

# HR Policy

Strategic Human Resources



## Time Off for Compassionate Leave, Emergencies, Work break and Public Duties Policy

This information can be made available in a range of formats and languages, including Braille and large print. If this would be useful to you please contact [Human Resources](#).

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## **POLICY STATEMENT**

UK legislation gives employees the statutory right to take reasonable unpaid leave to deal with dependant-related emergencies and also for certain public duties.

Staffordshire County Council (“the County Council”), otherwise known as the employer recognises its statutory duties and this policy provides a framework for managers to ensure consistency when dealing with an employee’s request for time off.

This policy, which goes beyond the basic rights by allowing for paid, as well as unpaid, leave depending on the situation, covers time off for compassionate leave, emergency leave, public duties and work breaks.

The ‘appropriate level of authority’ should be determined according to the employer’s decision making structure.

## **WHO THE POLICY COVERS**

This policy applies to all employees, regardless of length of service and employment status, eg fixed term, permanent, temporary (unless otherwise specifically stated), but does not form part of the contract of employment and can be varied from time to time and in full consultation with the recognised trade unions. The procedure does not apply once an employee has left the employment of the County Council.

The policy is commended for adoption by governing bodies for application to all employees employed in schools.

## **POLICY PRINCIPLES**

**Compassionate and emergency leave** is intended for urgent or serious situations that employees are unable to plan for. Holiday entitlement or other types of leave should be used where employees need time off work for commitments that can be planned ahead.

As emergency leave is in place to cover unplanned events, the absence will begin as soon as the employee needs it. Where compassionate leave has been agreed the absence should begin as soon as the employee needs it.

There is no limit as to how many times an employee can take emergency time off for dependants and an employee is allowed to take a reasonable amount of time off to deal with the emergency. There are no set limits as it depends on the facts of each situation.

The following definitions apply:

- Dependants cover partner (including same sex partner), husband, wife, civil partner, child, parent or grandparent, step-parent or parent-in-law, sibling or elderly relative. They can also be another person who lives in the same household or someone who reasonably relies on the employee for assistance in the event of serious illness or injury. Dependants do not normally include individuals who live in the same household but under a commercial arrangement such as a tenant, boarder, lodger or employee.
- Family covers the employee's wider family such as cousins, aunts, uncles or a partner (including same sex partner) who no longer lives in the same household.

With regards to time off for **public duties**, the County Council encourages and supports contribution to the wider community and society. Making a contribution to the community also provides opportunities for personal development, enables an interchange of ideas, supports the County Council's values and enriches the community and society in which we live.

## **POLICY PROVISIONS**

### **COMPASSIONATE LEAVE (PAID)**

Compassionate leave may be granted in certain circumstances of urgent domestic distress.

An employee can request to take up to five days paid absence (pro-rated for part time employees) where a dependant (as defined above) dies, is seriously injured or unexpectedly falls seriously ill. Any time off includes time to organise and attend funerals.

The entitlement (full or pro-rated days) can be taken as single days as circumstances dictate.

Time off may also be granted for attendance at funerals of people other than dependants (for example – work colleagues).

### **TIME OFF FOR EMERGENCIES (UNPAID)**

An employee might find that they have to deal with an emergency concerning a dependant for which they need to be absent from work but for which paid leave is not available under any of the County Council's schemes. The County Council will grant a reasonable amount of unpaid leave to deal with these emergencies.

In order to ensure that fairness prevails the following circumstances are given as a guide as to when an employee may take time off (this list is not exhaustive and the manager will need to consider each situation individually):

- an employee is required to make care arrangements when a dependant falls ill, is injured or is assaulted

- a dependant goes into labour unexpectedly and relies on the employee to take them to hospital
- an employee is required to deal with an unexpected disruption, termination or breakdown of care arrangements for a dependant
- an employee's elderly neighbour becomes critically ill and the employee is closest at hand to ensure the neighbour receives emergency treatment
- an employee's child is too ill to attend nursery or school and alternative childcare arrangements cannot be made until the next day

### **Asking for leave**

In an emergency or compassionate situation, communication with an employee's line manager is an important consideration. It is recognised that, in an emergency situation, it may not be possible for an employee to speak to their line manager before they leave work. However the employee should speak to their line manager as soon as they can. They should explain the circumstances, if possible indicating the length of time they are likely to need to cover the immediate situation. There is no requirement to provide written notification or written proof.

### **Other considerations**

There may be occasions where the need for time off is likely to continue beyond the entitled absence provided for by this policy (for example where a dependant has a longer term hospitalisation).

In these circumstances careful consideration should be given to other provisions available to assist employees such as annual leave, flexitime, unpaid leave or work breaks.

### **Roles and responsibilities**

It is the responsibility of employees to discuss with their manager the circumstances surrounding the need to take time off as compassionate or emergency leave.

It is the responsibility of managers to support and listen to employees when the initial emergency occurs, grant any request for time off where an employee is eligible, and then talk to them about any continued impacts.

## **WORKBREAK**

The workbreak scheme provides employees with the opportunity to take a planned period of time off work to concentrate on alternative personal priorities. The primary purpose is to offer employees the flexibility to more easily combine family commitments with work, but this also extends to other personal commitments such as travel, recovery from a long term illness or voluntary work.

It should be noted that there is no contractual right to take a workbreak and each individual request will be considered on a case by case basis by the manager.

### **Eligibility**

The provisions within this policy may apply to permanent employees currently at work\* with a minimum of two years' continuous satisfactory service with the employer regardless of grade or occupation and subject to agreement from your manager.

(\* the provisions of this policy also apply to those currently on maternity, adoption, paternity or parental leave).

Satisfactory service will be defined as service where:

- There is no current (ie unspent) disciplinary action/sanction against the employee and/or
- There is no current formal action against the employee under the Performance Improvement or Managing Attendance at Work policies.

It is unlikely that a second application would be considered within 5 years of a previous work break having commenced.

These provisions are not applicable to colleagues on temporary contracts.

### **Administering the Workbreak**

The work break will last for a minimum of three calendar months and a maximum of one calendar year and will effectively be a period of unpaid leave. There is no requirement for the employee to resign from their position unless they subsequently decide not to return at the end of their work break.

Where circumstances permit, the employee's position may be filled on a temporary basis until such time as the work break comes to an end.

At the end of the work break period, the employee does not have an automatic right of return to the role they occupied prior to taking the work break. If the substantive post is no longer available, the employer will make best endeavors to find a suitable alternative role. If this is not possible, normal redeployment and consultation arrangements will be adhered to.

When deciding whether to agree to a work break, the manager must consider the feasibility of recruiting a suitable individual to fill the post on a temporary basis whilst the work break is in progress.

During the work break the employee has a responsibility to keep their professional skills and knowledge up to date.

In addition an agreement may be made between both the employer and employee as part of the work break arrangement (where feasible), for the employee to work up to 10 days paid work for the employer, in order to help the individual to maintain their skills. The 10 days paid work will be casual / supply work paid at the point on the pay scale applicable at the beginning of the work break. The 10 days paid work will allow contact between the employee and their manager to be maintained and to help to maintain up-to-date skills. The employee may, from time to time, be invited to join in with relevant training events.

Payment applicable for days worked will be paid at the end of the work break period. Payment will be paid for actual hours worked. The employer has no automatic right to require the employee to carry out any work and the employee has no automatic right to undertake any work during the work break.

## **Maternity Leave and Work break**

Where a work break follows maternity leave, the manager must ensure that the work break commences towards the end of the maternity leave and after the period of paid leave. This will ensure that the employee's benefits are protected. An employee ending her maternity leave who enters into a work break agreement has clearly indicated her intention of returning to work. As such the contractual part of maternity pay (i.e. the period at half pay) can either be paid as soon as statutory pay expires or held in abeyance until the employee returns to work following the work break. If an employee fails to return to work at the end of the work break, the employer will take steps to recover the occupational part of maternity pay where it was paid.

Where an employee has received financial assistance for post entry training prior to commencing the work break, repayment will only be required if the employee fails to return to work at the end of the work break.

## **Ending the Work break**

Once the employee has been absent for the agreed period of the work break they should return to work on the agreed date but should contact their manager at least one month beforehand to confirm their intention to return on the agreed date and make arrangements for any necessary induction process or refresher training on return. If an employee is unable to return on the agreed date due to sickness or other absence, they must carry out the relevant absence reporting procedure.

If the employee does not intend to return to work following the work break they should inform their manager of this and tender their resignation from their post giving the appropriate notice period as specified in the individual's contract of employment. The termination date should coincide with the planned termination date of the work break agreement. Note: as the employee is voluntarily on unpaid leave at this time there is no entitlement for payment for the duration of the notice period.

An employee can terminate the work break agreement and return to work during the work break if their circumstances change and they feel that they are no longer able to comply with the terms of the work break. In this situation the employee should inform their manager in writing giving one month's notice that they wish to terminate the work break arrangement and return to work.

An employee wishing to return from a work break should give at least one month's notice of their intention to return regardless of whether they are returning early. (NB: Anyone filling the position on a temporary basis will also require a month's notice of termination of the temporary contract.)

When the employee returns to work from a work break the manager should inform the Shared Service Centre of their return.

## **How To Apply**

If an individual wishes to take a work break they will be required to discuss this initially with their manager on an informal basis, then submit an application.

In considering whether to agree to a work break, the relevant manager should take account of the individual's eligibility and the likelihood of being able to recruit a replacement to cover for the duration of the work break.

If a decision is made that the work break can be accommodated, a work break agreement should be prepared outlining the roles and obligations of each party to the agreement.

The work break agreement should be completed by the manager and the employee and signed by both parties. The agreement should be sent to Shared Service along with the variation form.

### **Other considerations**

For employees who are essential car users or who have a lease car, taking time off on a work break may reduce their business mileage and so could affect the terms of their car agreement. These employees should speak to the Car Leasing Manager (Fleet Management) to understand what impact it will have.

Taking time off on a work break will have an impact on an employee's occupational pension entitlements. Employees should seek advice from their relevant Pensions team before a work break agreement is entered into.

## **TIME OFF FOR PUBLIC DUTIES**

This covers time off for:

- Public duties
- Courts – justice of the peace (JP), jury service, witness
- Reserve forces and peace-time emergencies
- Elections
- Representative sport

The County Council allows employees to take time off for the public duties detailed within this policy document in accordance with the guidelines given.

Where an allowance is claimable for loss of earnings, employees should claim and pay the allowance to the County Council. All absences will be subject to service needs and must be agreed in advance by the employee's manager.

### **Amount of time off for public duties**

- 1 Justice of the peace (JP) or member of a local authority:
  - up to 18 days or 36 half days paid leave – which may be calculated on an hourly basis, subject to the total number of hours taken not exceeding the hourly equivalent of 18 days;
  - and**
  - up to 35 days or 70 half days without pay, which must be taken as full or half days, i.e. may not be calculated on an hourly basis.
- 2 For other public duties listed in the Employment Rights Act 1996 which do not include duties as a JP or member of a local authority:

- 9 full days or 18 half days with pay which may be calculated on an hourly basis, subject to the total number of hours taken not exceeding the hourly equivalent of 9 days;

**and**

- 9 full days or 18 half days without pay, which must be taken as full or half days i.e. may not be calculated on an hourly basis.

Those employees who are eligible to claim under both of the above schemes may only claim up to 208 hours in total.

**or**

3 For other public activities listed below, recognised by the County Council but not specified in the legislation, up to 35 full days or 70 half days with pay can be given. Agreed leave should be taken on a full day or half day basis, i.e. may not be calculated on an hourly basis.

- member of a non-political organisation on a list approved by the County Council, whose principal objectives include the improvement of the standards of local government services but whose objects do not include the remuneration, status, conditions of service or conditions of employment of employees
- member of a committee or panel or similar body appointed by a Minister or local authority association
- co-opted member of a committee or sub-committee of a local authority (as defined in the Local Government Act 1972)
- a Lady Mayoress or Escort of the Chair of a district council
- examiner for a university, college or other examining board or body \*
- occasional lecturer on subjects appertaining to the local government service \*

\* Examiners and lecturers are allowed to keep any fees received from the appropriate bodies in respect of these duties.

### **Public duties – Schools**

The County Council's scheme for time off for public duties is a collective agreement and applies to all employees in schools. Approval of time off, arrangements for cover and monitoring are matters for the Governing Body. Cover for any time off granted will be paid from the school's allocated budget.

Governors should inform the shared service centre whenever a school employee is granted time off without pay under this policy.

### **How to apply**

An employee should complete the Time Off For Public Duties application form; this should be submitted annually to the manager.

## **JURY SERVICE**

Where an employee receives a summons to serve on a jury, they should report that fact immediately to their manager. Leave of absence will be granted unless an exemption is secured. Although not



obliged under law, paid leave of absence will be granted to employees undertaking jury and other public service.

When summoned for jury service, an employee will receive a form called “*Certificate of Loss of Earnings or Benefit*” from HMCS. The employee and the manager should complete the relevant parts of the form, and then send it to Shared Service along with the Notification of Jury Service.

The employee must use this to claim their loss of earnings from the Court and hand it to Court officials on the first day of attendance for Jury Service.

On completion of jury service, the employee will receive a payment from HMCS for the total amount of earnings allowed by law. It should be noted that the ‘loss’ of earnings paid by HMCS will not usually amount to the employee’s normal earnings. The employee will also receive a certificate of attendance and an ‘Advice Slip’ explaining how the payment has been calculated.

The employee should send the ‘Advice Slip’ to shared services who will then make arrangements for the ‘loss of earnings payment’ to be reclaimed by the employer. The employee will keep any travelling and subsistence expenses they have claimed from the court.

## **WITNESSES**

Employees called to be witnesses, defendants, or plaintiffs on behalf of the County Council will be granted paid leave to attend court.

However, time off with pay will not be granted in respect of cases personal to the employee, but managers should facilitate availability to attend court. This should be on an unpaid basis.

### **Returning to the workplace**

If an employee attends court for jury service or as a witness but they are not required for a particular day, they should return to the workplace on that day. If they do not return to work, this will be considered as unauthorised absence and the employee will not be paid for this time.

## **RESERVE FORCES**

### **Mobilisation**

Members of reserved forces will be released to meet government requirements and on return will be entitled to return to the job in which they were employed, unless that is not practicable, in which case they have the right to return to a job that is both suitable and appropriate. Requests for time off to volunteer where there is no compulsory mobilisation will be considered on a case by case basis. Specific advice should be sought from Shared Service on an individual basis.

### **Training**

Volunteer Reservists may be required to undertake training for up to 16 days per annum. This is usually undertaken on Saturdays and Sundays. The onus is on the employee to arrange for training to

be undertaken in off-duty time. Where this is not possible, paid leave may be granted for mutually acceptable dates for this absence.

### **Annual camp**

Employees in the Territorial Army and Volunteer Reserve who are required to attend annual camp are allowed the two weeks as additional leave with pay.

### **Peace – Time Emergencies**

Employees who are called upon to assist at a peace–time emergency under emergency planning schemes ( e.g. scientific advisers, members of Red Cross or St. John Ambulance) will be granted leave of absence with pay for such duty.

## **POLITICAL ELECTIONS**

### **Elections / National Political Referendum - assisting at the poll/count**

Employees may be granted paid leave to assist in the poll or the count at elections or for a national political referendum. All absences of this nature are subject to service needs and must be agreed in advance with the employee's manager. For anyone currently in a post classed as Politically Restricted, reference should be made to the guidance regarding Politically Restricted Posts in the Local Government and Housing Act 1989 as updated by the Local Democracy, Economic Development and Construction Act 2009.

### **Candidates – local elections**

One day's leave of absence without pay (the polling day) will be granted to an employee who contests a local election

### **Candidates – Parliamentary and European elections**

Employees who stand as candidates at a General Election or a European Election will be granted leave of absence without pay for the period from nomination day to polling day inclusive.

### **Parliamentary Agents**

Leave of absence without pay from nomination day to polling day inclusive will be granted to employees acting as Parliamentary Agents.

### **Party Political Conferences**

Leave of absence is **not** granted to employees to enable them to attend party political conferences.

## **REPRESENTATIVE SPORT**

SLT members / School Governing Bodies have discretion to grant leave with or without pay to employees who are selected to represent their county or country in representative sport. If it is a "professional" sport, leave will be without pay.

## Roles and responsibilities

Employees are responsible for:

- Ensuring that public duties undertaken do not conflict with the work of, nor draw into question, their loyalty to the County Council; and
- Submitting applications for time off in the prescribed manner, and for claiming loss of earnings allowances wherever possible.

Managers are responsible for:

- considering applications for time off for public duties in accordance with service and legal requirements and within the policies set by the employer; and
- completing the relevant payroll form, and submitting this to Shared Service for processing.

## CROSS REFERENCES

This policy should be read in conjunction with the following policies:

- Annual Leave
- Flexitime

The above list is not exhaustive and you are reminded to refer to the HR Policy website on Staffordshire County Council's intranet or the Schools Learning Network for copies of all current HR Policies.

## VERSION CONTROL

Version	Author	Implementation Date	Revision Detail
1.0	Strategic HR	September 2013	
2.0	Strategic HR	July 2016	<ul style="list-style-type: none"><li>• To reflect legislative changes in relation to statutory right to request emergency leave</li><li>• To update workbreak policy in relation to right to return to same, or similar, role</li></ul>