pension Provision

Pension contributions must be paid for the first 30 days absence. (N.B. This will therefore cover the maximum 4 week period of parental leave allowed in any one year).

NB: Although there is now a statutory right to unpaid time off in certain circumstances, the Governing Body will be approached for any paid time off, with the discretion to manage this available to the Headteacher.

### Compassionate Leave

The Headteacher (on behalf of the Governing Body) has authority to grant up to 10 working days paid leave of absence in any one year on compassionate grounds. This paid provision is over and above the statutory provisions for unpaid leave as contained in the Employment Relations Act 1999 (see (b) below). Clearly, a combination of paid and unpaid leave can also be granted.

The Governing Body has decided that the following should be paid leave.

- Attendance at in-service training short courses, professional conferences, meetings of examination boards.
- Moving house (only where removal cannot take place in school holidays or at weekends).
- Death of mother, father, spouse, child, brother or sister and attendance at funeral.
- Wife having a baby.

### Time off for Dependants - Statutory Rights

With effect from 15<sup>th</sup> December 1999 the Employment Relations Act 1999 introduced a statutory right for employees to take a reasonable period of time off work to deal with a family emergency involving a dependant which relies on the employee for assistance. Employees also have the right not to be unreasonably refused time off, dismissed or victimised for doing so.

There is no qualifying period and the leave is unpaid. The employee should be allowed a 'reasonable' period of unpaid leave to cope with unexpected domestic crisis; there is no limit to the amount of leave and each case will need to be considered on its own merits in a sensitive and practical way with due regard to the particular circumstances. As a guide, the leave should be sufficient to help the employee to deal with the unexpected or sudden problem, and make any necessary longer term arrangements.

Circumstances for which leave may be granted are:

- If a dependant suddenly falls ill, is injured or assaulted, or gives birth,
- The death of a dependant or someone close to the employee,
- If a child is involved in a serious incident at school or during school hours,
- A sudden breakdown in care arrangements for a dependant,
- Dealing with a crisis relating to a family member requiring immediate attendance, e.g., to make longer term care arrangements for a dependant who is ill or injured.

With reference to the above, it may be appropriate in the circumstances outlined in (b), to offer paid compassionate leave. The Headteacher will, on behalf of the Governing Body, give due regard to the particular circumstances of each case, in relation to its sensitivity and impact on the employee. In some circumstances it may be appropriate to award a combination of paid and unpaid leave.

It may not be considered appropriate to award paid or unpaid leave in circumstances where the employee can be reasonably expected to make alternative plans or arrangements which may therefore not require their assistance, or where the arrangements can be undertaken

outside of term-time e.g., where the employee knows in advance that the problem is going to arise, or by using annual leave.

### Special Leave

The Governing Body has decided that these cases will be dealt with on a case by case basis. Whilst recognising that there can be instances when leave may be required for 'social' reasons during term time, the Governing Body needs to ensure that this is within the operational capabilities of the school. For example the Governing Body would not want to grant leave during SATs weeks or other critical times.

The Governing Body has delegated to the Headteacher the authority to grant special leave for periods of up to 5 school term days. For periods in excess of the 5 days, the Chair, acting on behalf of the Governing Body, must be consulted. All Special Leave in 'social' circumstances is unpaid.

### Leave for Religious Observance

There may be occasions when an employee requests time off to observe a religious festival or event.

The majority of employees in schools work on a term-time basis. Where an employee applies to take time off during term-time for reasons of religious observance, Headteachers should endeavour to grant unpaid leave.

Governing Bodies have the discretion to grant paid leave for this purpose, in these circumstances the management of the entitlement and discretion has been devolved to the Headteacher.

For those support staff employed on all year round contracts and able to take their leave during term-time, such time off should usually be taken as part of the employee's annual leave entitlement. Headteachers should give priority consideration to granting annual leave in these circumstances.

In order to limit any operational difficulties for the school all such leave (whether annual, paid or unpaid) should be planned for in advance and the employees should give as much notice as possible of their application for leave.

### Role of the Governing Body

The Headteacher is responsible for managing absence. However, all absence rates are reported to the Governing Body on a termly basis, and the Headteacher also reports on action being taken to address absence problems (no individual employees details are mentioned as this could prejudice Governors who might be involved formally at a later stage.)

References to the management role of the headteacher include his/her nominee.

Where the absence or leave of the Headteacher is an issue, the management role is undertaken by the Chair of Governors, with appropriate professional advice and in liaison with the LA.

It should be noted that Governing Bodies have legal responsibilities under the Disability Discrimination Act 1995 (see Appendix 1).

This policy has been drawn up by the Governing Body and Headteacher with guidance from the LA.

Please note that full consultation has taken place with recognised trade unions on this document; however, not all of the document has necessarily been agreed with all the trade unions.

## Appendix 1: Equality Act

Employers have responsibilities within the terms of the Equality Act 2010. It is against the law for an employer to treat a person less favourably than someone else because of their disability, unless there is good reason.

The Act gives rights to people who have had a disability which makes it difficult for them to carry out normal day to day activities. The disability could be physical, sensory or mental. It must be substantial and have a long term effect (that means the disability must last or be expected to last for 12 months). However, conditions which have a slight effect on day to day activities, but are expected to become substantial are covered.

In order to help a disabled person to do the job, headteachers have to look at what changes they could make to the workplace or to the way the work is done, and make any changes which are reasonable. You can take into account how much the changes would cost and how much they would help when considering what is reasonable. You should also take into account other implications such as any impact on school effectiveness or the education of pupils.

Further advice can be sought from your Area Personnel Team. Additional advice and support is available from the Council's Occupational Health Service and the PACT Team located at the local Employment Office.

## Appendix 2: Return to Work Guidance Procedures

### Long Term Absence

The following is intended as general guidance. Each case should be dealt with according to the individual circumstances.

#### After 1 Week

The Headteacher (or his/her representatives) should keep in regular contact with the individual so:

- the employee does not feel isolated; and
- the headteacher maintains an accurate picture of the circumstances.

Regular contact by telephone or letter should be considered depending on the circumstances.

#### After 4 Weeks

Where an employee has been absent for a period of 4 weeks, the headteacher should:

- Establish the state of the employee's health through direct contact and/or reference to the medical certificates. (In some cases, on grounds of sensitivity, it may be appropriate for someone in the school other than the headteacher to make this contact).
- Consider writing to the employee, the purpose of which is to enquire about the employee's health and to ask the individual to inform the headteacher, whether she/he has an indication about when he/she will be fit to return to work.
- With sensitivity, to ask the employee if they would like to receive information about issues arising and events happening in the school generally.
- Consider arranging a meeting with the employee.

#### After 8 Weeks

Consideration should be given as to whether it is appropriate for an appointment with an OHA should be arranged as soon as it is known that the absence will be long term, or as a guideline, after 8 weeks absence. Further advice on medical referrals is available from Area Personnel.

#### On Receipt of the Report from the Occupational Health Adviser

From the information provided in the medical report the headteacher should ascertain when and if the employee will be fit to return to work. If the medical report does not indicate that the employee will be fit to return in the foreseeable future then a review meeting should be arranged with the individual and the headteacher, and the employee should be advised that they have the right to be accompanied by a trade union representative or workplace colleague.

### The First Review Meeting

The purpose of this meeting is as follows:

- To investigate whether there is any action the headteacher can take to assist the employee's return to work.
- To ascertain if the individual is able to indicate when she/he will be fit to return to work.

Possible outcomes of the meeting with the employee:

- The employee is able to indicate a date in the foreseeable future when she/he is fit to return to work (and this is not contradicted by the OHA/GP). In this case the situation should be monitored. If action has been agreed to assist the employee's return this should be arranged.
- The employee is unable to indicate a date in the foreseeable future when she/he is fit to return to work.

If the employee is unable to indicate that she/he will be fit to return to work in the foreseeable future the headteacher should inform the individual that his/her future employment will be reviewed. This review will be made on the basis of the information obtained from the Occupational Health Adviser and at the meeting with the employee. A further review should be arranged (the Second Review meeting). The date of this review will depend on the circumstances, as a guideline it should be after a period of 4-6 weeks. (At this review date it may be necessary to meet the employee again or it may be possible to make a decision based on the information available).

Following the meeting a letter should be sent to the individual outlining what was discussed. If there is no foreseeable return to work, the letter should also confirm that the employee's employment is being reviewed and ultimately a possible outcome could be termination on the grounds of capability due to ill-health.

### The Second Review Meeting

The possible outcomes of the second Review meeting will be the same as the First Review meeting (see above). It may be necessary for a further review period or it may be possible to make a decision on the information available. If the employee is unable to indicate a date in the foreseeable future when she/he is fit to return to work, the headteacher, having reviewed the case, can reach the conclusion that the employee is no longer capable of discharging the terms of his/her contract of employment and can decide to recommend to governors, termination of employment on the grounds of capability due to ill-health. A hearing of the appropriate Committee of the Governing Body should be convened accordingly. Please refer to the Personnel Manual for schools, Handling Disciplinary Matters for guidance on the arrangements for the hearing. However, it should be noted that this in no way implies that absence is a disciplinary matter. In most cases the headteacher will be unable to make this assessment legally and reasonably until the employee has had the opportunity to address the issue, in that (at least) one review has taken place and two review meetings have been held with the employee.

### Termination - Governors Responsibilities

On the basis of the case made Governors will decide what action is to be taken. A decision may be taken to allow further time for improvement or to dismiss the employee, in which case they must also give the employee the right to appeal to the Appeals Panel of the Governing Body.

Governors must be satisfied that they have treated the employee reasonably and have not acted with undue haste. When making this judgement governors should balance the needs of the employee with the needs of the school. It is important to take into account the circumstances of the case, for example how long the employee has worked for the school, the nature of the illness and, the likelihood of the employee returning to work within the foreseeable future.

### Short Term Absence

In terms of managing the school, intermittent absence may cause as many (and sometimes greater) problems as long-term absence. It is therefore important that this issue is addressed effectively.

#### Initial Action

Where there are periods of multiple short term absences which cause concern the headteacher should, in the first instance, review the causes of the absences. In some cases, on review of the available evidence, it may be that no further action is necessary at this stage. However, where action is required, an informal meeting should be arranged with the individual. As this is an informal meeting, normally this should be between the headteacher and employee only. The purpose of the meeting will be as follows:

- To identify, with the help of the employee, possible reasons for the absences (e.g., stress from work, stress from outside work, lack of ventilation in the classroom causing asthmatic problems);
- To inform the employee of his/her level of absence and the effect it has on work performance and the school;
- To give the employee an opportunity to explain;

If feasible to work out a plan with the employee, to support the individual to improve their attendance by trying to address any possible reasons for the absences;

The Headteacher may wish to make clear their expectations in respect of attendance and arrange a review date. The review date will depend on the individual case, but it is recommended that 6 weeks is used as a guideline.

If there appears to be an underlying medical condition consideration should be given to a referral to an Occupational Health Adviser. It may also be appropriate to seek advice in respect of the Disability Discrimination Act (Appendix 1)

Specialist advice is also available through the Area Personnel Teams.

### Informal Review Meeting

The headteacher should review the attendance record since the previous meeting.

Possible outcomes of the meeting:

- Attendance improves to a required standard in which case the employee should be informed and a note placed on the personal file. However, the headteacher should continue to monitor the attendance level to ensure satisfactory standards are maintained, and the employee should be aware of this;
- The headteacher may decide to proceed to a Formal Absence Review meeting. The employee must be given the opportunity of having a trade union representative or workplace colleague present at this meeting.
- The employee should be referred to the Occupational Health Adviser if this has not previously been done. One purpose of this is ascertain whether there is an underlying medical condition contributing to the high level of absence and, if so, whether the OHA has any advice on action the school could take to support the employee in improving his/her attendance.

### Formal Review Meeting

Purpose of the formal meeting:

- To consider whether the employee will be able to maintain a satisfactory level of attendance and to set targets, by agreement wherever possible
- To consider whether there is any action the school can take to assist the employee in attaining a satisfactory level of attendance.
- To clarify with the employee that insufficient improvement could ultimately lead to termination of employment.

The possibility of redeployment on medical grounds within and outside of the school should also be considered, while recognising that redeployment outside the school is problematic under delegated employment powers for schools.

In considering the above options the headteacher should refer to the opinion received from the Occupational Health Adviser.

After the meeting a letter should be sent from the headteacher to the employee outlining what was discussed and the outcome of the meeting. The letter should also contain a review date, which will vary according to the circumstances, as a guideline, 6 weeks after the meeting at which time a further Formal Review Meeting should be held. The employee should be told that insufficient improvement over this period could ultimately lead to dismissal for reasons of 'Capability due to ill-health' or 'Some Other Substantial Reason' (depending on the case, Area Personnel can advise).

If after this Formal Review period the headteacher considers that the only feasible option is to consider the termination of the employee's employment (the Headteacher could decide to have a further Formal Review period) the employee should be informed in writing and a meeting of the appropriate Committee of the Governing Body convened.

### Termination: Governors' Responsibilities

On the basis of the case made Governors will decide what action is to be taken. A decision may be taken to allow further time for improvement or to dismiss the employee. Governors must be satisfied that they have treated the employee reasonably and must give the employee the right to appeal to the Appeals Panel of the Governing Body, if they decide to dismiss.

## Appendix 3: Maternity Support Pay and Leave

### Becoming a Parent (Birth of a Baby) Maternity Support Pay and Leave for Kent Scheme Staff



#### Introduction

Maternity Support leave and pay is a provision for staff, male or female, to take time off work to support the mother of a child.

#### Statutory Paternity Provision

If you take time off work to support the mother of a child, you may be entitled to:

- Statutory Paternity Pay (SPP) - This is a weekly amount set by the Department for Work and Pensions or 90% of your average weekly earnings, whichever is less
- Statutory Paternity Leave (SPL) - up to two weeks time off.

#### Contractual Maternity Support Provision

If you take time off work to support the mother of a child you may be entitled to:

- Contractual Maternity Support Pay (CMSP) – you will receive full pay
- Contractual Maternity Support leave (CMSL) – up to two weeks time off.

#### Am I entitled?

SPP, CMSP and maternity support leave are available to:

- the biological father
- civil partner or husband who is not the baby's biological father
- person living with the mother in an enduring family relationship, but not an immediate relative

You must be able to declare that you are in one of the relationships mentioned above and:

- you will be responsible for child's upbringing, and
- you will take time off work to support the mother or care for the child.

#### How long do I have to work for the school or the Local Authority before I qualify?

You must be continuously employed by the school (or schools maintained by Kent LA where the current or previous employer is the Local Authority) for at least 26 weeks prior to the 15th week before the baby is due and still be employed by the school or the Local Authority up until the baby is born.

#### Do I have to earn a certain amount?

To get SPP you must have average earnings over a set period above the lower earnings limit for NI purposes.

#### How much time can I take off?

You can choose to take one or two whole consecutive weeks leave any time up to 8 weeks (56 days) after the date of birth. If the baby is born early you can choose to take leave any time between the actual date of birth and the end of an 8 week period running from the

Sunday of the week the baby was originally due. You cannot take odd days off work, but the weeks can start on any day, for example Tuesday to Monday.

**When do I have to notify my Headteacher about taking leave?**

You must discuss your leave with your Headteacher and confirm what time off you wish to take by the 15th week before the baby is due. Please ask the school office for an application form. This is available from the SPS website – [www.the-sps.co.uk](http://www.the-sps.co.uk)

**Can I change my mind about the dates I want to take?**

Yes, you can change your mind about but you must give 28 days notice of the revised dates.

**What happens if I can't give the correct notice?**

If it is not reasonably practicable for you to tell what time off you want to take by the 15<sup>th</sup> week before the baby is due, or the baby is born sooner or later than expected, please discuss the situation with your Headteacher as soon as possible.

**How do I apply?**

Complete the application for maternity support leave form. If you need help with the application form, please talk to your Headteacher in the first instance.

The completed form should then be signed by your Headteacher and sent to your SPS Team (where applicable).

**What can I do if I am not entitled to SPP or CMSP?**

If you are not entitled to SPP or CMSP you may be entitled to other government help. Contact your local job centre plus/social security office.

If you require any further help or information, please talk to your Headteacher.

## Appendix 4: Adopting a Child

### Becoming a Parent (Adopting a Child) Maternity Support Pay and Leave for Kent Scheme Staff



#### Introduction

Maternity Support leave and pay is a provision for staff, male or female, to take time off work to support the mother of a child.

#### Statutory Paternity Provision

If you take time off work to support the mother of a child you may be entitled to:

- Statutory Paternity Pay (SPP) - This is weekly amount set by the Department for Work and Pensions (currently £123.06 per week) or 90% of your average weekly earnings, whichever is less
- Statutory Paternity Leave (SPL) - up to two weeks time off.

#### Contractual Maternity Support Provision

If you take time off work to support the mother of a child you may be entitled to:

- Contractual Maternity Support Pay (CMSP) – you will receive full pay
- Contractual Maternity Support leave (CMSL) – up to two weeks time off.

#### Am I entitled to Maternity Support Leave and Pay when adopting a child ?

SPP, CMSP and paternity leave are available to any employee (male or female) who is:

- the partner or someone adopting a child on their own, or
- adopting a child with their partner

You must be able to declare that you are:

- civil partner or married to the person adopting the child, or
- living with the person adopting the child in an enduring family relationship, but are not an immediate relative, and
- you will be responsible for child's upbringing, and
- you will take time off work to support the person adopting the child or to care for the child.

If you and your partner are adopting a child together you must also declare that you have chosen not to receive Statutory Adoption Pay (SAP) personally. Your partner may be in receipt of SAP which does not affect your ability to claim maternity support leave and pay.

#### Does it apply to step parents and foster parents?

SPP, CMSP and CMSL are not normally available to foster parents who go on to adopt the child.

SPP and CMSP and CMSL are not available to those adopting the children of their partners (i.e. not newly matched)

#### How long do I have to work for the school or the Local Authority before I qualify?

To qualify you must be continuously employed by the school (or schools maintained by Kent LA where the current or previous employer is the LA) for at least 26 weeks up to and including the week the person adopting the child is told that they have been matched with the child, and remain employed by the school or the Local Authority until the child is placed with them.

#### Do I have to earn a certain amount?

To get SPP you must have average earnings over a set period above the lower earnings limit for NI purposes.

#### How much time can I take off?

You can choose to take one or two whole consecutive weeks leave any time up to 8 weeks (56 days) after the date the child is placed. You cannot take odd days off work, but the weeks can start on any day, for example Tuesday to Monday.

#### When do I have to notify my Headteacher about taking leave?

You must discuss your leave with your Headteacher and tell them what time off you want within 7 days of the date the adoption agency telling the person adopting the child that they have been matched with the child. You can use the application form as your formal notification. This is available from the SPS Website – [www.the-sps.co.uk](http://www.the-sps.co.uk)

#### Can I change my mind about the dates I want to take?

Yes, you can change your mind but you must give 28 days notice of the revised dates or as much notice as is reasonably possible and agree this with your Headteacher.

#### What happens if I can't give the correct notice?

If it is not reasonably practicable for you to tell what time off you want to take please discuss the situation with your Headteacher as soon as possible.

#### How do I apply?

Complete the application for maternity support leave form. If you need help with the application form, please talk to your Headteacher.

The completed form should then be signed by your Headteacher and sent to your SPS Team (where applicable).

#### What can I do if I am not entitled to SPP or CPP?

If you are not entitled to SPP or CMSP you may be entitled to other government help. Contact your local job centre plus/social security office.

If you require any further help or information, please talk to your Headteacher in the first instance.