

ADDITIONAL GUIDANCE FOR MANAGERS
APPLICATION OF SPECIAL LEAVE PROVISIONS

1. OVERVIEW

- 1.1 The council recognises that employees will on occasion require time off work to deal with unforeseen matters and emergencies particularly in relation to dependants.
- 1.2 In those circumstances, the provisions of the council's Leave for Family Care Purposes Policy are intended to support employees meet family care responsibilities without adversely affecting their continuity of employment or employment opportunities.

2. PURPOSE

- 2.1 The Leave for Family Care Purposes Policy provides for '*special leave to care for an ill dependant*' where the person who is ill is reliant on the 'day to day care' of an employee.
- 2.2 It should be noted that this provision is quite separate from 'leave for the planned health care of a young child' which is a statutory right limited to parents of children under the age of 5 and is for the purposes of accompanying the child to planned health care appointments for example post-natal appointments, vaccinations etc.

3. What factors should managers take account of when considering a request for special leave?

In all cases where special leave is being considered, managers should take account of:

- the circumstances surrounding the request and ensure decisions taken are reasonable and proportionate
- the need to ensure disruption to the service is minimised
- the need to ensure consistency of application across their service and the wider council

4. How does the council define 'a dependant'?

The Leave for Family Care Purposes Policy defines 'dependant' as;

'An adult or child who is dependent upon the day-to-day care of an employee at the time of an application for Special Leave'

The reference to '**at the time of the application**' is significant in that it can cover individuals (as well as young children and elderly parents) who may become temporarily dependent on the care of an employee for a limited period due to illness including a spouse or partner.

5. When would an ill dependant attending hospital be considered to be dependent on the care of an employee and what provisions would apply?

Where an ill dependant requires to attend hospital there are a number of factors to be considered when determining whether the provision of up to 5 days paid special leave to care for an ill dependant applies:

- i) whether the dependant is an adult or a child
- ii) the age of the child
- iii) the seriousness of the operation/condition
- iv) the availability of other carers to take some of the responsibility

In circumstances where an ill dependant is an adult and is admitted to hospital it is normally viewed that responsibility for the day to day care of that person has transferred to the hospital and therefore special leave would not be appropriate. In exceptional circumstances however, the Depute Chief Executive may choose to apply discretion as outlined at question 7 below.

Where an ill dependant is an adult and is receiving treatment that prevents them from travelling to and from hospital appointments unaided, reasonable time off may be granted to an employee to assist the dependant in travelling to and from hospital.

If, on release from hospital an adult dependant continues to require day-to-day care, then the provisions of the policy would be applicable.

Where the ill dependant is a child age 16 or under (18 in the case of a disabled child) and is admitted to hospital, it is reasonable to conclude that the child is dependent on the care of an accompanying parent or carer in such circumstances. Similarly if a child requires to attend a hospital appointment or a series of hospital appointments they would be considered dependant on the care of an accompanying parent or carer.

6. What leave is available when an employee is unavoidably absent as a result of an emergency situation?

Unforeseen events may occur that require the employee's immediate attention and necessitates an absence from work. In these circumstances employees should be afforded the necessary time to deal with the emergency situation or to make necessary arrangements that will enable them to attend work as normal.

Examples of an emergency situation might range from dealing with a last minute/unforeseen breakdown in childcare to a more critical situation in which a dependant has been admitted to hospital with a life threatening condition/injury.

There is not an automatic policy provision for special leave in those circumstances. For example in the case of child care, the employee's child would normally need to be ill in order for paid special leave to be considered. However it is recognised that situations can arise in which the child is not ill but normal care arrangements have unforeseeably broken down and there are no other immediate care options available. In those circumstances, a Head of Service may at their discretion and subject to consultation with Human Resources, award **up to one day paid special leave** to provide the employee with the opportunity to arrange a source of alternative child care. Any additional leave required would be taken as annual leave/flexi/TOIL or unpaid leave as appropriate.

Where discretionary paid leave is granted, the amount of leave will be deemed to count towards the limit of 5 days paid special leave within a 12 month period.

7. Are there other circumstances where special leave can be applied that fall out with the provisions of the Leave for Family Care Policy?

The SJC National Agreement on Pay and Conditions of Service provides for;

'Additional leave with or without pay may be granted in special circumstances at the discretion of the council'.

Under this provision, a Depute Chief Executive can apply discretion under delegated authority to approve paid or unpaid special leave in exceptional circumstances that fall out with the council's formal time – off and leave policies. By definition it is difficult to be prescriptive about the exceptional circumstances that could merit a request for special leave being considered by a Depute Chief Executive, however any such request would be subject to the following considerations:

- the situation must be exceptional in so far as it is of a serious or extreme nature and unlikely to recur;
- the situation is not capable of being covered by the provisions of the council's formal time-off and leave policies;
- any leave would be granted with the expectation that it would assist an employee cope or manage an extreme personal or domestic situation in respect of which it would not be reasonable to fully accommodate through annual leave/flexi leave or time off in lieu (TOIL).
- where the exceptional circumstances are in relation to a child and both parents are employed by the council, discretionary leave may be granted to one or both parents as considered appropriate in the specific circumstances.

The duration of leave and whether or not it is paid or unpaid is at the discretion of the Depute Chief Executive. However in exercising that discretion, the Depute Chief Executive will have regard to any other similar types of requests and in this regard will take advice from Human Resources with a view to ensuring as far as possible consistency of application across the council.

Human Resources
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