

Leave of Absence Policy

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1.0 Policy Statement

- 1.2 Birmingham Diocesan Multi-Academy Trust ('BDMAT') ('The Trust') has made a commitment to follow national terms and conditions at present and as a result follows the guidelines specified within the 'burgundy book' (teaching staff and school leaders) and the 'green book' (all other staff within BDMAT). The Trust is also committed to ensuring that under TUPE that staff contractual terms and conditions are maintained or improved upon.
- 1.3 *This policy is not a part of the contract of staff within BDMAT.*
- 1.4 BDMAT regards the excellent attendance of both pupils and staff as integral to the success of its schools. The Trust recognises that the effectiveness of the Trust depends on the commitment of our 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 Trust.
- 1.5 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. ***Staff have a right to leave of absence in certain circumstances but all other leave of absence requests are discretionary. This policy sets out the difference in these two routes.***
- 1.6 High levels of absence among teaching and support staff in schools can pose a serious problem for schools in terms of disruption to teaching programmes, pupils' learning and other areas of the Trust's work. Absence of any staff employed in schools during term time means some impact on the children's education.
- 1.7 This policy does not cover absence due to annual leave (holidays).
- 1.8 This policy was developed following consultation with the following groups:
- BDMAT directors
 - BDMAT headteachers
 - Staff Forum members (each school is asked to send two members to this group)
 - EDI Forum members
 - Joint Consultative Committee (which includes representation from the following recognised unions – GMB, NAHT, NEU, UNISON, NASUWT, ASCL and NEU)

Implementation and impact of this policy will also be subject to consultation with our recognised unions.

2.0 Procedure for considering requests for planned leave of absence

2.1 Requesting Leave of Absence

Requests for planned leave of absence should be made via the employee's MySAM account, these will automatically be submitted to the appropriate manager. Should a member of staff have accessibility issues a request may be made in writing using Appendix 1- "Leave of Absence Request Form". This should be submitted to the 'line manager' as follows:

Central Team members: To your line manager (usually a head of department or member of the executive team)

CEO: To the chair of trustees of BDMAT

Headteachers: To the CEO

Primary school staff: To the headteacher or their designated senior manager(s)

Secondary school staff: To the headteacher or their designated senior manager(s)

Primary and secondary school site managers: A request to be approved jointly by the headteacher and BDMAT Head of Operations

2.2 The form should include the full reasons for the request which make clear why the leave cannot be taken during a normal school closure period, and the dates and length of the period of leave of absence requested.

2.3 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. Other than in cases of emergency, a minimum of two weeks' notice should be given for any requests for leave of absence for periods of up to 5 working days, and for longer periods a period of notice equivalent to twice the length of the period of leave being requested.

2.4 **Staff should not make leave arrangements until approval for the absence has been given.**

2.5 **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 Trust
- Treating staff in a fair, reasonable and consistent way

2.6 The designated 'line manager' for authorising leave (as stated in 2.1) 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 'line manager' rejects an application based on the impact to service provision, school-based staff would be entitled to appeal the decision to the Local Academy Body, or Executive / Trustee in the case of members of the Central Team (see 2.11).

2.7 The 'line manager' 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 'line manager' rejects an application based on impact to service provision, school-based staff would be entitled to appeal the decision to the Local Governing Academy (LAB), or Executive / trustee in the case of members of the Central Team. (see 2.11)

2.8 All decisions will be confirmed in writing, normally within 10 working days of being submitted. In the case of refusal, reasons will be given.

2.9 **Appeals**

If the request is refused, the member of staff may appeal. The appeal will be heard by 3 governors not previously involved in the decision making process (for school-based staff); for BDMAT Central Team staff the decision will be heard by 2 members of the executive team and a trustee (i.e. a panel of three).

2.10 **Sick leave during 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 HR Payroll Officer via their school admin lead.

2.11 **Unauthorised leave of absence**

The taking of unauthorised leave of absence is automatically unpaid and may lead to disciplinary action. In all cases of unauthorised leave, the line manager will refer to the guidelines within the BDMAT Staff Disciplinary Policy and follow those procedures, firstly through an investigation into the matter being undertaken before a decision to pursue the matter further.

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).

3.0 **Leave of absence categories**

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

(Employment Rights Act 1999)

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**

(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, who must have at least one years' continuous service (at the date the redundancy will take effect), can take time off within working hours while under notice up to 5 days paid leave. Staff with less than one years' continuous service will be entitled to 5 days unpaid leave.

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. The recognised unions' Joint Consultative Committee agreement (TURA) is currently being developed with union colleagues.

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

(Employment Rights Act 1996)

Employees who are trustees of an occupational pension scheme or directors of Trustee charities 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 (or by the CEO for Central Team staff), leave may be granted at the Trust's **discretion** without pay up to 3 days in a 12 month period.

For courses of training and study approved by the governors (or by the CEO for Central Team staff / headteachers) and related to their employment with BDMAT, leave with pay will be granted as necessary and in line with the agreed programme of study. Any leave agreed to **prepare** for examinations will be approved subject to any practical and organisational constraints affecting the Trust. Leave will be granted for the test / assessment.

3.6 **Bad Weather Conditions**

There may be circumstances when the employee is unable to attend work due to bad weather, but the school remains open as usual. All reasonable efforts should be made to safely attend work, including when the school is closed to pupils. Alternative arrangements may be agreed with the Headteacher, 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 discretionary paid leave.

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 Trust'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 member will need to claim the lost earnings from the court. BDMAT will only reduce salary by the maximum that the member of staff can reclaim

from the court. If you are not required in court on one of your jury days, you should report as normal to work.

Witness summonses and subpoenas

Staff subject to a witness summons or subpoena will be allowed paid time off work to attend the court sessions that they are required as a witness. This will include attending family court and coroner courts where the employee is one of the parties.

3.8 Time off for Medical Appointments

Where possible, BDMAT employees are expected to make routine GP and dentist appointments out of work 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 school 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. 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 our BDMAT HR Officer 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. **Line Managers have the discretion to grant up to 3 days in any 12-month period as paid leave** for time off for dependants in emergency situations; additional time can be requested but will be unpaid if granted.

According to the regulations, a dependant is the husband, wife, child (under the age of 18 years of age) 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.

3.10 **Time off for Religious Observance**

The Trust allows staff to request up to two days leave without pay for this purpose in each 12-month rolling period (providing the Trust / school has not made the decision to close and/or that the festival does not fall over a weekend / Bank Holiday etc). The days can be taken only for the purpose of observance of a religious festival which the member of staff is under a religious obligation to attend or observe by reason of their membership of, or office in, a church or religious order. During key festivals staff may prefer to attend work but just have time out for a service such as to attend a specific religious service or timed prayer; in this situation members of staff will be paid for this absence.

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

The Trust's policy on the extended leave needed for Hajj is included at section 4 of this policy. 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 Trust, employees are entitled to reasonable time off without pay in order to carry out public duties and activities. Examples include, magistrate (JP), school governor and councillor. Staff can be offered a maximum 20 days leave per academic year for these functions. Time off for recognised trade union representatives will be included with the BDMAT Joint Consultative Agreement.

3.12 **Compassionate leave**

This is granted at the 'Line Manager's' discretion and is for a maximum of 5 paid days in a rolling 12 month period in total and is for incidents related to **close relatives only**. Close relatives are defined by BDMAT:

<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>

3.13 **Funerals**

This is granted outside of compassionate leave and is for one day per funeral and is restricted to family or close friends. This will be paid leave for members of close family only (those defined in 3.12), other funeral attendance (including other family members and friends) will be unpaid and discretionary. Where the funeral is a significant distance from the member of staff's home then up to an additional two days paid leave may be granted.

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 'line manager' will consider the request, taking into account any financial, organisational or educational effects on the Trust, and the circumstances and reasons given by the individual. The Trust CEO must be consulted on all proposed secondments outside of BDMAT.

The Trust will not normally approve absences of more than 2 terms 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. The Line Manager does not have to grant this. 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. Training which was identified via the performance management process will always be granted as paid as would any that linked to new/revised statutory requirements or that the Trust deems that the employee must attend.

3.16 **Attendance at sporting fixtures**

Elite sports people and registered sporting officials (e.g. referees) can request discretionary leave but if granted this will be unpaid.

3.17 **Time off for house moves**

Line managers have the discretion to grant 1 days paid leave per 12 month rolling period to complete a house move. Up to 2 days can be granted if the house move is a considerable distance from the original property.

3.18 **Attendance at University Graduation Ceremony etc.**

Where self or member of immediate family (as defined in 3.12) is receiving a degree the line manager can grant 1 day paid discretionary leave. Where the graduation is a considerable distance from the member of staff's home an additional 1 day paid leave may be granted at the discretion of the line manager.

3.19 **Time off for duties as an examiner / assessor**

Staff can request reasonable, paid leave to act as an examiner/assessor for an appropriately recognised and accredited awarding/professional body which is also relevant to/may also enhance their work in their role. Leave will be unpaid if the body is paying the member of staff. This will be granted at the discretion of the line manager.

3.20 **Elective surgery**

Whilst there is no statutory right to take the time off for elective surgery as paid leave, the employer should make a decision as to whether the time off requested for the surgery should be paid or unpaid, on a case-by-case basis. For example, there may be a medical reason for a person to have the surgery, in comparison to staff requesting time off for cosmetic surgery. Either way, elective surgery is planned and scheduled so an employee should provide the employer with sufficient notice for the time off. With most procedures the employee may be required to have a recovery period, in which case if the employee provides a fit note for their recovery period as they are unfit for work then sick pay will apply, no matter what the surgery was for or whatever the motive was for the surgery.

3.21 **Absence for fertility treatment**

ACAS states, 'there's no legal right for time off work for IVF treatment or related sickness. But your employer should treat your IVF appointments and any sickness the same as any other medical appointment or sickness. You could talk with your employer about any time off you need during your IVF treatment. They might agree to you using: flexible working, paid time off, unpaid time off or holiday'. Based on this guidance line

managers will examine the options available to staff and offer up to 3 days paid leave in any 12-month rolling period for fertility treatment (if the member of staff becomes pregnant though BDMAT will follow normal guidance re paid leave for attendance at appointments etc). If staff going through fertility treatment require more than 3 days leave the manager will consider unpaid leave.

3.22 Parental bereavement leave (*Parental Bereavement (Leave and Pay) Act 2018*) Staff will be granted two weeks paid leave for parents to who experience a bereavement of a child. Staff who suffer this difficult situation can in addition liaise with their GP regarding longer absence through following sickness regulations.

3.23 Domestic and urgent leave

BDMAT accepts that at times there are urgent, domestic matters which require staff to have leave of absence. BDMAT may discretionarily grant up to three days paid leave per year for staff to deal with domestic and urgent matters. Any additional days above this will considered by the line manager (as identified in section 2.1) but will be unpaid.

4.0 Hajj and other extended religious obligations

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 schools are 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 Trust 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 pupils, staff wishing to apply for the obligatory Hajj leave will notify their 'line manager' 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.

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

All staff will be considered with fairness irrespective of their professional status within the trust. 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 LAB (school staff) and CEO (Central Team).

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 pupils with whom they work.

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.

5.0 Collation of Discretionary Leave of Absence Requests

The Trust will collate and monitor all Discretionary Leave of Absence. This is to ensure fair and equitable treatment of staff across our schools.

6.0 Apportionment

- 6.1** For the purpose of calculating deductions for additional annual leave, unpaid absences (including strike days) and sickness entitlement where staff do not receive contractual sick pay – each working day shall be worth $1/260^{\text{th}}$ of their annual (FTE) salary.

- 6.2** Absence leave will be pro-rated based on the work pattern of the member of staff. Therefore, a member of staff who works 1 day per week would be allowed up to 1 week off work for a close family bereavement rather than 5 days leave which for that member of staff would equate to 5 weeks off work.

Appendix 1

LEAVE OF ABSENCE REQUEST – EMPLOYEE PROFORMA

Staff Member's Name:	Staff Member's Line Manager:
Date and Time of Absence:	

Please provide the reasons for your leave of absence request:

To the employee:

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

Approved	YES	NO
Paid	YES	NO
Number of days		
Rationale		

Employee Signature:

Date:

Line Manager's Signature:

Date:

(Line managers are identified in section 2.1 of this policy)

Once completed the absence request must be added to SAMPeople along with a copy of this form. If the absence is declined a copy of the form must still be uploaded.