

## PERSONNEL SERVICES

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To: heads of departments and institutions, faculty board chairmen,  
 departmental administrators, and faculty board secretaries

Ref. EMS/5 EMS/6

Copies: heads of division and divisional secretaries, Dr Gambles,  
 Mrs Kinahan, Ms Nestor, Dr Wyatt, Conference of Colleges  
 Secretariat

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### Right to request time off for training

*With effect from 6 April 2010, employees who have at least 26 weeks' continuous service with the University have a new statutory right to request time off for training. The statutory right states that the purpose of the training should be to improve "the employee's effectiveness in the employer's business" and "the performance of the employer's business".*

*Where good workplace dialogue and training systems exist, these can continue to be the primary route for requesting and agreeing training. The University's Staff Learning Scheme provides a framework for considering requests for support for training, including funding where appropriate.*

*However, where an employee makes a formal request for training under the Act, departments are required to consider the request and to respond in writing within a set timeframe. The employer may turn down a request if it has a 'good business reason' to do so.*

#### **Key features**

- (i) In order for a request for 'time to train' to be a valid request, covered by the legislation, it must be submitted in writing and contain specific information which is detailed in section 3.1.*
- (ii) Except where an application is going to be approved in full, a meeting should be held with the staff member to discuss the application before a decision is reached.*
- (iii) There is no obligation to grant paid time off, or to pay for the costs of any training.*
- (iv) Departments should provide a written response within 28 days of receipt of the application (or if a meeting is held, within 14 days of the date of the meeting).*
- (v) If an application is rejected, the employee will have a right of appeal.*

## **1. Action required of departments and divisions**

Departments are asked to:

- (i) note the new arrangements concerning applications for time off for training;
- (ii) respond to any applications made under the new Act, in line with the procedure outlined in section 3 below;
- (iii) ensure that where any application is turned down, this is explained appropriately and the employee is given a right of appeal; and
- (iv) review any local arrangements for requesting training and ensure that line-managers are aware of the new entitlements.

## **2. Background**

The University offers a wide range of training opportunities to its staff (see [http://www.ox.ac.uk/staff/working\\_at\\_oxford/training\\_development/index.html](http://www.ox.ac.uk/staff/working_at_oxford/training_development/index.html) for a list of training offered). Many departments have their own local arrangements in place for reviewing staff training needs, which might be part of the annual Personal Development Review process, or ad hoc responses to training needs as and when they arise, which are simply facilitated through normal lines of communication between staff and their line-managers. Since the primary focus of the new entitlement is to encourage discussion and agreement between employers and employees about relevant training, by and large these arrangements can continue.

From 6 April 2010, all employees who have at least 26 weeks' continuous service have a new right to request time off for training. This has been introduced under the Apprenticeship, Skills, Children and Learning Act 2009, and will be incorporated into the Employment Rights Act 1996.

The new arrangements cover all training requested which is considered likely to improve "the employee's effectiveness in the employer's business" and "the performance of the employer's business".

Under the regulations there are some new duties and statutory response times which departments should bring to the attention of all those with line-management responsibility. Departments which already have appropriate procedures or lines of dialogue in place for staff to request training, and for line-managers to consider and respond to such requests promptly, are not required to make any specific changes to current practice. In such cases it is sufficient to ensure that line-managers are aware of the new employee right, and the associated required response requirements, so that any formal requests that are received may be responded to in line with the new regulations.

## **3. Summary of the new arrangements**

### **3.1 Applications which are eligible under the scheme**

In order to be covered by the new legislation, a request for time off for training must be made in writing (in any written form), dated, and contain the following information:

- a statement that the application is made "under section 63F of the Employment Rights Act 1996"

- the subject matter of the proposed training
- where and when the training would take place
- who would provide or supervise the training
- what qualification (if any) it would lead to
- how the employee thinks the training would improve their effectiveness at work, and the performance of their department or equivalent
- the date and method of the last application that they have made (if any).

Employees may make one formal request, as outlined above, in any 12-month period<sup>1</sup>. The individual should believe that the training will improve their effectiveness at work, and therefore the training should be work-related. This might include an accredited programme which leads to a formal qualification, or unaccredited skills-related training. The training can take place anywhere (including outside the UK) and be of any length, and individuals may request more than one type of training in a single request.

### **3.2 Training costs**

As currently, where line-managers consider that the training is likely to improve the individual's performance in their post, or improve the performance of the department or section, departments may consider meeting the costs of the training, including allowing the time required to undertake the course to be taken as paid time. The Staff Learning Scheme ([www.learning.ox.ac.uk/stafflearning](http://www.learning.ox.ac.uk/stafflearning)) offers support for the costs of training in approved cases. However, the new arrangements do not extend to granting the right to be paid for the time spent training, or for the costs of the training to be covered. In some cases - as now - it may be more appropriate to grant unpaid leave or to agree that the time will be made up within an agreed period, and/or for the individual to fund their own training programme.

### **3.3 Considering and responding to a formal request for time off for training**

- Requests made through usual departmental channels should continue to be dealt with as currently.
- Unless you intend to approve the request in full, you should meet with the employee to discuss the request before reaching a decision and confirming it in writing to the employee. The employee will have the right to be accompanied by a colleague from within the University or a trade union representative.
- Any requests which meet the eligibility criteria outlined in 3.1 above must be responded to in writing within 28 days. (If the person who would normally deal with such a request is on leave, the 28-day period begins when they return from leave as long as the leave period is itself no longer than 28 days.)

<sup>1</sup> Exceptions include where an application has been withdrawn or the individual has been unable to undertake agreed training for reasons beyond their control.

- If the request is unclear, the line-manager may ask to meet with the individual to discuss the request. The meeting must be followed up with a written outcome within 14 days.
- Where it is **not** possible to accommodate a request, you must inform the employee of your decision in writing, setting out:
  - the reason for turning down the request (see below)
  - why the reason(s) apply in their circumstances
  - the right of appeal.

The refusal can only be made for one of the following reasons (as set out in the legislation), which should be described in the letter of rejecting the application for training:

- the proposed study or training would not improve the individual's effectiveness in their current role;
  - the proposed study or training would not improve the performance of the department, or would have a detrimental impact on performance;
  - the burden of the additional costs involved would be too great;
  - the proposed study or training would have a detrimental effect on the department/section's ability to meet customer demand;
  - it would not be possible to reorganise work amongst the individual's colleagues or recruit additional staff to cover the absence;
  - the requested training would involve a change to working hours and there would be insufficient work for the individual to do during the periods they propose to work;
  - there are planned structural changes during the proposed study or training period.
- In some cases, although it may not be possible to accommodate all aspects of a request for training, departments may wish to suggest that the training need is met in an alternative way, for example by suggesting some in-house training in place of an external course. In such cases it will be important to meet with the individual to discuss the proposal, and at such meetings the employee should be given the opportunity to be accompanied by a work colleague or trade union representative. The outcome of any meeting should be followed up in writing within 14 days.

### **3.4 Appeals against decisions**

An employee has the right to appeal against a decision, and must do so within 14 days of notification of the decision refusing part or all of the request. The employee must set out the grounds for the appeal.

The department must act within 14 days of receipt of the appeal. If you do not accept the appeal, you must arrange an appeal meeting within 14 days of receipt of the appeal. If it is practicable, the appeal should be heard by a different person from the person who considered

the initial request. The employee will have the right to be accompanied at the meeting by a colleague from within the University or a trade union representative.

You must inform the employee in writing of the outcome of the appeal within 14 days of the meeting.

#### **4. Research staff**

The new rights apply to all staff and those with line management responsibilities for research staff should ensure that, in addition to this guidance, they are familiar with the Code of Practice for the Employment and Career Development of Research Staff (see: <http://www.admin.ox.ac.uk/ps/staff/codes/crsguide.shtml#questions1>). The Code of Practice encourages supervisors to support researchers with career-related training and development opportunities, in line with the RCUK's Research Careers strategy.

#### **5. Supporting documentation**

A full guidance document on the new scheme - "Consider Time for Training" - is available to download from Business Link at <http://www.businesslink.gov.uk/bdotg/>

Pro forma letters to respond to requests made under the new Act are available to download from <http://www.admin.ox.ac.uk/ps/managers/appraisal/>

JEREMY WHITELEY

*Replaces existing circular: No*

*Copy for notice boards: Yes*

*Web site: [www.admin.ox.ac.uk/ps/managers/circular](http://www.admin.ox.ac.uk/ps/managers/circular)*

JDW/KAB