

Discretionary Leave

Guidelines

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Policy

1.0 Purpose

Fife Council is committed to being a good employer and to developing people and family friendly employment policies. This approach not only allows employees to balance their personal and working lives but also helps us to maintain employees' productivity, loyalty and motivation.

2.0 Guiding Principles

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.

Compassionate Leave

Positive consideration will be given to allowing employees access, where appropriate, to Compassionate Leave for up to 5 paid working days in the event of the bereavement or critical illness of a partner or close family relative. Any extension beyond 5 days may result in the leave being unpaid.

Special Leave

Positive consideration will be given to allow employees access, where appropriate, to Special Leave in appropriate circumstances. Depending on the nature of the request, this may be paid or unpaid.

3.0 Scope

This procedure applies to all staff employed under the terms of the Scottish Negotiating Committee for Teaching Staff. It aims to build on existing local agreements and national provisions.

Procedure and Guidelines

Introduction

Employees need time off work for a variety of reasons. Fife Council has leave policies that offer guidance on procedure, payment and eligibility. In addition, the Council acknowledges the positive contribution that employees can make towards the functioning of public and voluntary bodies and recognises that they may require time off work in order to perform these duties.

Leave can be defined into 4 main areas:

1. Annual leave and flexi-leave (where applicable)
2. Family leave
 - Maternity
 - Adoption
 - Paternity
 - Maternity & Adoption Support
 - Parental Leave
 - Parental Bereavement Leave
 - Bereaved Partner's Paternity Leave
 - Neonatal Leave
3. Discretionary leave for personal reasons
4. Discretionary leave for statutory entitlements and public duties

Discretionary leave is time away from work given with a manager's permission for a range of circumstances. Many of these are described below. Managers should remember that the level of discretion that can be applied depends on the reason for the leave. For most of the types of leave below once the manager is satisfied that the reason for the leave is genuine, permission should be automatically granted. For more information on types of leave see the employee intranet/HR Online/Time Off.

In each educational establishment, the decision to grant discretionary leave should be taken by the headteacher.

I. Compassionate and Special Leave

Compassionate Leave

Compassionate leave allows employees to request up to 5 days paid leave to deal with the bereavement or critical illness of a partner or close relative.

The amount of leave granted is at the discretion of the Line Manager, and each case should be considered individually and a reasonable amount of leave granted to deal with the particular situation.

Where the need for leave is expected to go beyond 5 days, in exceptional circumstances (e.g. during continuing critical illness), leave may be extended but this will normally be without pay. When such a situation arises, advice should be sought from Human Resources. When compassionate leave is needed, managers may wish to make employees aware that support is available from the employee counsellors and/ or, from their Trade Union.

Special Leave

Detailed guidelines about special leave for teachers are given in Section 3 below. Special leave is a request for time off work, either paid or unpaid. Special leave applies when an employee's needs cannot be met outwith working hours or through other types of leave granted by Fife Council. Requests for special leave will normally cover exceptional events, and the main categories of request for special leave are listed in section 5 (including whether paid or unpaid).

The amount of leave granted is at the discretion of headteachers /managers, except where outlined in Sections 2, 3 and 4 below. A request for leave of over 5 days but less than 6 months should be sent to the relevant Senior Manager for approval. If more than 6 months unpaid leave is requested, this should be dealt with using the Career Break Policy. Managers may wish to discuss particular cases with Human Resources.

In cases where special leave with pay is granted, if the employee receives loss of earnings payment for the activity for which the leave is approved, this will require to be repaid to the Council.

Special Leave because of Violence at Work

Further to the provisions set out in the SNCT Handbook, where the employee is absent from work because of assault in the course of employment, the absence will be treated as special leave and he or she shall receive full pay during this period. The criteria that should apply will be:

1. The incident must have been recorded on the accident report form.
2. The absence must be certified.
3. In case of doubt about the ongoing reason for absence, confirmation that the cause remains work related (i.e. the original incident) rather than an unrelated illness that subsequently develops, will be sought by means of an occupational health referral.

Parental Bereavement Leave

The Council recognises the need to provide immediate support to employees in times of bereavement and loss. This entitlement aims to give parents who suffer this loss, reasonable paid time off work in addition to the 5 days given under the Compassionate Leave Policy. This applies to all parents regardless of the age of the child they have lost.

Parents can take two weeks paid leave following the death of a child. The leave can be taken in a two week block or as two separate one week blocks.

The leave must be taken within 56 weeks of the bereavement. If an employee wishes to take the leave during the first 6 weeks after the death, they do not need to give advance notice. However, they must advise their line manager that they are taking the leave. If they wish to

take the leave after 6 weeks, the employee must give their manager at least one week's notice in writing. If a parent suffers the death of more than one child, they are entitled to separate periods of leave for each.

'Parent' is defined widely. As well as birth parents, it includes step-parents, adoptive parents, long term foster carers, kinship carers and any person who in practice has caring responsibilities for a child.

Neonatal Leave

Neonatal Leave is time off for parents of babies who are born prematurely, to cover the additional time their babies spend in hospital.

They are entitled to an additional week of paid leave for every week of maternity leave/adoption leave/shared parental leave that the premature baby spends in hospital. This will be from the date the baby is born up to the date the baby is discharged from full time hospital care or has reached the original due date (whichever is the earlier). Neonatal Leave will be taken at the end of the period of maternity leave, adoption leave or shared parental leave, to enable quality time to be spent at home with the baby.

Father, partner or nominated care giver – those who are entitled to paternity leave will also receive an additional week paid leave for each week the baby spends in hospital up to a maximum of two weeks. This leave can be taken while the baby is in hospital or after they have been discharged.

Bereaved Partner's Paternity Leave

Bereaved Partner's Paternity Leave is a statutory right to time off work for employees whose child's mother (or primary adopter) dies in childbirth or within a year of the child's birth/adoption and who are taking on the day-to-day responsibility for the care of the child following the death.

Employees are entitled to up to 52 weeks unpaid leave. During the leave employees will continue to accrue annual leave and up to 10 days of paid keeping-in-touch days are available during this period.

2. Public Duties and Voluntary Activities

The Council recognises that it may be in the public interest and hence aligned with the Council's purpose to allow time off for certain public duties and activities. In addition, time off for these purposes in some cases is a statutory right.

Statutory Rights

Employees have a statutory right to time off for several public duties.

Reserve Forces Training

Up to 15 days paid leave to attend annual training camp or other continuous training. Teachers are required to undertake such training during school closure periods. Up to 3 days unpaid leave to attend other periods of training. Permission to attend training during term time will only be granted if operationally feasible.

Cadet Force Adult Volunteers

Up to 10 days paid leave to attend annual cadet training camp. Permission to attend cadet training camps during term time will not be granted.

Military Spouses and Partners

Where serving military personnel deployed on operations at short notice spouses and partners can be granted up to 10 days paid leave on compassionate grounds.

Court Attendance

Jury service is with pay minus expenses that can be claimed from the court. Jurors are expected to claim for loss of earnings.

Where the teacher has been called as a witness by the authority the teacher shall be regarded as being on authorised school business.

Where the teacher has been called as a witness by persons other than the authority the absence will be treated as special leave with pay. The teacher shall be under an obligation to reimburse the authority for any loss of earnings allowance received during the period of absence where such a loss of earnings allowance is recoverable from the person(s) issuing the citation to attend as a witness.

Public Duties

There are a number of situations where employees may opt to undertake duties which are of benefit to the general public by sitting on the board of appropriate bodies. The Council recognises the importance of the work of these bodies and the benefits that this can bring to the Council and the employee by granting leave. Time off for public duties is with pay less any contribution of loss of earnings or attendance allowances claimed from the statutory body.

Examples of public duties qualifying for paid leave

- a justice of the peace
- a member of a local authority
- a member of any statutory tribunal (e.g. Employment Tribunal, Children's Panel etc)
- a member of a health board
- a member of an NHS Trust
- a member of a school or college council or of a body of Higher Education Institute
- a member of a School Parent Council
- a member of the GTCS

Voluntary Activities

The Council recognises the important part employees can play in the lives of their communities. There may also be benefits to the Council and employees in undertaking voluntary activities to develop skills.

Time off for voluntary activities will be without pay unless it is considered by the manager that the activity for which time off has been requested is of direct benefit to the Council (e.g. Member of a community council providing feedback to Fife Council elected members/officers in relation to a community consultation exercise).

Examples of voluntary activities qualifying for leave

- 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

3. Special Leave in educational establishments

Teaching staff may be granted leave in terms of current national agreements (The SNCT Handbook Part 2 Section 9.19 and Part 4 Section 11) at the discretion of their headteacher. The headteacher is normally empowered to grant leave up to a maximum of two days in appropriate cases, provided that arrangements suitable to the authority can be made to cover the duties of the teacher seeking such leave.

Requests for more than two days absence which are not covered elsewhere in this policy should be made to Headteachers not less than two weeks in advance of the period of absence. The headteacher should indicate his or her views on this request and pass it on to the appropriate Senior Manager. He/she will intimate a decision to the teacher and indicate whether any leave granted is with or without pay

4. Emergency Leave

Emergencies in respect of dependants

In addition to areas covered by Section 3 above and by other sections of this paper, employees have a statutory right to take reasonable time off work, without pay, to deal with unexpected or sudden problems concerning a dependant and to make any necessary longer term arrangements.

If the employee requires a longer period of leave than is deemed reasonable to deal with the immediate crisis, a further period of unpaid leave may be requested.

Other emergencies

In very unusual circumstances, a teacher may require to take emergency leave when there are compelling personal circumstances which require an urgent response. Wherever possible, headteachers should be advised of these circumstances and their permission for leave granted in advance. It is recognised, however, that in very extreme cases, it may not be possible to contact headteachers in advance. Where this is the case, teachers should contact headteachers as soon as this is practically possible. Any agreement reached should allow the teacher time to address emergencies and to return to school as quickly as possible thereafter.

Leave may be paid or unpaid, depending on circumstances. Arrangement should be made to work back any paid leave, wherever possible.

Military Spouses and Partners

Where serving military personnel deployed on operations at short notice spouses and partners can be granted up to 10 days paid leave on compassionate grounds.

5. Examples of Leave

Circumstances Requiring Time Off	Type of Leave	Duration	Notice Required
Bereavement of near relative, in-law, co-habitee or foster parent.	Compassionate leave	As required up to 5 days (paid)	When advance notice not possible, as soon as possible
Attending a funeral or making funeral arrangements for a close relative or dependant.		Please read the guidance above	
Time off to provide support to other members of the family at the time of a close family bereavement.		As required up to 5 days (paid)	
Marital breakdown, or breakdown of a similar relationship.		Please read the guidance above	
Major damage to the employee's home, e.g. by fire, flood, burglary.		Request for other leave	

Circumstances Requiring Time Off	Type of Leave	Duration	Notice Required
'Acute / critical' illness, or a life-endangering accident of a child or close relative.	Compassionate leave	can be made if more time needed.	When advance notice not possible, as soon as possible.
Bereavement of an employees' child	Parental Bereavement Leave (paid)	Read the guidance section.	Not applicable
Premature birth of employees' baby includes a period of neonatal care in hospital	Neonatal Leave (paid)	Read the guidance section.	Not applicable
Bereavement of an employees' partner in childbirth or within 12 months of birth/adoption	Bereaved Partner's Paternity Leave (unpaid)	Up to 52 weeks	When advance notice not possible, as soon as possible.
To deal with unexpected events e.g. household problems (e.g. burst pipes, flooded washing machine)	Emergency Leave requested from Headteacher	Up to 1 day (paid) to a maximum of 2 days per school session (August – July)	Before the time you are expected to begin work
Sudden illness of dependant or unexpected breakdown of childcare arrangements		Reasonable further time off may be granted at discretion of HT (unpaid)	
Continued illness of a child or other dependant.	Statutory provision for Time Off For Dependants	Reasonable time (unpaid)	When advance notice not possible, as soon as possible

Circumstances Requiring Time Off	Type of Leave	Duration	Notice Required
To care for a child, or other dependant, particularly where they are suffering from a serious illness.	Special Leave	Up to 6 months (unpaid)	4 weeks
To represent their country in a recognised sport.	Special Leave	Up to 10 days per year (paid)	4 Weeks
To observe religious celebrations not covered by other holidays. (Where the employee cannot use normal leave e.g. because of term time working in Education.)	Special Leave	Up to 2 days per year (paid)	4 Weeks
To attend the wedding of a close relative (Where the employee cannot use normal leave e.g. because of term time working in Education.)		Up to 2 days (paid)	4 Weeks
To move house. (Where the employee cannot use normal leave e.g. because of term time working in Education and where Headteacher is satisfied that the request is reasonable)		1 day (paid)	4 Weeks
To attend an honorific occasion of a close relative (Where the employee cannot use normal leave e.g. because of term time working in Education.)		1 day (paid)	4 Weeks

Circumstances Requiring Time Off	Type of Leave	Duration	Notice Required
To attend a wedding of someone other than a close relative where arrangements can be made to cover absence	Special Leave	As agreed by Service (unpaid)	4 Weeks
For medical treatment where normal sick leave would not apply, or would not be covered by the conditions of service (IVF, Elective cosmetic surgery or participation in a medical trial)		Cannot be specified (unpaid)	4 Weeks
To attend an interview within Fife Council		Up to 1 day (paid)	As soon as interview date is known.
Standing as a candidate in Council elections.	Special Leave	up to 5 days per year (unpaid)	4 Weeks
Attending a National Conference as a nominated delegate of a recognised Political Party.		Once annually for duration of event (unpaid)	4 Weeks
An employee who is a member of the non-regular forces and attends an annual training camp for a week or more. For teachers this is only exceptionally allowed within the school term.	Time off for Public Duties	15 Days (paid – but see note in Section 2 (page 3))	As soon as day of camp is known.
Assault in the course of employment	Special Leave	Cannot be specified (paid)	Normal absence notification.

Circumstances Requiring Time Off	Type of Leave	Duration	Notice Required
Trade Union Duties, Activities and Training	Trade Union agreements	As allowed by policy	As far in advance as possible, in writing, prior approval required. Sometimes retrospective approval will be required
Public Duties and Voluntary Activities	Public Duties and Voluntary Activities	Depends on reason (see notes Section 6 (page 9 & 10))	As far in advance as possible and prior approval required.

NB Please note that teachers are not eligible for leave of absence to take holidays during term time, even if this is a special holiday or a prize holiday

6. Requesting Leave

Notice Required - Emergencies

For many cases of leave it will not be possible for the employee to make a request or give notice, e.g. family illness, bereavement, or other such emergency.

When advance notice is not possible, employees must follow normal absence notification arrangements and advise their Line Manager as soon as possible about his/her absence, the reason for it and how long they expect to be away from work. If the reason falls under the terms for Compassionate Leave, the amount of paid leave granted should be agreed at this time to avoid confusion at a later date.

In many cases, employees will require time off as a matter of urgency (i.e. when emergencies arise). At this time, each situation should be considered on its own merit, and a reasonable amount of time off granted and agreed with the employee.

Notification – Public Duties

Out of courtesy, an employee who is contemplating undertaking public duties should inform their manager about the likelihood of this. Once an appointment is made, this should be confirmed, together with an indication of the approximate number of occasions when time off is likely to be requested to the line manager. Evidence of public duty and voluntary body appointments will be provided by the employee.

Duration - Compassionate Leave

Managers can authorise up to 5 days paid leave. Requests for leave beyond 5 days should be discussed with Human Resources. If more than 5 days leave is required some other form of leave may be more appropriate, (e.g. sickness absence, annual leave or special unpaid leave).

Note that the length of leave granted should be no more than that required by the employee to deal with the particular circumstances.

Planned Leave - Special

Special leave is not an automatic right.

Where the leave can be planned, notice will be possible and will be expected. At least 4 weeks notice is usually required. 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 good reason why 4 weeks notice could not be given then the request should be granted.

The employee must be advised of the decision within 10 working days. If the request is refused either in full or in part the employee must be advised of their right to appeal this decision.

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

Duration - Paid Special Leave

Managers can authorise requests for paid leave of up to 2 working days. Requests for longer than 2 days should be discussed with HR before a decision to approve or not is made by the Senior Manager.

Duration - Unpaid Special Leave

Managers can authorise requests for unpaid leave, however, the relevant Senior Manager should be made aware of the circumstances surrounding requests for unpaid leave in excess of 5 working days.

When considering a request for an extended period of unpaid leave, the employee's length of service, attendance, and any other requests for leave (both paid and unpaid) may be taken into account. It is also important to ensure that the workplace is able to cope with the absence.

Duration - Public Duties

This will depend on the type of duty. If the time away from work is regarded as excessive, contact HR for advice.

The maximum number of paid hours allowable for time off to undertake local authority duties is 208 in any financial year (Section 10, Local Government and Housing Act 1989).

7. Pay and Pension Issues

For all periods of unpaid leave, management must ensure that the necessary documentation is completed to stop pay for the period of leave.

Employees requesting unpaid leave should be made aware of the fact that there will be an effect on their pension. He/she should be advised to contact the SPPA (Tel 01896 893040) to discuss this further.

8. Recording Leave

All requests for leave (whether approved, postponed or rejected) should be recorded to ensure fairness and consistency throughout the Council, using Oracle Cloud.

A report giving summary information on leave should be sent to the appropriate Recruitment & Payroll / Admin Team, on a quarterly basis. This information will be used to help assess whether these guidelines are being applied consistently across Services.

9. Review and Appeals

Review

If an initial request for discretionary leave is denied an employee should resubmit the request, noting the reason for refusal, to the appropriate senior manager or Executive Director for review. If all sources of review within a Service have been exhausted and an employee continues to believe the explanation given for refusing part or all of the request is unreasonable then an appeal may be made to the Executive Director Finance & Corporate Services.

Appeals

The Executive Director (Finance & Corporate Services) may allow the request for leave, if it appears to him or her to be reasonable to do so having taken account of the grounds on which the request was refused by the Executive Director (Education & Children's Services). The Executive Director Finance & Corporate Services will only approve leave against the wishes of the Executive Director (Education & Children's Services) in circumstances where it is clear the employee is being treated less fairly than would be the case in the majority of other Services.

10. Other Types of Leave

Family leave

See MA11 Maternity Leave Procedure

MA12 Adoption Leave Procedure

MA13 Paternity Leave Procedure

MA14 Shared Parental Leave Procedure

MA16 Maternity and Adoption Support Leave Procedure

LV18 Parental Leave Procedure

Trade Union Duties, Activities and Training

Fife Council recognises that it is to the mutual benefit of the Council and its employees that employees are represented by Trade Unions and therefore provision should be made for requests for time off work for trade union representatives. Time off may typically be sought for:

- Trade Union Duties;
- Trade Union Activities; or
- Trade Union Training.

For further details, and guidance on which time off is with pay or without pay see:

EE03 Facilities and Time Off For Trade Union Duties and Activities

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