



# Leave of Absence (Non SNCT)

April 2024

# Document Control Sheet

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# 1.Introduction

This policy is to inform all employees of their rights and responsibilities when requesting leave of absence and to establish consistent treatment of all employees to whom this policy applies.

The Council is committed to be a good employer and to developing people and supportive employment policies. This approach not only allows employees to balance their personal and working lives but also helps us to maintain employee productivity, loyalty, and motivation. In keeping with this, we recognise that from time to time, employees' lives outside of work may necessitate some form of support from the Council. Consideration will therefore be given to allow employees access, where appropriate, to special leave and depending on the nature of the request, this may be paid or unpaid.

## 2.Scope

This policy and relevant supporting procedures and guidance will apply to all recruitment and selection activity in relation to the following groups of employees:

- Scottish Joint Negotiating Council for Chief Officials (Chief Executive, Corporate Directors, and Heads of Service).
- Scottish Joint Council for Local Government Employees (SJC).
- UHI Orkney Academic staff employed by Orkney Islands Council under National Joint Negotiating Committee for Scottish College
- Orkney Ferries Limited shore-based staff, employed by Orkney Islands Council.

Scottish Negotiating Committee for Teachers (SNCT) Teachers and other Education professionals are covered by a separate leave of absence policy.

## 3.Definitions

Immediate family – for the purposes of this policy 'immediate family' is defined as spouse/partner, parent, child, brother/sister, foster parent, or foster child, any of whose relation is 'in-law' or 'step' would also be part of this definition.

Under exceptional circumstances grandparents or aunt/uncle may be classed as immediate family i.e. if the member of staff has been raised by them.

Entitlements – all periods of time quoted within the policy are based on 5 days working.

Any employees working less than 5 days per week would normally receive the appropriate pro-rata entitlement.

Pay – for all periods of unpaid leave, it is essential to ensure that the necessary documentation is completed and passed to the Payroll section.

## **4. Procedure**

### **4.1. Requesting Leave of Absence**

The policy on leave of absence is based on the principle that employees should not make personal arrangements which conflict with work time other than in the circumstances outlined in this policy. It is recognised that certain requests, in the case of emergencies, will be at short notice, but wherever possible, requests for leave should be planned and submitted in advance.

In order to request Leave of Absence you should use the Leave of Absence Request form as per appendix 1 of this document and send to your Line Manager as appropriate.

### **4.2. Approval of Leave of Absence**

Leave of absence requests require to be approved by a Head of Service or Executive Director.

Applications for leave of absence should be considered and a decision confirmed normally within 14 calendar days of the receipt of the completed application by the Head of Service/Executive Director.

### **4.3. Appeal**

Where a request for a leave of absence (paid or unpaid) is declined the employee can appeal within 14 calendar days in writing to the relevant Executive Director and ask for their request for leave of absence to be re-considered. Any such appeal will normally only consider the application submitted and will not require a formal hearing/meeting to be convened.

Where an application for leave of absence was originally considered by an Executive Director, any appeal will be considered by another Executive Director of the Council.

## **5. Pay and Pensions Issues**

### **5.1. Pension Regulations in Relation to Unpaid (Special) Leave**

For leave periods of longer than 30 days, the appropriate action must be taken if the employee wishes to continue with their pension contributions.

Pension regulations state: "If you are granted unpaid leave of absence, including jury service, the period will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. The amount of pension lost is calculated as the appropriate fraction of your lost pensionable pay for that period of absence (i.e. 1/49th of your lost pensionable pay if you were in the main section of the scheme or 1/98th if you were in the 50/50 section)."

"If you wish to purchase the amount of lost pension and make the election within 30 days of returning to work (or such longer period as your employer allows) then the cost of the APC is split between you and your employer.

You will pay one-third of the cost and your employer will pay the rest. This is known as a Shared Cost Additional Pension Contributions (SCAPC). You can pay these additional contributions in a one-off lump sum or through regular payments from your wages. The maximum period of absence you can elect to buy back by a SCAPC is a period of 3 years."

"If you are absent for a day or more due to a trade dispute the period will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. The amount of pension lost is calculated as the appropriate fraction of your lost pensionable pay for that period of absence (i.e. 1/49th of your lost pensionable pay if you were in the main section of the scheme or 1/98th if you were in the 50/50 section)."

"The cost of purchasing the amount of lost pension for the period of absence would be met fully by you (unless your employer voluntarily chooses to contribute to the APC)."

You should contact the Pension Section for further information about paying Additional Pension Contributions.

## **6. Leave for Personal and Family Reasons**

### **6.1. Severe illness of immediate family**

The Council recognises and is sympathetic to the demands placed on staff by family illness or injury and wishes to fulfil a supportive role when these occur, with leave of absence of up to three days with pay. Nevertheless, the Council has a duty to recognise and to minimise the potential service disruption and cost which results from staff absence, as far as is compatible with good employment relations and existing agreements.

Severe illness is intended to cover emergency situations where incapacitating or life-threatening injury or illness forms the basis of the request and will not be interpreted as referring to normal childhood ailments. In all cases "severe" will be strictly interpreted.

When absence is requested to support members of immediate family who are afflicted by injury or illness of a less severe nature, paid leave of absence will not normally be granted, and staff should be aware of the need to establish support from elsewhere. Where a member of staff does not report for work in such circumstances the appropriate absence returns will need to be submitted and pay will be deducted.

Employees who, through the ongoing illness of members of their immediate family, find it necessary to request leave of absence on a recurring basis should consult their Line Manager. Advice may be sought from Human Resources and a discussion undertaken to:

- clarify the situation regarding the long-term implications.
- where practicable, consider revising working arrangements to lessen the adverse effects of such absence.
- consider investigating the possibility of obtaining support from other sources.



## **6.2. Personal/individual medical appointments**

Employees are expected to make every effort to arrange their own medical appointments out with work time and the provisions of the Council's Flexi-time Scheme apply in respect of this. However, where this is not possible, or the employee works in a post not subject to the provisions of Flexitime, reasonable paid leave may be granted. Employees should however still try and arrange such appointments to minimise disruption to their work e.g. at the start or end of their shift or during unpaid breaks. For this purpose, medical appointments include necessary and preventative GP, dentist, and optician appointments.

For appointments where the employee cannot influence the timing or location, e.g. to attend preventative medical examinations such as hospital/consultant appointments as an out-patient, paid leave of absence will be awarded, and employees will therefore not be required to complete sickness absence forms. Where such appointments involve being admitted to and discharged from hospital for treatment, the absence should be treated as sickness absence.

In all cases sufficient notice and evidence should be provided. Time off will not normally be refused unless, for example, their absence would leave service users/children/customers at risk. Employees should present appointment cards etc. as evidence of their appointment.

This section is not intended to cover time off in respect of dependents/family members, for that please refer to section 5.7.

## **6.3. Family bereavement**

In the case of absence following the death of the employee's immediate family, leave of absence with pay for up to three days shall be granted. In situations where the death is out with Orkney, sympathetic consideration should be given to apply discretion to extend the time off in such cases, to allow travel up to an additional two days.

In the case of relatives out with immediate family, e.g. an aunt/uncle or grandparent, leave of absence with pay for one day shall be granted. In situations where the death is out with Orkney, sympathetic consideration should be given to apply discretion to extend the time off in such cases, to allow travel up to an additional two days.

Leave of absence related to bereavement leave can be taken at any time between the death and the day after the funeral. This covers situations where the funeral is to be held some weeks following the death and includes employees' travelling time, where necessary. Part-time workers will have a pro-rata entitlement calculated for this leave.

Where time does not permit applications to be made in the normal manner, emergency requests for leave should be made to the Line Manager after which a leave of absence application will be made retrospectively.

## **6.4. Parental Bereavement Leave**

Parents and primary carers i.e. adopters, foster parents, guardians and those classed as kinship carers (those that have assumed responsibility for looking after a child in the absence of parents) and parents that have suffered a still birth (after 24 weeks of pregnancy) have a right to two weeks statutory parental bereavement leave in the event of the death of their child.

Leave can be taken at any point following the death of the child up to 56 weeks following the death.

The Council policy position is that the right to this leave is available from day one of employment and the 2 weeks' leave will be on full pay. This is above the statutory entitlements.

If an employee loses more than a child, they will be entitled to take a separate period of parental bereavement leave for each child.

Managers must not ask for or seek any form of evidence of the child's death i.e. a copy of the death certificate.

Given the distress and sensitivity of such situations, it is not expected that applications may be able to be made in the normal manner. Emergency requests for leave should be made to the Line Manager after which a leave of absence application will be made retrospectively.

## **6.5. Statutory Carers Leave**

Council employees who are providing or arranging unpaid long-term care to an individual as defined below are entitled to take up to 1-week unpaid carers leave each year to help balance their caring role with their paid work.

Legislation defines a carer for leave purposes as "any unpaid carer who is providing or arranging care for either a spouse civil partner, child, parent, someone living in the same household, a person who relies on the employee for care, someone who helps to look after a friend, a family member who has a disability, illness, mental health condition, addiction or needs extra help as they grow old."

Carers Leave can be taken flexibly from a day to a block of a week.

Where more than one member of the same household are Council employees only one of the individuals can take the leave or the leave may be apportioned between them.

Carers leave is not available for to deal with routine situations relating to children or dependents i.e. sickness absence of a child, school appointments, school closures/in-service days, or routine medical appointments i.e. Doctor, Dentist, Optician etc. In these circumstances the other relevant Council policy/procedures would apply.

## **6.6. Funerals**

For attendance at funerals other than as detailed above, up to one day of unpaid leave may be allowed at the discretion of the Line Manager as appropriate. In certain circumstances it may be possible for employees to work back these hours or use the provisions of the Council's Flexi-time Scheme to incorporate the time off.

## **6.7. Statutory Time off for Dependents**

All employees have a legal right to take unpaid leave to deal with a family emergency involving a dependant (defined as a partner, child or parent, or someone who lives with the employee as part of the family). This covers emergencies only, so if the employee knew beforehand that time off was needed, alternative arrangements should have been made.



The amount of time allowed is that which is necessary to deal with the emergency and to make longer-term care arrangements, not to undertake longer term subsequent commitments. Normally, this will be one or two days, but this will depend on individual circumstances.

Typical circumstances that may result in the employee exercising this right within the terms of this policy may include situations where the employee must deal with: -

- Unexpected disruption or breakdown of care arrangements for a dependent, (for example, the nurse who comes to take care of an elderly relative fails to turn up as arranged).
- A dependant who has fallen ill, is injured, or assaulted (for example, the employee's child is injured while at school or in after school care).
- A dependant who has gone into labour.

Managers should use their discretion and common sense in these situations and where possible, employees should have the opportunity to make the time up later or to use some of their annual leave. If the employee has accrued flexi-time hours, then these can be used to accommodate such a situation. If none of the options outlined are possible then the time off to deal with the emergency is unpaid.

Please note Orkney Islands Council will normally grant leave with pay if these circumstances are covered under Section 5.1. Severe Illness of Family Member.

## **6.8. Interviews**

Job interviews for external organisations will be unpaid. Interviews for posts within Orkney Islands Council will normally be with pay if held during normal working hours and the time off should be agreed in advance with your Manager.

## **6.9. Attendance at own graduation**

Leave of Absence with pay, up to a maximum of two days, will be granted to employees who wish to attend their own graduation ceremony provided the qualifications directly relate to their employment and leave of absence is approved in advance with line management.

Where qualifications are not related to their employment, then annual leave flexitime, or unpaid leave can be used for time off to attend Graduation Ceremonies, including those held out with Orkney. No travel or subsistence is paid for this purpose.

## **6.10. Unpaid Leave of Absence**

There is no right to unpaid leave of absence, although requests can be made where the period of leave cannot be covered through other normal procedures i.e. annual leave, career break etc.

At least four weeks' notice is usually required and will be expected. If a request is made with less than this then the request may be denied because of the difficulties in planning efficient service delivery. If there is a reasonable explanation as to why four weeks' notice could not be given, then the request should not be unreasonably refused purely based on sufficient notice having been provided.

Leave of absence without pay should not be considered for longer than three months. Reference should be made to the Council Career Break Policy for requests for periods of leave in excess of three months.

An employee who takes time off work despite having a request for unpaid leave rejected will be subject to normal disciplinary procedures for unauthorised absence.

When considering a request for any period of unpaid leave, the employee's length of service, attendance record, and any other requests for leave (both paid and unpaid) should be considered. It is also important to ensure that the workplace can cope with the absence.

For all periods of unpaid leave, Managers must ensure that the necessary documentation is completed and sent to Payroll to stop pay for the period of leave and recommence payment when the individual returns.

## **7. Leave for Public and Voluntary Activities**

### **7.1. Public Duties**

Employees who are considering undertaking public duties should inform their Line Manager and seek prior approval from their Head of Service to undertake the duties. They should provide an indication of the level of commitment this entails, i.e. the anticipated number of occasions and amount of time off likely to be required. It should not be assumed such a request will be granted, as all requests must be considered with regard for the exigencies of the service.

Should an appointment be made, the employee should inform his/her Line Manager. Evidence of public and voluntary body appointments should be provided by the employee. The Manager should monitor the impact these absences have to ensure there is a minimal detriment to service provision.

The following public duties will qualify staff for paid leave of absence, subject to prior approval from your Corporate Director:

- Children's Panel.
- Honorary Sheriff.

The following public duties will qualify staff for paid leave of absence, subject to prior approval from your Head of Service:

- Emergency Services.
- Jury duty.
- Obligatory attendance at court, e.g. called as a witness.

Where paid leave of absence has been approved in respect of public duties payment is made on the expectation that where a claim can be made to the organisation for loss of income this should be claimed and paid to the Council, where possible.

## **7.2. Parent Councils**

Leave of Absence with pay may be granted for employees who are Parent Council representatives to allow attendance at short-leeting meetings and interview panels or associated training.

## **7.3. Sporting, recreational, social, and cultural activities**

Representing your country in sport or coaching will qualify the participant for leave of absence with pay up to five days in any one leave year.

If representing Orkney, unpaid leave of absence may be granted.

If representing Orkney at the Island Games, appropriate leave of absence (with or without pay) for all participants will be decided by the Chief Executive, considering the duration of the Games, and required travel arrangements.

## **7.4. Armed Forces Reserves**

Members of the British Armed Forces Reserve taking part in formal training may be granted up to fifteen days leave of absence in any one year, subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

Salary costs must be claimed by the employee and submitted to the Armed Forces; payments received (up to the value of normal salary) should be paid to the Authority.

## **7.5. Foster/Kinship Carers**

Council employees who are foster/kinship carers (under formal fostering arrangements) are entitled to up to five days paid leave per year to attend approved training and meetings related to their fostering responsibilities as laid out below.

Training:

- Child protection training (One off training refreshed 5 yearly).
- Studio 3 training (Challenging Behaviour).
- Child specific training as required – e.g. epilepsy training.

Meetings:

- Child's review meeting – 6 monthly.
- Fostering and Adoption/Permanency panel meetings – Initial approval, annual review, permanency panel, plus occasional ad hoc attendance.

This leave can be taken in whole or part days. Where both foster carers are employed by the Council only one of the individuals can take the leave or the leave may be apportioned between them.

Paid leave of absence is not available for foster carers to deal with routine situations relating to the young person i.e. sickness absence of a child, school appointments, school closures/in-service days or routine medical appointments i.e. Doctor, Dentist, Optician etc. In these circumstances the other relevant Council policy/procedures would apply.

## **7.6. Retained Firefighters**

Retained Fire Fighters shall where necessary in terms of their regular working pattern, be granted paid leave of absence to undertake their initial training course and any ongoing mandatory training requirements. This is subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

Initial training for service in Orkney is normally delivered via a two-week residential course, run out of Orkney.

Release from employment, where necessary to attend ongoing mandatory training, shall be limited to a maximum of up to 5 days (pro-rata for part-time or part-week employees) paid leave of absence per year.

Where agreement is given for an employee to be a Retained Firefighter, any routine necessary release from scheduled work to attend call outs will be on the basis of unpaid leave.

## **7.7. Police Scotland – Special Constabulary**

Members of the Special Constabulary shall where necessary in terms of their regular working pattern, be granted paid leave of absence to undertake their initial training course and any ongoing mandatory training requirements. This is subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

Initial training for remote communities such as Orkney is normally delivered over six weekends in Orkney (not normally concurrent weekends) rather than the three-week residential course at the Scottish Police College, Tulliallan.

Release from employment, where necessary to attend ongoing mandatory training, shall be limited to a maximum of up to 5 days (pro-rata for part-time or part-week employees) paid leave of absence per year.

Whilst it is not normally expected that release from employment shall be required, where agreement is given for an employee to be in Police Scotland – Special Constabulary, any routine necessary release from scheduled work to undertake duties will be based on paid leave, subject to operational exigencies.