

Disability Leave Policy



Approved by:	The Trust Board	Date: September 2020
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Recognised unions have been consulted on this document via the Unity Schools Partnership Joint Consultation and Negotiation Committee. It was accepted by Unity Schools Partnership on:	Date: September 2020
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1. Policy Statement

Unity Schools Partnership (“the Trust”), subscribes to a set of shared values, principles and operational processes that ensure quality education for all our young people and fair treatment of all our employees.

The Trust should be a fulfilling and supportive place to work. You are our greatest resource and the enthusiasm, professionalism and abilities you bring will make the difference between a good and outstanding Trust.

2. Introduction

The purpose of this policy is to provide disabled employees with reasonable paid time off work for reasons related to their disability or impairment.

This policy covers all disabled employees of the Trust (see section 7) and sets out what disability leave is available and the procedures for using it (see sections 10 and 11).

This policy complements, but is not restricted by, other equal opportunities policies and agreements, including Flexible Working policy, Staff Absence and Attendance policy and Staff Wellbeing policy.

3. General Principles

Disabled people face discrimination and disadvantage in the workplace and society. The skills and experience of disabled employees are highly valued and the Trust, its recognised Trades Unions and its partners are committed to supporting disabled employees by removing access barriers, tackling discrimination that they face, and implementing best employment practice.

The Trust and its recognised Trades Unions are committed to resolving any issues relating to disabled employees by negotiation and agreement where possible, and avoiding recourse to Employment Tribunals or other legal action.

In accordance with the Equality Act 2010 (formerly the Disability Discrimination Act (DDA) 1995), the Trust will not discriminate against disabled employees but will consider and accommodate their needs as far as is reasonably practicable.

In accordance with the Equality Act, the Trust will work actively to eliminate discrimination against, and harassment of, disabled people, promote positive attitudes towards disabled people.

4. Disability Leave

Disability leave is paid time off work for an individual for rehabilitation, assessment or treatment relating to their disability. This may or may not be pre-planned (see section 11). Disability leave will be recorded separately from other absence and does not count towards trigger points for review of sickness absence. It does, however, count towards entitlement to sick pay.

The Trust will make ‘reasonably practicable’ adjustments where the physical working environment or practices place the person with a disability at a substantial disadvantage compared with a person who is not disabled.

Disability leave is potentially a ‘reasonable adjustment’ and will be accommodated wherever, and as long as this is reasonably practicable. However, it is also recognised that not all employees with a disability will necessarily need to take disability leave.

Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy, and similar issues.

With advice from Occupational Health and in consultation with the employee, the recognised Trades Unions, and other relevant parties it may become clear that the employee is not able to return to their previous job. In this case other reasonable adjustments including redesigning the job, retraining and redeployment, will be considered.

Where no other option is possible consideration will be given to ill health retirement. If and when all other options have been explored and exhausted, consideration will be given to dismissal by reason of incapability due to ill health.

5. Disability Related Sickness

Disability related sickness absence is sickness absence related to an individual's disability. For example: an episode or relapse of a disability related condition or time off for recuperation following a period of disability leave for treatment. Disability related sickness absence will be recorded separately from other absence but is counted as part of sickness absence entitlement.

Disability related sickness absence will not be included for the purposes of assessing promotion, performance appraisal and rating, training opportunities or redundancy. The Staff Absence and Attendance Policy will still be applied e.g. Occupational Health referrals, keeping in touch, return to work interviews and signposting to other agencies, and any disability related sickness absence will be counted against the employee's sick pay entitlement.

6. Disability Leave, Disability Related Sickness Absence and Sick Leave

Disability leave is distinct from disability related sickness absence and is for rehabilitation, assessment, treatment or servicing of necessary equipment or disability aids; or other practical or environmental factors that render attendance at work impossible whilst adjustments are being made.

Disability related sickness absence is distinct from sick leave, and includes time when an employee may be otherwise well, but is absent from work for recuperation following a period of Disability Leave.

If an employee is off for a reason other than their known disability, then normal sick pay will apply. In some cases, there may be a link between the other illness and a known disability. The employees line manager will need to discuss this further with the employee, and possibly with the Trust's HR team and Occupational Health. Refer to Section 9 (Practical Help) for whether the employee is entitled to Disability Related Sickness or Disability leave.

If an employee is on sick leave and it becomes clear that they now qualify for disability leave or disability related sickness absence, they will be transferred accordingly. Where it later becomes evident that the causation of previous episodes of sick leave can be directly attributable to any qualifying disability, the number of recorded "sick days" will be adjusted accordingly to disability related sickness absence and/or disability leave as appropriate.

If time off work due to ill health is for a reason other than the employee's disability as listed above, then it will be recorded as sickness absence in the normal way.

A high level of sickness absence for an employee may be a result of a disability. If this is found to be the case, any absences that are disability related will be reclassified as disability leave or disability related sickness absence as appropriate.

7. Entitlement to Disability Leave

All employees who are disabled using the definition in the Equality Act 2010 are entitled to disability leave.

The Equality Act defines disability as “a mental or physical impairment that has a substantial and long-term effect on a person's ability to carry out normal day-to-day activities.” ‘Long-term’ means has lasted or is likely to last 12 months or more and includes, but is not limited to, HIV infection, cancer, and multiple sclerosis from the point of diagnosis.

People who have had a disability in the past but no longer have one, still qualify as disabled under the Equality Act 2010 and are entitled to disability leave for follow up appointments related to their disability (e.g. preventative treatments such as counselling or physiotherapy; check-ups or screenings for on-going assessments to ensure that treatment has been effective).

Employees with a disability may choose to inform the Trust and Occupational Health, that they are disabled. While this is not obligatory, it is recommended that they do so in order to facilitate the employer in making reasonable adjustments. This information will be kept confidential. The Trust recognises that not all employees who are covered by this policy will necessarily consider themselves as disabled, however if they are covered by the Equality Act 2010 definition of disability; they will be entitled to disability leave.

8. Reasons for Requesting Disability Leave

An employee requesting disability leave is not necessarily ill but needs to have time off in relation to rehabilitation, assessment or treatment for their health condition/s. Paid time off is granted for employees with a disability (as defined by the Equality Act 2010) who need to be away from work for reasons connected with their disability. The request will be discussed in the first instance with the line manager to explore any other reasonable adjustments. If no alternative solutions can be identified, then disability leave may be granted. Disability leave may be requested as a block of leave or individual days.

9. Practical Help

The individual's needs require a collaborative approach between the employee and their line manager with support from HR, Occupational Health, recognised Trades Unions where appropriate. This will ensure that positive, agreed, personalised and appropriate solutions can be identified and applied wherever possible. Individual's disabilities have varying impacts depending on the circumstances and therefore different needs may arise following discussion. Line managers will be fully supported to adopt a flexible and positive approach wherever possible and may seek advice from the Trust's HR team on where to access further advice or training.

10. Examples of Disability Leave

The following are some examples of disability related reasons. All of these must be related directly to the employee's disability:

- Specialist hearing or sight examinations
- Assessment (initial and on-going) for diabetes, HIV or dyspraxia
- Training with a guide, hearing or companion dog
- Training in the use of specialist pieces of equipment, medical devices or life style skills (e.g. lip reading)
- Counselling or therapeutic treatment e.g. relating to a mental illness
- Physiotherapy either sessional or residential

- Rehabilitation for someone newly disabled or with a new diagnosis or whose condition/impairment has changed significantly
- A period of time off work while reasonable adjustments are made at work
- Pre and post admission appointments to hospital
- The day of the surgery and post-operative rehabilitation, therapy or treatment
- GP or hospital appointments
- Blood transfusion and dialysis

The definition of rehabilitation for the purpose of this policy is ‘the action of restoring someone to health through training and therapy’. It is impossible to provide a full list of examples so please contact the Trust’s HR team if you are unsure or require advice.

11. Requesting Disability Leave

The effect of a disability or impairment depends on the individual and their circumstances. To accommodate this requires flexibility, so employees may take planned disability leave or unplanned disability leave. An employee requesting disability leave may not be ill but is requesting time off for a disability related reason, or disability leave may break up a period of sickness, where there are appointments linked to a disability during the time off sick.

Disability leave is one of a range of possible reasonable adjustments, including working from home and flexible working. Whenever possible, and to assist with operational planning, employees are required to co-operate and reach agreement with their line manager regarding the extent and dates of disability leave. It is recognised this will not always be possible but employees are required to use their best endeavours to co-operate and keep their line manager fully informed.

Wherever possible, and to assist with workforce planning, employees are required to reach agreement with their line manager regarding the extent and dates of disability leave. It is recognised that this will not always be possible but best endeavours are to be encouraged.

Planned disability leave must be agreed in advance. It may be an agreed number of individual days each year that a disabled person needs to take off. Typically, this would be for treatment, rehabilitation or assessment related to their disability. It may also be a longer block of time needed for a specific reason, as indicated in section 8.

11.1 Informal Meeting

In most cases the employee will be able to discuss their request for disability leave with their line manager confidentially and agree the amount of leave and proposed dates. The manager or employee can seek advice from the Trust’s HR team at any time regarding the reasonableness of the request and rights under this policy and the Equality Act. If agreed the disability leave should be recorded using the school’s system for absence recording.

11.2 Formal Meeting

If agreement cannot be reached then the employee can request a formal meeting with their manager. This should normally be held within 28 days of the first meeting, but there may be occasions where the nature of the condition necessitates accelerating the meeting; the employee and line manager are encouraged to be as flexible as possible. There may be occasions where it is more appropriate to meet formally to discuss a request for Disability Leave in the first instance, for example where an employee requires support from a Trades Union representative or a work colleague.

Further evidence and advice will be sought before a formal meeting. Information will be sought from other parties to help determine what constitutes a reasonable adjustment in the specific circumstances.

This may include some or all of:

- a GP or specialist's report
- a report from Occupational Health
- other information from the employee
- advice from the Trust's HR team
- consultation with a Trades Union representative
- advice from the Disability Employment Advisor at the local Job Centre Plus
- advice from the Mental Health Group

A meeting will then be held that will include the employee, the manager and a Trades Union representative (if a member of a Trades Union). If not accompanied by a Trades Union representative, the employee may bring a work colleague to the meeting. The meeting will normally be facilitated by a member of the Trust's HR team. All the evidence will be circulated to attendees prior to the meeting.

The following issues should be considered:

- is the employee disabled under the Equality Act 2010?
- the effectiveness of the proposed adjustment
- the practicability and cost of the proposed adjustment
- the resources of the school and other financial assistance available (for example, Access to Work funding)

The disability or impairment itself (as opposed to its effect) should not be considered, as it may be discriminatory to do so.

If agreement still cannot be reached then the employee has the option of utilising the grievance procedure.

A longer block of disability leave might also be appropriate. For example, this could be so that a newly disabled employee can make changes inside and outside of work while physical or environmental adjustments are being made to an employee's work environment, or if an employee has to undergo a more prolonged period of treatment.

Unplanned disability leave or disability related sick leave covers disability-related absences that may previously have been recorded as sick leave. It will be recorded as disability leave, or disability related sick leave as appropriate on the school's absence recording system, but separate from other sickness absence categories.

12. Review of Planned Disability Leave

Where disability leave is agreed, it will be reviewed regularly (at least annually) to assist in planning. These reviews will be fully supportive, and will not be used to pressure employees into taking less disability leave than they need.

Staff who become disabled, or whose impairment or circumstances change, may request a review of their disability leave (or other reasonable adjustments) at any time.

13. Other Issues

If an employee is on disability leave for more than two weeks, their line manager must brief them on their return to work of any changes that have occurred while they were off. In addition, job

advertisements, internal newsletters and similar materials will be sent to them in an accessible format so being on disability leave does not disadvantage them. During this period, regular, supportive and recorded contact between the line manager or a mutually agreed contact and the employee will be expected.

Time spent on disability leave is counted as continuous service for all contractual benefits, including accruing annual leave, sick leave, pension rights and bonus.

Medical information about employees will be kept strictly confidential unless they agree to disclosure. Its use will conform to Part 4 of the Information Commissioner's Data Protection Act Employment Practices Code (Information About Workers' Health).

The amount and duration of planned and unplanned disability leave and disability related sickness absence will be recorded when it is actually taken, using the school's absence recording system.

- **Disability leave** applies to rehabilitation, assessment or treatment in relation to a disability.
- **Disability related sickness** absence applies to recuperation, recovery and all disability related sickness absence. Where possible/appropriate a category of disability related absence should be selected.

Appeals about the amount of disability leave allowed, on correctly following the procedure, or on other aspects of this policy will be dealt with under the grievance procedure.

Abuse of the disability leave scheme is a serious disciplinary offence, and will be dealt with under the disciplinary procedure.

14. Responsibilities

CEO and Central Executive Leadership team

- Ensuring that the policy is applied consistently across all Trust schools and the central team.
- Communicating policies and procedures to all employees.

Head of HR and the HR Team

- Review and updates of this policy.
- Implementation of policy.

Headteachers, Senior Leaders and Line Managers

- Ensuring that they deal with requests for Disability Leave in accordance with this policy.
- Ensuring that disability leave and disability related sickness absence are recorded appropriately.

Employees

- Communicating and informing their line manager so that they are fully informed about their disability inasmuch as it affects their attendance and work performance.
- Fully co-operating with the school to explore and make reasonably practicable adjustments.
- Updating their line manager on any changes in their condition and maintaining reasonable contact during periods of absence.

Occupational Health

- Providing a clear assessment of cases in which the Equality Act 2010 applies.

Advice and Support

- The Trust's HR team
- Trade Unions
- Mental Health Group

- The Trust's Wellbeing Service
- Any other relevant specialist agencies

15. Further Advice

If any staff, contractor or visitor requires any further information regarding this policy or support they should either ask their Headteacher **or** contact the HR Helpdesk at hrhelpdesk@unitysp.co.uk or telephone 01440 333401.