

STAFF DISCRETIONARY LEAVE OF ABSENCE POLICY

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As part of our focus on diversity and inclusion, BDAT pledges that our policies will seek to promote equality, fairness, and respect for all staff and students. Our policies reflect the BDAT values of inclusion, compassion, aspiration, resilience, and excellence. By working closely with a range of stakeholders, such as our school, the recognised trade unions, and HR colleagues, we have ensured that BDAT's policies do not unlawfully discriminate against anybody.

1. Policy Statement

Bradford Diocesan Academies Trust (BDAT) regards the excellent attendance of both students and staff as integral to the success of their academies. For the purpose of this policy, the term Trust refers to BDAT schools and the central office. This policy is applicable to all staff.

The Trust recognises that the effectiveness of the academy/central office 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. Leave of absence requests that are not subject to statutory provision are at the Trust's discretion.

High levels of absence among staff can pose a serious problem for academies/the central office in terms of disruption to teaching programmes, student's learning and other areas of the Trust'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 for leave to be taken during term time must be regarded by all as the **exception**. Requests for leave of absence from term time only staff for the purpose of taking holidays and/or contributing to holidays will **not** be granted.

The Trust expects that term time only staff will arrange their holidays during Academy closure periods. It is also expected that staff will give consideration as to how absences may be arranged to cause the least inconvenience for the Academy.

This policy will be implemented in accordance with the following Trust policies:

- Staff Attendance Management Policy
- Staff Complaints and Grievance Policy
- Disciplinary Policy

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 1 – "Leave of Absence Request Form". This should be submitted to the CEO/Principal/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 same process will be used by the Principal/Head Teacher except that the request will be submitted to the Chair of Governors who will then discuss all planned absences with the CEO of the Trust. In the case of the CEO, the request will be submitted to the Chair of Trustees.

The request should be made **with as much notice as possible** so that proper consideration can be given to the request and to enable appropriate cover to be arranged in the event of the absence being approved. Any requests for leave of absence should be submitted twice the length of time of the planned leave in advance e.g. if an employee is requesting 1 day of leave, they must provide 2 working days' notice.. Prior notice of more than three months is not required however, would be helpful to the academy/central office for planning purposes.

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

2.2 Considering Leave of Absence requests

Requests for leave of absence will be considered by 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/Principal/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/Principal/Head Teacher rejects an application based on impact to service provision, staff working in an academy are entitled to appeal the decision to the Local Governing Body, or staff working in the central office are entitled to appeal the decision to their line manager.

The CEO/Principal/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/Principal/Head Teacher rejects an application based on impact to service provision, staff are entitled to appeal the decision to the Local Governing Body (LGB), or Trust in the case of central staff.

All decisions will be confirmed in writing within 10 working days. In the case of refusal, reasons will be given. If the start date for the requested leave falls before the 10 working days, then a decision will be confirmed in writing to the staff member before the start date for the requested leave.

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 and grievance procedures will be used. There is no further level of appeal.

2.3 Unpaid leave

The methods to be used for the calculation of adjustments to pay during periods of leave of absence without pay are contained in the relevant conditions of service, applying to teachers (STPCD) and other staff (Green Book or other relevant terms and conditions of service).

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 directly 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 including possible gross misconduct. The Disciplinary Policy provides further information on this.

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 *(Employment Rights Act 1999)*

Employees and trade union representatives 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 *(Employment Rights Act 1996)*

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 can take time off within working hours while under notice as this right comes into force from day one of employment.

3.3 Time off for Trade Union duties (including Union Learning Representatives) and for Safety Representatives *(Employment Act 2002)*

Employees carrying out these roles are entitled to reasonable paid time off work to undertake those duties and to undergo training. Please contact the central Trust for a copy of the JCNC agreement.

3.4 Time off for occupational pension scheme Trustees and Directors of Trustee companies *(Employment Rights Act 1996)*

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 central staff, this is at the Trust's discretion.

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/central office remains open as usual. This policy defines bad weather as strong winds and storms, flash floods, snow, an extreme cold spell, or an extreme heatwave. 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/Principal/Head Teacher and will be at the CEO/Principal/Head Teacher's discretion. These include but are not limited to:

- working from home or at a different location.
- coming in a little later than usual if the travel disruption or weather is expected to improve.
- taking time off as paid annual leave (this applies to All Year Round staff only).

Where this is not possible, non-attendance will normally be treated as unpaid leave, but exceptional circumstances may warrant paid leave.

In an emergency situation involving a dependent which is a direct result of bad weather conditions, an employee has the right to take unpaid time off. An emergency situation could include but is not limited to:

- caring arrangements for a child/children are cancelled and there are no available alternatives e.g. their school is closed.
- caring arrangement for a disabled relative are cancelled.
- a partner is seriously injured as a result of bad weather.

The Trust will always aim to be flexible, fair, and consistent in cases of bad weather conditions. There are a number of steps an employee should also take to plan ahead. They should consider:

- how they can contact the academy/central office if they are unable to get into work.
- if they are unable to get into work, they should inform the academy/central office as soon as possible.
- what tasks they can complete from home.
- what urgent work needs to be covered in their absence.

3.7 Attendance at Court Proceedings (*see Juries Act 1974*)

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, or the Trust's payroll team in the case of central staff. 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 contact your HR Advisor for more specific advice.

3.9 Time off for Dependants (*Employment Rights Act 1996, as amended by the Employment Relations Act 1999*)

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. Please see Appendix 2 for BDAT's schedule of discretionary leave.

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 paid time off for incidents of this kind is at the Principal/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.

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 in appendix 3 of this document for supporting information. Other requests for substantial religious leave will be considered on the same basis.

3.11 Time off for public duties and activities

(Employment Rights Act 1996)

Subject to the needs of the academy, employees are entitled to reasonable time off in order to carry out public duties and activities. An employee can get reasonable time off if they're:

- a magistrate (also known as a justice of the peace)
- a local councillor
- a school governor
- a member of any statutory tribunal (for example an employment tribunal)
- a member of the managing or governing body of an educational establishment
- a member of a health authority
- a member of the Environment Agency
- a member of the prison independent monitoring boards
- a trade union representative or official (for trade union duties)

The amount of time off should be agreed between the employee and Trust beforehand, based on how long the duties might take, the amount of time the employee has already had off for public duties, and how the time off will affect the business. The Trust reserves the right to refuse a request for time off if it is believed to be unreasonable. The Trust cannot refuse an employee time off to do jury service.

3.12 Bereavement leave

All requests for bereavement leave will be treated sympathetically and will be granted at the discretion of the CEO/Principal/Head Teacher or Chair of Governors.

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 Principal/Head Teacher in the case of academy staff and the line manager in the case of central staff will consider the request taking into account any financial, organisational or educational effects on the academy/Trust, 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 (*Section 63D of the Employment Rights Act 1996*)

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. However, if the training will be beneficial to the employee specifically in regard to their role within the Trust, then the Trust will cover any costs. These costs, including the employee's pay, will be considered on a case by case basis. If the training is unrelated to the employee's role within the Trust, then the Trust will be unlikely to cover the costs.

4. Leave of Absence Schedule

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

See Appendix 2 on pages 13-15..

5. Apportionment

For the purpose of calculating deductions for additional annual leave, unpaid absences (including strike days) and sickness entitlement where you do not receive contractual sick pay – each working day shall be worth :

- 1/195th of your annual (FTE) salary for teachers.
- 1/260th of your annual (FTE) salary for support staff.
- The category that central team staff fall into is specified in individual contracts.

LEAVE OF ABSENCE REQUEST – EMPLOYEE PROFORMA

Staff Member's Name:	Staff Member's Line Manager:

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		
Paid	YES	NO
Rationale		

Employee Signature:

Date:

CEO/Principal/Headteacher Signature:

Date:

**Appendix 2 to
Staff Discretionary Leave of Absence March 2023**

Schedule for Discretionary Leave of Absence			
	Reason for absence	Maximum period of absence (school days)	
1	Death of member of immediate family (defined below)	Up to 5 days	With pay
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 Examiners for GCSE 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 Principal/Head Teacher	Head and LGB to retain discretion	With pay
8	Other examination leave and study where not directly related to the job.	As approved by the Trust at the Principal/Head Teacher's recommendation	Without pay
9	Attendance at annual camp as volunteer member of The Territorial and Army Volunteer Reserve and the like where this is clearly unavoidable	Up to five days and Remainder	With pay And Without pay
10	School Governor Activities (excluding attending standard LGB or Committee meetings) to include statutory governor visits, hearings or attending Ofsted inspections.	Full day equivalent to be taken as required	With pay

11	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
12	Removal of home, when buying/selling home	1 day in any 12 months	With pay
13	Representatives of trade unions attending annual conferences and taking part in formal consultations with representatives of this Trust or at national or provincial level	See JCNC Agreement	With pay
14	Illness of member of immediate family	2 days in any 12 months	With pay
15	Hospital attendance of self and Of immediate member of family with the exception of grandparents and grandchildren When an employee has dependents who have medical conditions which require regular hospital visits, these appointments will not be treated as sickness absence but be paid leave. The employee would need to submit proof of all appointments.	1 day on production of an appointment letter and 1 day in any 12 months	With pay or With pay
16	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
17	Other urgent or private family business	Up to 1 day in any 12 months	Without pay
18	Attendance of father/partner at the birth of their child NOTE: this leave is only applicable to a person who does not qualify for paternity leave.	Up to 2 days at the discretion of the Principal/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>
<i>Carer</i>			

* EXCEPT for “Wedding of any member of immediate family” where immediate family does not include:

Grandparents, Parents-in-law and Grandchildren

Supporting Information

Hajj

Any request made for a substantial period of leave in order to carry out religious obligations for members of any religion will be considered on the same basis as set out in this section.

The purpose of this section is to set a framework for the Trust to manage and administer requests from Muslim staff wishing to perform the obligatory pilgrimage of Hajj.

The Trust recognises the difficulty which results from the academic year following the Gregorian and not the Hijri calendar, which means that Hajj can fall during times when the academy is in session. The Trust respects that Hajj is one of the five pillars of Islam and is an obligation upon Muslims once in their lifetime, financial/health conditions permitting. The academy is committed to providing high quality education whilst having a balanced approach to the religious needs of its staff. Staff requests for leave for Hajj will be considered according to the following criteria:

In order to minimise any possible disruption to colleagues and students, staff wishing to apply for the obligatory Hajj leave will notify the Principal/Head Teacher in writing by the end of Ramadan for the following Hajj.

Staff wishing to perform the obligatory Hajj may apply for a maximum of three weeks unpaid leave (see “Unpaid Leave” for advice where school holidays are included).

In order to balance the needs of students and the need for staff to make the obligatory Hajj pilgrimage, Muslim staff will be granted Hajj leave subject to the academy’s ability to release staff without an adverse impact on service delivery.

All Muslim staff will be considered with fairness irrespective of their professional status within the academy. Applications will normally only be considered for the obligatory (first) Hajj. In exceptional circumstances requests made on compassionate grounds may also be considered by the Governing Body.

Permissions / requests for Umrah or non-obligatory Hajj will not be considered during school term time except in exceptional compassionate grounds.

When making a request to undertake Hajj staff are asked to consider the effect their absence might have on the students with whom they work.

The initial decision on whether or not to grant exceptional leave for Hajj will be made by the CEO/Principal/Head Teacher who will consider the written application made by the staff member. Any appeal against the decision of the CEO/Principal/Head Teacher will be heard by the LGB/Trust. The staff member may put his or her case in person to the LGB/Trust and may be assisted by a trade union representative or a work colleague, who was not involved in the process.

The CEO/Principal/Head Teacher (or appropriate manager) may present the management case to the LGB/Trust at the appeal hearing.

In accordance with the Trust's overall policy on leave of absence, staff should not book tickets etc. before the Hajj leave has been approved.

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.

Ramadan

BDAT will support employees observing Ramadan by carefully considering requests from staff who do not wish to attend meetings or events where they would be expected to eat food or drink. A meeting can be arranged with the employee to discuss such requests and whether an alternative arrangement can be put in place.