

Finance and Resources Committee

3.00pm, Tuesday, 4 December 2018

Special Leave Policy

Item number	8.6
Report number	
Executive/routine	
Wards	
Council Commitments	

Executive Summary

The Special Leave Policy updates and replaces the current policy approved at Committee in October 2015. The policy has been updated and continues to outline the Council's provisions for Special Leave, covering both the Statutory entitlements and other forms of leave available to support colleagues when they require time off work to deal with issues in their life outside of work. In addition, a section explaining types of leave available for Religious/Cultural Observances has been added.

The Policy has been written in line with ACAS guidance and remains fit for purpose and compliant with the Employment Rights Act 1996.

Special Leave Policy

1. Recommendations

- 1.1 To approve the new Special Leave Policy.

2. Background

- 2.1 The Special Leave Policy was approved at Committee in October 2015. Whilst the provisions set out in the original Policy document are still compliant with the relevant legislation. The document has been refreshed in line with our new style.

3. Main report

- 3.1 This policy has been written in line with guidance from the Advisory, Conciliation and Arbitration Service (ACAS) and remains compliant with section 6 of the Employment Rights Act 1996 'Time off Work'.
- 3.2 Improvements have been made around clarity, format, increase in paid leave for Foster Carers, 3 to 5 days, and the inclusion of our position on Religious and Cultural observances.
- 3.3 This policy has been compiled using the employee policy template. This provides colleagues with a user-friendly document which provides making it easier for colleagues to follow.
- 3.4 To reflect broader care responsibilities for our colleagues, the policy adopts a consistent approach to any type of breakdown of required care for dependents, whether that be children or other. Formally separated into 5 days and 1 day paid leave, this has been combined allowing an enhanced 6 days paid leave for such situations (per annum).

4. Measures of success

- 4.1 Greater engagement and understanding amongst colleagues who are more informed about their rights to different leave types and about the council enhancements to those rights.

5. Financial impact

- 5.1 No material financial impact by increasing paid Foster Care time off.

6. Risk, policy, compliance and governance impact

- 6.1 This policy has been written in line with guidance from ACAS and sets out what we need to do in line with the Employment Rights Act 1996.

7. Equalities impact

- 7.1 The policy applies to all employees and is explicit in the consistency of its application.

8. Sustainability impact

- 8.1 None.

9. Consultation and engagement

- 9.1 There are no material changes to this policy and Trades Union partners have been engaged.

10. Background reading/external references

- 10.1 ACAS guidance on time off - <http://www.acas.org.uk/index.aspx?articleid=1370>
- 10.2 Section VI Employment Rights Act 1996 - <https://www.legislation.gov.uk/ukpga/1996/18/part/VI>

Stephen S. Moir

Executive Director of Resources

Contact: Katy Miller, Head of Human Resources

E-mail: katy.miller@edinburgh.gov.uk | Tel: 0131 469 5522

11. Appendices

- 11.1 Appendix 1 – Special Leave Policy

Special Leave

We (the council) recognise that Colleagues need to be supported with balancing the demands of their work with their responsibilities outside work. While each Colleague is responsible for making sure they have care arrangements in place, the Council can help with this and aims to assist in the event that these arrangements unavoidably break down, or where additional pressures, out with the norm, arise and for which time off work may be required.

This policy sets out the Council's provisions for special leave, covering both the statutory entitlements and other forms of leave to support colleagues when they need time off from work to deal with issues in their life outside work.

All requests from colleagues must be dealt with on a strictly confidential basis and managers will not exert any pressure onto colleagues to divulge details which might breach their personal privacy.

Author

Employee Relations, Human Resources,
Resources Directorate

Scope

This policy applies to all Council employees.

Purpose

The purpose of this policy is to provide flexibility to allow colleagues special leave as required to meet specific commitments in line with employment legislation and good practice. Special leave is a request for time off work to cover personal requirements and can be either paid or unpaid.

Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of: changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

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Leave Provisions

Leave for the Care of Dependants

Colleagues have a right to take **reasonable unpaid leave** from work to deal with the following:

- (a) some **unexpected emergencies** affecting the care of a dependant; or
- (b) to make arrangements for the care of a dependant.

In addition to the statutory entitlement the Council has enhanced this and may grant up to 6 days **paid leave** to colleagues who need to care for dependants in the following circumstances in any rolling 12-month period, pro-rated for part time colleagues:

- (a) you are providing short-term, emergency assistance to a dependant who is ill or injured and is unable to look after themselves and no healthcare professional or other adult is available to provide that care;
- (b) you need to make arrangements for the provision of care for a dependant who is ill or injured; or
- (c) the care arrangements you have in place for a dependant are unexpectedly disrupted or brought to an end.

Colleagues who have exhausted their entitlement to leave for the care of dependents may take **up to a year's unpaid leave**.

Unpaid Parental Leave

Unpaid Parental leave is a statutory entitlement that's available to all colleagues enabling them to take time off work to look after a child's welfare. Each employee is entitled to 18 weeks' leave for each child and adopted child, up to the child's 18th birthday, provided the following criteria are met:

- (a) You are named on the child's birth certificate **or** you currently have, or will have responsibility for the care of a child and can evidence this.
- (b) You have 1 year's continuous service with the council.
- (c) The child is under the age of 18.

Up to four weeks' leave can be taken in any one year in respect of each child and leave must be taken in whole weeks rather than individual days in accordance with current legislation.

Planned Healthcare for Children under 5

Colleagues may be required to accompany Children to clinics or to doctors' appointments for developmental check-ups and inoculations in the first 5 years of the child's life. You are entitled to:

- (a) up to 5 working days' **paid** leave before your child's 5th birthday; and
- (b) up to 5 working days' **unpaid** leave before your child's 5th birthday.

Foster Carer Leave

As a prospective foster carer, you are entitled to:

Up to 5 working days' **paid leave** can be granted to cover the preparation and assessment process to be registered as foster carers.

For active foster carers, you are entitled to:

Up to 1 working day's **paid leave** and up to 4 working days' **unpaid leave** in any 12-month period.

This time is to be used to attend urgent meetings about the placement of a child. Your line manager can agree to more unpaid leave to care for a placed child.

Bereavement Leave

In the event on of your family members dies, your line manager can grant **up to 5 working days' paid** leave. Beyond that, colleagues are entitled to **reasonable unpaid leave** to cover normal working hours as a consequence of the death of a dependant.

Jury Service

If you are called for jury service you will get **paid** leave to cover the time you are in court. You need to bring your court citation to work and then follow the advice on the Orb.

Attending Court as a Witness

If you have been called as a witness by the Council, then your time away from work will be treated as part of your normal duties.

If you have been called as a witness by anyone other than the Council, whether for the defence or the prosecution, then you will be granted **paid** leave to attend court.

Leave for Public Duties

Colleagues are entitled to up to **208 hours of paid** leave per year to carry out public duties.

Examples of positions we consider to be public duties are:

- a magistrate or justice of the peace;
- a member of a local authority other than the City of Edinburgh Council;
- a member of any statutory tribunal (e.g. Employment Tribunal, Children's Panel etc);
- a member of a health board;
- a member of a NHS trust;
- a member of a school or college council or body of a central institution or college of education;
- a member of a school board

Once they use this allowance up, colleagues are entitled to reasonable unpaid leave to cover the time they need to perform those duties, subject to service requirements.

Leave for Medical Appointments

Colleagues requiring non-emergency medical treatment from opticians, dentists or GPs should make arrangements to obtain such treatment out with working hours. Where this is not possible, appointments must be made for the beginning or end of the working day.

Colleagues who have been referred to hospital for examination/treatment should, where feasible, try to arrange appointments out with normal working hours. If this is not possible, then **paid** leave, up to a maximum of contracted daily hours, will be granted for attendance at hospital.

A hospital appointment card or a letter from the hospital will require to be produced, and this will be checked by your line manager prior to authorisation of leave.

Where a colleague is required to attend hospital on more than 4 occasions in a rolling 12-month period, the ongoing availability of special leave for this purpose should be discussed with the line manager in the first instance.

Leave for Reservists

Colleagues required to attend compulsory training events may be granted up to a maximum of two weeks **paid** leave to cover the time they attend the event.

If you get a call-out notice for full-time service, you will normally be granted **unpaid** leave for the duration of the call-out. Please see our policy for Reserve Forces for more information

Leave for Voluntary Work

The Council acknowledges colleague involvement in public and voluntary bodies and recognises that they may require time off work in order to perform duties. Any leave agreed for this purpose will be **unpaid**.

Examples of voluntary activities are:

- retained fire-fighter (NB payment received for call-outs);
- special constable;
- a member of a consumer council (e.g. public utilities);
- a member of a community council;
- a member of a tenants or residents association;
- a member of a body recognised by the Council for the purposes of community consultation.

Leave for Cultural/Religious Observances

The council has a diverse workforce and acknowledges that colleagues may make requests for time off to accommodate a cultural or religious observance that is significant to their beliefs.

For religious events not occurring within the framework of the normal public holidays, colleagues will be expected to use annual leave or seek to make other alternative arrangements, for example changing shift/rota times. Requests to take annual leave on religious holidays should not be unreasonably refused.

Electoral Duties

Leave for Electoral Duties will be Subject to the demands of the service, and authorisation by the manager. Paid leave will be granted to allow colleagues to undertake official duties at elections or referenda of the City of Edinburgh council.

Subject to the requirements of the service, **unpaid leave for a period not exceeding up to 10 days** (or up to the equivalent of two of the employee's working weeks) will be granted at the time of the election to colleagues undertaking the duties of an Election Agent for a Local Authority/Parliamentary/Scottish Parliamentary/European Candidate.

Subject to the requirements of the service, **unpaid leave for a period not exceeding up to 10 days** (or up to the equivalent of two of the colleague's working weeks) will be granted to colleagues who stand for election to another Local Authority/as a Parliamentary candidate/as a Scottish Parliamentary candidate/as a European candidate.

Leave to Take Part in Sporting Events

Colleagues are entitled to reasonable **paid** time off to participate in amateur sporting events if:

- a) they are competing in an event; **or**
- b) they are officiating at an event; **and**
- c) the event is at national or international level

Roles and Responsibilities

Colleagues

Should read this policy and familiarise themselves with the provisions outlined.

Must engage with their line manager, with as much warning as possible, to formalise a request.

Must provide their line manager with the appropriate notification where required under the provisions of this policy.

Should remain flexible and must be prepared to change appointment times/dates where required to assist in meeting the demands of the service.

Must book the relevant leave on MyHR when a request has been accepted.

If you do not have access to MyHR, please request this through your manager to process.

Must provide documentation to evidence the requirement for leave when it is appropriate (for example, colleagues are asked to produce a letter or hospital card to confirm the appointment).

Should ensure that the relevant documentation is completed to avoid a loss of earnings where this is appropriate (for example, colleagues will complete a juror citation form and send this to payroll following their attendance at court when participating in Jury service).

Line Managers

Must read this policy and familiarise themselves with the provisions outlined.

Will ensure that whilst each request for leave will be assessed on an individual basis, the application of this policy is consistently applied throughout the Council.

Will engage with employees who are looking to make requests for leave and discuss each individual case prior to accepting/rejecting the request on MyHR.

Must take into consideration the needs of the service in any decision to approve leave under this policy, notwithstanding any obligations we have, to allow time off.

Must be aware that holiday entitlement can be granted in place of any unpaid leave granted under this policy.

Are expected to be supportive of applications for annual leave, which are requested at short notice for urgent family care reasons.

Must enter leave where it is accepted for colleagues who do not have access to MyHR.

Appendix 1: Definitions

Continuous Service

Means continuous service with the City of Edinburgh Council (or its predecessors) or any local authority or employer to which the *Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended)* applies.

Dependant

Your spouse; partner; a child of yours who is under 18 and lives with you; a parent; an individual who lives with you as part of your family (excluding tenants, lodgers, flat-mates or boarders); an individual who depends on you for either: short-term assistance in the event of illness/injury or, to make arrangement for the provision of care in the event of illness/injury.

Family Member

To be determined by the service area director having regard to the nature of the relationship which the person has with the employee and the circumstances prevailing in each case. It is recognised that close friends may be covered by this definition, including former work colleagues of the City of Edinburgh Council (or its predecessors).

Nominated Carer

A person nominated by the mother or adopter to assist in the care of the child and to provide support to the mother or adopter at or around the time of the birth or adoption placement.

Parent

Is a child's mother, father, guardian, foster carer or some other person with parental responsibility.

Partner

Is a person (whether of a different sex or the same sex) who lives with the mother or adopter and the child in an enduring family relationship but is not a relative (e.g. parent, sister/brother, aunt/uncle etc).

Serious illness of a Dependant

Is defined as an illness or injury of a dependant which requires an employee to be absent from work for an extended period exceeding 10 working days in any 12-month period in order to provide care which is not available from either a health professional or another adult.