

# **Special Leave Guidance**

## **SPECIAL LEAVE POLICY**

### **(Covering all Employees)**

#### **1. INTRODUCTION**

- 1.1 As an equal opportunities employer, West Lothian Council is committed to developing and applying employment policies which assist employees in carrying out their personal responsibilities without adversely affecting their continuity of employment. West Lothian Council recognise that there are circumstances which may arise where employees may need time off work.
- 1.2 It is intended that annual leave and flexi leave (where appropriate) should be used to good effect when planning for time off requirements. The Council will fully comply with legal requirements in respect of statutory time off work. Non-statutory leave is entirely at the Council's discretion and this guidance has been prepared to ensure a consistent approach to the granting of special leave across the Council.

#### **2. GENERAL PRINCIPLES**

- 2.1 All leave, whether paid or unpaid, shall be granted subject to the needs of the council's services. In making decisions to grant such leave managers will take account of the following:
- The circumstances surrounding the request and the need to ensure decisions taken are reasonable and proportionate;
  - The effect of the absence on the operation of the service, the requirement to provide cover and the need to ensure disruption to the service is minimised;
  - The need to ensure consistency of application across the service and the wider council; and
  - The council's statutory obligation to grant leave (where appropriate).
- 2.2 Due to the essential nature of certain services and posts there may be some categories of employment which make it impractical to approve leave, other than that requested under a statutory right.
- 2.3 Special leave in all circumstances will be counted as continuous service for contractual purposes.

#### **3. PROCEDURE FOR REQUESTING SPECIAL LEAVE**

- 3.1 Requests for special leave must be made on an 'Application for Special Leave' form and submitted to the line manager/Head Teacher. Application forms are available on Mytoolkit.
- 3.2 Prior to approving Special Leave, it may be appropriate for line managers to seek supporting information/documentation eg a hospital appointment card.

#### **4. BEREAVEMENT**

- 4.1 Where a dependant or a family member dies, the line manager has discretion to grant paid leave up to a maximum of one week. The line manager will take account of:
- the circumstances of the bereavement and the relationship to the employee;
  - the requirement for an employee to make funeral arrangements; and
  - the requirement for an employee to travel over long distances (for travel outside the UK the absence may be part paid and part unpaid).
- 4.2 Where there are special circumstances, unpaid leave may be granted for longer periods at the discretion of the Head of Service.

- 4.3 Where a close friend, West Lothian Council colleague or former colleague dies, the line manager has discretion to grant paid leave to attend the funeral.

#### Parental Bereavement Leave

- 4.4 In addition to bereavement leave outlined above, an additional 2 weeks paid parental bereavement leave will be granted to a parent or parents (if both parents are employed by the council) where their child (up to age 18) dies, including pregnancy loss and still birth at any stage of pregnancy.
- 4.5 Parental Bereavement Leave must be taken as a single block of 2 weeks, or 2 separate blocks of 1 week at any time up to 56 weeks from the date of the death of the child.
- 4.6 Parental Bereavement Pay will be equal to normal pay.
- 4.7 Where more than one child dies, the parent will be entitled to leave and pay in respect of each child.
- 4.8 Notice to take leave will not be required when the leave is taken immediately after the death of the child. Leave taken at a later date will require 2 weeks' notice.

### **5. MEDICAL APPOINTMENTS**

- 5.1 Employees should make every effort to arrange hospital, doctor and other medical appointments out with their normal working day or out with core time.
- 5.3 While employees are expected to arrange medical appointments in their own time, it is recognised that it is not always possible, for example in the case of hospital appointments. Where employees are unable to make an appointment in their own time and have provided their line manager with evidence of the appointment, the employee should be granted reasonable time off to attend the appointment inclusive of the time required to travel between appointment location and the workplace.

#### Employees on Flexi-time

- 5.4 In line with the Supporting Flexible Working Policy, where flexi-time arrangements are in operation, the requirement for special leave to accommodate hospital, doctor and other medical appointments will be limited. Employees should make every effort to arrange such unavoidable appointments out with their normal working day or out with core hours.
- 5.5 The ability to clock in and out multiple times and to vary core hours on an individual basis will support employees to attend unavoidable appointments during the normal working day with as little disruption as possible.
- 5.6 Where it is reasonable that the employee would require a full day or half day absence to attend an unavoidable appointment, the employee should be credited for a full day or half day (as defined by their normal working hours on the flexi-system).
- 5.7 Where it is reasonable that the employee attend work before and/or after their appointment, the employee should be credited for core hours only, in addition to any time worked.

#### Employees Not on Flexi-time

- 5.8 Employees not on flexi-time should be given necessary time off to attend unavoidable appointments during the working day and the full period should be given as paid special leave.

- 5.9 Where a shift workers unavoidable appointment would result in absence during an allocated shift, it would be reasonable that their manager re-allocates them an alternative shift to avoid absence during working time and interruption to essential services.

#### Time Off to Prepare for or Recover from Hospital Treatment

- 5.10 The council's sickness absence procedures make provision for up to 1 day paid special leave to prepare for a hospital appointment and up to 1 day paid special leave to allow for recovery from attendance at hospital. This entitlement is subject to the employee producing evidence that the time off was medically required.

#### Series of Hospital Appointments

- 5.11 In circumstances where an employee is required to attend a series of hospital appointments it would be reasonable to agree a 50/50 split with the employee. For example, if an employee was required to attend a series of 6 appointments, 3 of these would be granted as paid special leave and managed in line with paragraphs 5.6 – 5.9 and the other 3 would require to be taken as annual leave/flexi/TOIL/unpaid leave. A series of appointments is defined as a planned block of more than 3 appointments.

#### Management Referrals

- 5.12 Where appointments for physiotherapy or counselling are the result of a management referral to the council's occupational health provider, the employee should be given reasonable time off as paid special leave to attend all such appointments. Employees on flexi-time should be credited with all reasonable time required to attend and travel to and from the appointment, not limited to core time only.

#### Self-Referrals

- 5.13 When self-referring for physiotherapy or counselling with the council's occupational health provider, employees should make appointments within their own time where possible. Where this is not possible, absences should be managed in line with paragraphs 5.6 – 5.9. Where a series of appointments is required the provisions outlined in paragraph 5.11 also apply.

#### Elective Treatment

- 5.14 Appointments for treatments considered to be elective, for example cosmetic surgery or laser eye treatment, would require to be taken during an employee's own time using annual leave/flexi/TOIL. If an employee was unfit to attend work following elective treatment they would be considered to be on sick leave and should follow the normal sickness absence procedures.

#### GP and Dental Appointments

- 5.15 GP and dental appointments should normally be made in the employee's own time. However, urgent/emergency medical or dental treatment should be treated in a similar way to hospital appointments and managed in line with paragraphs 5.6 – 5.9 in order to avoid any unnecessary delay in employees receiving treatment.

#### Preventative Medical Examinations

- 5.16 An employee is entitled to 'reasonable' time off without loss of pay to attend preventative medical examinations subject to providing evidence of attendance. This will include reasonable time on the day of the appointment and where necessary, up to 1 day prior to an examination and/or following an examination to prepare for and/or recover subject to

provision of medical evidence that time off was required. Any additional time off out with these provisions will be regarded as sickness absence. Preventative medical examinations might include necessary vaccinations, screening appointments etc.

## 6. EMERGENCY SERVICE VOLUNTEERS

- 6.1 West Lothian Council employees may be actively involved in the voluntary or part-time provision of emergency services within or out with the Council area. This includes voluntary and retained fire fighters, mountain rescue volunteers and others such as the RNLI and the Coastguard.
- 6.2 An employee who is called away from their workplace to attend an emergency during normal working hours will be given special leave with pay subject to such pay being offset against any payment for emergency work.
- 6.3 Special leave without pay will be granted when attending non-emergency sessions such as training courses and drills.
- 6.4 Where emergency duties extend considerably beyond the employee's normal working hours, the Council should consider granting special leave immediately following the emergency call-out to ensure the employee is suitably rested following emergency duties, and to minimise any increased risk of injury or accident caused by tiredness.

## 7. COURT SERVICES

### Jury Duty

- 7.1 You must advise your line manager when you receive a summons for jury duty. You will be granted time off work to attend jury duty (unless exemption of attendance is secured e.g. for medical, occupation or other special reasons).
- 7.2 Under National Terms and Conditions for Local Government Employees **you must claim loss of earnings from the Court.** The council will pay your normal salary with the exception of any expenses payable by the court. However, in order to ensure that you are not out of pocket, the council will pay your normal salary and will deduct any expenses paid by the court from the next available salary.
- 7.3 The Court will give you a Jury Expenses Claim Form and a Certificate of Loss of Earnings. The Certificate of Loss of Earnings must be submitted (along with a copy of your citation) to Payroll for completion **before** attending Court.
- 7.4 The completed certificate will be returned to you for you to submit to the Court. Along with the completed certificate, HR will provide you with a Reimbursement of Court Expenses form for you to complete on your return to work. The Reimbursement of Court Expenses form must be authorised by your line manager.
- 7.5 If you are notified prior to attending court that you will not be required, you will be expected to report for work as normal. You should complete the Reimbursement of Court Expenses form indicating that you were not required to attend court. You are also expected to return to work when released from court either for whole or half days.
- 7.6 Failure to submit the Reimbursement of Court Expenses form will result in loss of pay.

### Witness at Court

- 7.7 Employees called as a witness by the council, will be regarded as being on authorised council business.

- 7.8 For employees called as a defence witness by persons other than the council, the absence will be treated as unpaid leave. Loss of earnings is recoverable from those issuing the citation to attend as a witness.
- 7.9 Employees who receive a summons, as a witness for the prosecution, will be granted special leave with pay to attend (unless exemption of attendance is secured). You must claim loss of earnings from the Court and reimburse the council for any such allowance received in line with the process for Jury Duty detailed above.

#### Attendance at Employment Tribunals

- 7.10 Employees who are required to attend Employment Tribunals relating to their employment with the Council will be granted special leave with pay. This covers employees who are called as witnesses, including those who are required to attend in relation to submissions made against the Council.

#### Children's Panel

- 7.11 Employees appointed as members of the Children's Panel will be granted special leave to attend Children's Panel Hearings and or Training where required in accordance with the needs of the service. Rotas for Panel Hearings are issued 3 months in advance requesting availability, therefore an employee should notify their Line Manager immediately to agree leave as appropriate and to ensure adequate cover can be arranged. Employees attending Children's Panel Hearings and or training will be granted a maximum of 3 half days per month, where they are required.

### **8. ELECTIONS**

#### Polling/Counting Staff

- 8.1 The Council may grant employees special leave with pay in order that they may undertake duties in connection with local and/or general elections (eg employment at polling stations or at counts). All employees who receive an appointment in connection with such elections are allowed to retain the fee received in respect of such services.

#### Standing for Election

- 8.2 Paid Leave of absence may be granted at either Local Government Elections or Parliamentary Elections (National or European) to enable candidates to participate immediately prior to an election date and on the day of the election itself as follows:
- An employee who is standing as a candidate at a Local Government Election may be granted up to one week's paid leave.
  - An employee who is standing as a candidate at a Parliamentary Election (National or European) may be granted up to three weeks paid leave.
- 8.3 Where an election date falls during a public holiday period, paid leave of absence will not be granted in addition to normal public holiday pay arrangements.
- 8.4 For term time workers, where an election date falls during a holiday period, paid leave of absence will not be granted in addition to normal holiday pay arrangements.

### **9. ELECTED MEMBER OF ANOTHER AUTHORITY**

- 9.1 Reasonable time off with pay will be granted to employees performing duties as a member of a relevant Local Authority subject to a maximum of 208 hours per annum pro-rata. Any time off in excess of 208 hours per annum for this purpose will be unpaid.

- 9.2 West Lothian Council will not seek to recover attendance allowances received by employees who are councillors.

## **14. TRAINING**

### Study/Exam Leave

- 14.1 An employee will be granted paid special leave up to one day per exam for approved courses of study. It is expected that the leave will be taken in the period immediately prior to the examination date. The study leave provision does not apply in cases of re-sit examinations.
- 14.2 In addition, employees will be granted reasonable paid special leave to attend examinations. This would normally be equivalent to the duration of the examination plus travelling time. The same time off could be granted for up to one re-sit per examination.

### Compensatory Leave

- 14.3 Where attendance at an approved course takes place on a public holiday, employees will be granted a day off in lieu.
- 14.4 When an employee is authorised to attend a weekend course involving attendance on a Saturday and/or Sunday, where these are not normal working days, they will be granted compensatory leave as appropriate. Compensatory leave may either be granted as time off in lieu or payment for hours as agreed by the service.
- 14.5 Compensatory leave does not apply to employees undertaking evening classes or open learning out with their normal working hours.
- 14.6 Where an employee has to attend a course away from home which requires travel on a Saturday or a Sunday, where these are not normal working days, time off should be given in lieu according to the time lost.

## **15. ATTENDANCE AT EMPLOYMENT INTERVIEWS**

- 15.1 Paid special leave will be granted for an employee to attend an employment interview within West Lothian Council.
- 15.2 In exceptional circumstances, where an employee is displaced from their role as a result of organisational change or under notice of redundancy, paid special leave will be granted to attend employment interviews out with the Council.

## **16. GENDER BASED VIOLENCE**

- 16.1 In line with the Gender Based Violence Policy, an employee who is experiencing gender based violence may be granted reasonable time as paid special leave for such things as visits to solicitors, the police, courts, support organisations etc, or to make any necessary arrangements eg housing, or childcare.

## **17. CULTURAL/RELIGIOUS OBSERVANCE**

- 17.1 Employees who are involved in culturally diverse communities/festivals/activities which take place at a specified time of year should if possible use annual leave. This may not be possible for employees who work term time and wish to attend such events during term time. In these circumstances, employees may be granted up to a maximum of 2 days paid special leave per year to participate in such events. Requests for leave beyond this should

be made to the Head of Service who has discretion to grant up to 3 days additional unpaid leave per annum.

## **18. TIME OFF FOR EMPLOYEES ELECTED OR APPOINTED TO PUBLIC BODIES**

18.1 Under the SJC National Terms and Conditions, paid leave of absence will be granted, with approval of the council, to employees serving on public bodies or undertaking public duties. Therefore, the Council will grant special leave with pay for employees to attend to business associated with their role as:

- Justice of the Peace
- Member of a Community Council
- Member of any statutory tribunal including the Mental Health Tribunal for Scotland
- Members of a National Health Trust or a Health Board
- Members of a Parent Council or College Council
- Members of the Scottish Environment Protection Agency
- Members of a Police Authority
- Members of a board of prison visitors or prison visiting committee
- Members of the Service Authority for the National Crime Intelligence Service or the Service Authority for the National Crime Squad.
- Members of a Water Customer Consultative Panel
- Members of Probation Boards
- Youth Offender Panel Members
- Board Members of Tenant Management Organisations

18.2 West Lothian Council will recover attendance allowances in respect of periods of paid special leave on public duties. Where an attendance allowance is greater than the employee's wages for the period of special leave, the amount of recovery will be restricted to a sum equal to these wages.

## **19. NATIONAL REPRESENTATION AT SPORTING/ARTISTIC EVENT**

19.1 Reasonable paid time off may be granted to allow an employee to participate as a team member or performer in an International event where selection of the individual has been by a national body or organisation of National Status.

19.2 Reasonable paid time off may be granted to allow an employee to participate as an official of an International team or cultural organisation at an international event involving the National team or cultural organisation.

19.3 Unpaid leave may be granted for an employee as a team member/participant/official to attend International events not involving National teams.

19.4 Unpaid leave may be granted for an employee to participate in National group/squad training or preparations as a team member or as an official. Leave will normally be unpaid but consideration may be given to the granting of paid leave in relation to programmes of training immediately prior to a major international event (eg Olympic, European or Commonwealth Games).

## **20. ATTENDANCE AT CHILD CUSTODY CASES**

20.1 Where an employee is required by the crown to attend child custody hearings, consideration will be given to paid special leave as appropriate. Where the requirement for leave becomes extensive, the council may require the employee to make use of annual leave/flexi/TOIL where possible.

## **21. HOUSE REMOVAL (for term time workers only)**

21.1 Term time workers are encouraged to arrange house removal out with normal working periods. Where alternative arrangements cannot be made, one day's paid special leave may be authorised.

## **22. ATTENDANCE AT WEDDING/CIVIL PARTNERSHIP (for term time workers only)**

22.1 Term time workers may be granted up to one day's paid special leave to attend the wedding/civil partnership of a close relative, otherwise unpaid leave will be appropriate. Where attendance at the wedding/civil partnership involves significant travel, unpaid leave to travel to/from the ceremony may be considered on an exceptional basis.

## **23. MARRIAGE DURING TERM TIME (for term time workers only)**

23.1 Leave should not normally be granting during school term time. Exceptionally a limited amount of unpaid special leave may be granted. Such leave will not normally be granted immediately preceding or following a holiday period.

## **24. HOLIDAYS DURING TERM TIME (for term time workers only)**

24.1 Leave should not normally be granted during school term time. Exceptionally a limited amount of unpaid special leave may be granted. Such leave will not normally be granted immediately preceding or following a holiday period.

## **25. EXCEPTIONAL LEAVE**

25.1 The relevant Depute Chief Executive may apply discretion to grant paid or unpaid special leave in exceptional circumstances not covered by this guidance or other council policy. 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 other time-off and leave provisions;
- any leave granted would assist the employee to manage an extreme personal or domestic situation which it would not be reasonable to expect to be fully covered by annual leave/flexi leave or time off in lieu;
- 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.

## **26. APPEALING A DECISION TO REFUSE SPECIAL LEAVE**

26.1 Should an employee be dissatisfied with the outcome of their special leave request, they can register an appeal. An appeal must be made in writing to the relevant Head of Service indicating the grounds of the appeal within ten working days of receipt of confirmation of the outcome of the request.

26.2 The Head of Service will arrange an appeal hearing and the decision will, if possible, be made known to the employee at the end of the appeal hearing and will be confirmed in writing within three working days.

26.3 There shall be no further right of appeal.

## **27. PENSION IMPLICATIONS**

27.1 Any enquiries regarding the effects of unpaid leave on pension arrangements should be made to:

**For Non-Teaching Employees:**

Lothian Pension Fund  
Atria One  
144 Morrison Street  
Edinburgh  
EH3 8EX

Email: [pensions@lpf.org.uk](mailto:pensions@lpf.org.uk)  
Tel: 0131 529 4638

**For Teachers:**

Scottish Public Pensions Agency  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

Online Member Services at [www.sppa.gov.uk](http://www.sppa.gov.uk)  
Tel: 01896 893000

**28. RETURN TO WORK FOLLOWING EXTENDED SPECIAL LEAVE**

28.1 Where an employee has been absent on special leave for an extended period, there may be a requirement for training on return from leave. Service managers should ensure that a return to work meeting is carried out to discuss training requirements and to ensure the employee is appropriately inducted back into the workplace.

28.2 The council will aim to ensure that employees absent on extended special leave have the opportunity to return to the job in which they were employed under their original contract of employment and on terms and conditions no less favourable than those that would have applied if they had not been absent.

28.3 However, where exceptional circumstances occur, i.e. where an organisational change necessitates an alteration to the employee's job and this change would have occurred irrespective of their absence on special leave, suitable alternative employment may be offered in line with the Workforce Management Policy.

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