LEAVE OF ABSENCE

This briefing gives NUT guidance on teachers’ contractual rights to leave of absence with or without pay for various reasons.

Leave of Absence Agreements

Most teachers will, from time to time, experience difficulties reconciling their work with their other commitments. Time off work may be needed, for example, to care for sick children, to attend a hospital appointment or interview or to participate in a religious festival.

Teachers are, of course, covered by the statutory rights to unpaid time off for family and domestic reasons in the same way as any other employee. The scope of the statutory rights to unpaid time off is considered later.

Teachers may, however, have contractual rights to time off which are better than these minimum statutory rights as a result of a local agreement on conditions of service between the LEA and the NUT and other teacher unions. For example, in the case of family reasons, such as a child’s illness, you may have the contractual right to a certain number of days of paid leave under the local agreement, which will be better than the statutory right to unpaid time off. In other cases, a local agreement might entitle you to take time off in circumstances where there is no statutory right, for example to move house, attend a job interview or for religious observance.

Areas which might be covered in a local leave of absence agreement include:

- compassionate leave for bereavement;
- leave for other family and domestic reasons;
- time off for medical visits (hospital, dentist, specialist, optician, GP);
- time off for fertility treatment;
- examination/study leave;
- time off for religious observance;
- time off for weddings;
- time off for moving house;
- time off for the performance of public duties (for example magistrate or school governor duties);
- time off for jury service;
- time off to attend interviews; and
- paternity leave.
Leave of absence agreements are negotiated at local level between the NUT and the employer. The exact terms of such agreements are very important and there are two key questions:

- **Does the agreement apply to you?** It will apply automatically to community and voluntary-controlled schools but will only apply in voluntary-aided and foundation schools where the governing body has agreed to adopt it.

- **Does the agreement specify your entitlement or does it only have the status of guidance?** In the former case, its terms will be binding upon the headteacher and governing body but in the latter case the headteacher or governing body may have the discretion to grant or refuse time off after considering the recommendations in the agreement.

There may also be qualifications or conditions attached to the right to leave of absence. For example, in the case of bereavement leave, the leave may only cover the death of defined, immediate family members. In some cases, such as moving house or attending interviews, you may need to give a certain amount of notice. The agreement may give the right to paid leave, unpaid leave or a mixture of both.

Finally, bear in mind that local agreements cannot worsen or remove a statutory entitlement. The statutory rights to unpaid time off for urgent family or domestic reasons cannot be overridden by employers. There is also a statutory right to unpaid leave for some kinds of public duty. Refusal to allow reasonable time off can be taken up at an employment tribunal. Finally, with regard to jury service, although there is no statutory right to paid leave from the employer, the courts provide a daily travel allowance, subsistence allowance and loss of earnings allowance and employers refusing to allow employees to attend jury service could face punishment for being in contempt of court. (Most employers offer to make pay up to normal earnings, less allowances which have been claimed from the court.)

**Finding Out About Local Agreements**

The best way for NUT members to find out about local agreements in their area is to contact either their NUT division/association secretary or their NUT Regional Office or, in Wales, the Wales Office, NUT Cymru.

**Statutory Rights to Unpaid Time Off for Family and Domestic Reasons**

All employees have a legal entitlement to take unpaid time off to deal with incidents involving employees' dependants. A dependent is defined as:

- a spouse;
- a child;
- a parent;
• a person living in the same household, other than as an employee, tenant, lodger or boarder.

By this definition, unmarried partners of the opposite or same sex and living together, will be classed as dependents.

A dependent is also any person who reasonably relies on the employee for assistance on an occasion when the person falls ill or is injured or assaulted, or to make arrangements for the provision of care in the event of illness or injury. This will include, for example, elderly relatives not living in the same household but reliant on the employee to assist them in the event of illness or injury.

No qualifying period of service is required, and all employees will have the right to time off. A “reasonable” amount of unpaid time off is allowed, although there is no definition of what is “reasonable” and it will, therefore, vary according to each case and each set of circumstances.

As noted above, the statutory right to time off for domestic and family reasons is entirely separate from, and additional to, any entitlement to parental and or maternity leave. Local arrangements for leave of absence continue unaffected by these new arrangements and may be better than the statutory minimum right to unpaid time off.

Requests which are Turned Down

NUT members, who feel their headteacher or governing body has been unreasonable in turning down their request for leave of absence, whether paid or unpaid, should contact their NUT division/association or their Regional Office/the Wales Office, NUT Cymru, for advice. There may be a case for invoking the grievance procedure. The school may also be guilty of discriminating against the teacher, or denying statutory rights, in which case it is important that professional advice is sought as soon as possible.

Further Information

The NUT website, at www.teachers.org.uk, contains briefing material on parental leave, time off for family and domestic reasons, the teachers’ sick pay scheme, adoption leave and time off for fertility treatment. It also contains the NUT’s ‘Maternity Matters’ guidance document. This information is also available from NUT regional offices or, in Wales, from the Wales Office, NUT Cymru.

National Union of Teachers
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