

**SPECIAL LEAVE PROCEDURE****Contents**

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## **SPECIAL LEAVE PROCEDURE**

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### **1.0 INTRODUCTION**

- 1.1 This procedure applies to all employees of the Council and is to enable employees to take Special Leave of absence from work in circumstances which are not covered by other Council procedures.
- 1.2 This policy is intended as a guide to Managers and ensures a fair, consistent and reasonable approach when considering approval to applications for Special Leave.
- 1.3 The Council is sensitive to the needs of employees. In certain circumstances, Special Leave can be authorised for employees, with or without pay, at the discretion of the Manager.
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### **2.0 SPECIAL LEAVE PROVISIONS**

- 2.1 Prior to approving an application for Special Leave, whether on a paid or unpaid basis, it is important for Managers to examine the particular circumstances.

Considerations should include:-

- Whether the matter could be reasonably dealt with outside normal working hours, or with the use of flexible working arrangements, annual leave or unpaid leave.
- Whether another family member could deal with the matter.
- Whether granting Special Leave could indirectly cause discrimination to other employees.
- Whether the leave is requested to allow the employee observance to their religion or faith. In these circumstances, please refer to the **Religious Observance in the Workplace** guidance.

- 2.2 The Manager should apply a consistent and reasonable approach when granting any special leave application.
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### **3.0 TYPES OF SPECIAL LEAVE**

The following examples are circumstances where Special Leave may be considered. Please note that these examples are neither exclusive nor exhaustive and there may be other similar requests which are not listed.

#### **3.1 Bereavement Leave**

- 3.1.1 Managers should consider the emotional impact and the level of distress that bereavement may cause when considering a request of this nature.

- 3.1.2 Bereavement leave includes attendance at a funeral and should be granted in accordance with the following guidelines:

- Paid leave will be granted to the employee in circumstances of the death of a close relative, which includes spouse or significant partner, child (please see paragraph 3.1.3 below), parent, brother or sister, grandparent or grandchild; or the death of someone who

has been a significant part in the life of the employee, such as another close relative or friend. It is the Managers discretion to decide the number of days granted.

- 3.1.3 **Parental Bereavement Leave:** Parents who lose a child up to the age of 18 have a statutory right to two weeks paid bereavement leave. This may be taken in a block of two weeks or two separate weeks during the year following the death of the child.

This entitlement also applies to parents who suffer a stillbirth after 24 weeks.

This is a 'day one' right and whilst the legislation stipulates that employees must have completed 26 weeks' in employment for this to be paid, the Council waives this and any employee, regardless of length of service, who loses a child up to the age of 18, will be entitled to two weeks paid leave, based on contractual earnings.

A 'Parent' under the legislation is classed as anyone having parental responsibility for a child. Further details can be obtained from your HR Business Partner.

### 3.2 **Compassionate Leave**

- 3.2.1 Compassionate leave may be requested in circumstances:

- Where a close relative, who includes spouse or significant partner, child, parent, brother or sister, grandparent or grandchild, or someone who has a significant part in the life of the employee, is terminally or seriously ill.
- Where an employee is suffering stress and hardship beyond their control.

- 3.2.2 If there is a likelihood that this could persist, every effort should be made to support an employee during these difficult times and avoid the need for the employee to be absent due to sickness. Managers and employees could consider amending the working arrangements i.e. by a **Voluntary Reduction in Working Hours** or a change in their patterns of work, by flexible working or unpaid leave.

- 3.2.3 In such instances where an employee is finding it difficult to cope whilst at work and where leave could alleviate the situation, then it is the Managers discretion to decide the number of paid days granted taking into consideration the employee's personal and cultural circumstances.

### 3.3 **Time off for Dependants**

- 3.3.1 The Employment Rights Act 1996 provides employees with a statutory right to take a reasonable amount of time off to deal with certain unexpected or sudden emergencies and to make any necessary longer-term arrangements involving a dependant.

- 3.3.2 A dependant is defined as a husband, wife, civil partner, child or parent of the employee and also includes someone who lives in the same household as the employee or someone who reasonably relies on the employee for assistance otherwise than by reason of being the employee's boarder, employee, lodger or tenant. A dependant may also be someone who reasonably relies on the employee for assistance, i.e. someone the employee looks after outside of work or where an employee is the only person who can help in an emergency, for example where an elderly neighbour has had an accident, and they are the closest on hand at the time.

- 3.3.3 Emergencies may include:

- A sudden breakdown in care arrangements for example the childminder failing to call/collect a child.

- The dependant suddenly falling ill/having an accident/or a sudden deterioration in an existing condition. Such injuries/illness may be physical or mental and could be to comfort or help the dependant.
- To make longer term care arrangements for a dependant who becomes ill or injured and may need placing in respite or residential care or other care provision or to make arrangements for a relative or anyone the employee has a close relationship with, to look after the dependant or accompany the person to see a GP or other medical practitioner. The right does not cover time off to nurse the dependant for the duration of their illness.
- An unexpected incident involving the employee's child during school hours which could include the child being distressed or injured or excluded.

3.3.4 It is important to note that in the majority of instances, it may not be possible for the employee to give prior notice. However, the employee will still have a duty to inform their Manager that they will be late/ unable to attend work by communicating their absence at the first available opportunity.

3.3.5 In serious circumstances, a dependant may have more than one carer who works for the Council. Serious situations may permit both employees using their right to take time off for their dependant.

3.3.6 It is recommended that in these circumstances, the Manager may grant up to 5 days within a 12-month period, **paid** special leave. Further unpaid special leave may be granted if annual leave or flexi time is not available, or the employee can use a combination of both.

3.3.7 It may be appropriate for an employee to adopt smart working practices such as working from home as an alternative to applying for special leave in the case of emergencies (i.e. when their childcare arrangements have broken down).

This should be discussed and agreed with their line manager and service needs should be considered as well as how much work the employee is realistically going to be able to achieve if they have other commitments that day before agreeing to the employee working from home. The hours of work and tasks to be undertaken should be agreed from the outset.

Any flexibility for longer term caring arrangements need to be dealt with under a flexible working application.

The employee should be available to attend meetings in the office at short notice if required whilst working from home and therefore needs to consider how they would do this (consideration should be given to other methods i.e. telephone conferencing).

The manager will make the final decision on whether working from home is appropriate in these instances.

### 3.4 **Time off for Carers**

3.4.1 The Carer's Leave Regulations 2024 allow employees (as a day one right) to be absent to provide or arrange care for a dependant who has a long-term care need.

3.4.2 A dependant is defined at section 3.3.2. A dependant has a long-term care need if:

- they have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months.
- they have a disability for the purposes of the Equality Act 2010, or

- they require care for a reason connected with their old age.

- 3.4.3 Employees are entitled to one week's unpaid leave in a rolling 12-month period. The leave will be able to be taken in half or full days, up to and including taking a block of a whole week of leave at once. The entitlement is the maximum an employee is entitled to, irrespective of how many dependents they have.

For the purposes of carer's leave, a week is the period of time that an employee is normally required to work during a week (running Monday to Sunday) under their contract. Where this varies, a week is calculated by dividing by 52 the total amount of time normally required to be worked over the 12 months ending with the last day of the carer's leave requested.

- 3.4.4 When an employee wants to take any of their carer's leave entitlement, they must provide their manager with notice, confirming they are entitled to carer's leave and have not exhausted their entitlement. The notice must specify the times that they wish to take this leave and must be provided before the 'relevant date'. The notice should be provided in writing using the SL1 form.

- 3.4.5 If the request is for half a day or a day, the notice period must be at least 3 days. If the request is for more than one day, the notice period must be at least twice as long as the requested leave. For example, if the request is for 2 days, the notice period must be at least 4 days. The notice period needs to be in full days, even if the request includes half day amounts.

Managers are not entitled to require evidence in relation to the request before granting the leave.

- 3.4.6 If a manager reasonably believes that the operation of their service would be unduly disrupted if the employee took the leave requested, the leave can be postponed. The manager must consult with the employee as to the date to which the leave will be postponed. This must be no later than one month after the first day of the leave period originally requested. The manager must then notify the employee of the reason for the postponement and the agreed new date(s) for the leave. This employer's notice must be provided as soon as reasonably practicable, but no later than whichever is the earlier of seven days after the employee's notice was given to the employer or before the first date in that notice.

### **Fostering Support**

#### **3.5**

- 3.5.1 The Council is committed to being a 'Fostering Friendly Employer' through supporting our employees who are prospective or existing foster carers.

- 3.5.2 The manager may grant up to 5 days of paid leave for:

- Employees who are going through the application process to become a foster carer, as part of the fostering assessment.
- Employees who are foster carers in order to attend training related to their position as foster carers and/or to attend meetings, panels, hearings or any other key events or activities in support of foster children and young people in their care.

#### **3.6 Parental Leave**

- 3.6.1 **The Parental Leave Policy** is available to all employees who have completed one year's satisfactory service with Barnsley Metropolitan Borough Council.

#### **3.7 In Vitro Fertilisation Treatment (IVF)**

- 3.7.1 All employees who have 12 months continuous service with the Council at the time of applying who require IVF fertility treatment may be granted IVF fertility treatment leave.
- 3.7.2 The policy applies to female employees who require fertility treatment and also to male employees who may also require treatment during the IVF process.
- 3.7.3 Employees are asked, wherever possible, to arrange appointments outside of work, however where this is not possible, an employee may be granted up to 5 working days (pro-rata for part time staff) of paid IVF fertility leave in any 12 month period in order to receive and recover from IVF treatment. Documentary evidence of this appointment should be given to their Manager and attached to the application form.
- 3.7.4 The fertility treatment leave can be taken in either 5 consecutive days or separate days, half days or hours.
- 3.7.5 If any employee requires any additional time or is requesting time to support their partner during this process then alternative arrangements should be agreed with their line manager such as authorised annual leave, flexi or unpaid special leave.
- 3.7.6 Further time off due to the side effects of treatment should be in accordance with normal sickness absence provisions (Managing Attendance Policy). Sickness absence associated with IVF will not be classified as “pregnancy related” for the purpose of absence monitoring until the employee is pregnant. An employee will be considered pregnant once they have medical confirmation.

### 3.8 Public and Community Duties

Leave of absence will be granted to employees who serve on public bodies or to undertake community duties in accordance with the following:

#### 3.8.1 Magistrates Duty

An employee who is a Magistrate is entitled to a maximum of 15 contractual days paid leave, or 30 contractual half days paid leave in any one financial year, in respect of all Magisterial duties which they are called upon to perform.

#### 3.8.2 Jury Service

For employees who are requested to attend Jury Service, they will be entitled to paid leave for the duration of the jury service. Employees must provide their manager with a copy of the letter confirming the dates they will be required for jury service and request a certificate of attendance from the jury manager at the court once they are discharged from jury service.

Employees should return to work for either half days or full days when they are not required at court and must confirm these arrangements with their manager. Managers must ensure the absence is recorded as Jury Service on Fiori.

The employee will continue to be paid by the Council for the duration of the Jury Service and any normal salary deductions will continue to be made from the employee's earnings. As a result, employees must **not** complete and submit the form for loss of earnings to the court. Failure to comply will be regarded as misconduct and will be dealt with under the Disciplinary Procedure.

Employees may be able to claim expenses for items such as travel, parking costs, food and drink. However, this will be subject to approval by the court. Employees will be advised how to claim expenses after their jury service has ended.

### 3.8.3 Witness in Court, Tribunal or claim for industrial injury

If an employee is required to attend a court or tribunal during working hours as a witness for the Council or to give evidence in relation to the discharge of their duties on behalf of the Council then they are acting in the course of their employment and do not require authorisation to attend.

Where employees attend a Court or Tribunal on behalf of a third party, including attending as a witness on behalf of another employee, they are required to do so in their own time. If, however, an employee is required to attend as a witness for a third party in response to a witness summons or a subpoena, they will be authorised paid time off to attend on production of evidence.

## 3.9 **Public Bodies Activities**

3.9.1 Employees must notify their Service Director when they have been appointed to serve on a public body. A request for paid leave will be granted to an employee subject to the prior approval of their Manager and whom serve on a public body or undertake public duties in the following instances:

- A School Governor
- A Special Constable

## 3.10 **Elections**

3.10.1 Employees who wish to undertake election duties should refer to the **Time off for Elections Duties** policy.

## 3.11 **Councillors of other Authorities**

3.11.1 Under the Local Government and Housing Act 1989 it is unlawful for any Local Authority to grant in excess of 208 hours paid time off in any one financial year to any of its employees to enable them to undertake their duties as an elected member of another local authority.

## 3.12 **Time off for Volunteer and Regular Reservists and Support for Military Partners**

3.12.1 Volunteer Reservists are members of the Royal Naval and Royal Marines Reserves, the Army Reserves (formally known as the Territorial Army) or the Royal Auxiliary Air Force.

Regular Reservists are ex-regular servicemen/women who may retain a liability to be mobilised.

A notification letter should be received by the Council direct from the Ministry of Defence within five weeks of an employee signing up to become a reservist. Employees are required to inform their manager that they are a Reservist and give as much notice as possible of training commitments.

Reservists will be granted 10 days paid leave per annum to attend training and 10 days unpaid if required. Should the employee receive an allowance for loss of earnings from the Army Reserve for attending camp the allowance will then be deducted from the employee's salary once they receive payment.

### 3.12.2 Mobilisation

Special leave with pay will also be granted in times of conflict and where there are shortages of staff within the armed forces and the employee is called up (mobilised). There will be no break in their service during the period of mobilisation.

Reservists usually get 28 days' notice, but they could get less if they are needed urgently.

Employees can claim financial support to cover the difference in their civilian pay and their service pay (this is capped – see [www.gov.uk](http://www.gov.uk) for further information).

Employees will receive instructions about how to claim in the mobilisation pack.

The Ministry of Defence will pay the employee's salary and pensions contribution during the period of mobilisation. The manager must notify payroll so they can make the necessary changes in the payroll system for this and complete a claim form if we wish to claim the cost of covering the role and/or other one-off costs (see [www.gov.uk](http://www.gov.uk) for further information).

Whilst mobilised, the reservist does not accrue annual leave. Any annual leave accrued within the year prior to being mobilised or on return to work should be taken before the end of the leave year where possible but the carry-over of untaken annual leave accrued will be allowed where this is not possible. Leave carried over should be taken within 18 months after the end of the leave year accrued.

### 3.12.3 Return to work following Mobilisation

After service, reservists are given a period of leave. If they wish to return to work before this period of leave ends they must get permission from their commanding officer or the demobilisation centre. The reservist should write to their manager to confirm their intentions to return to work as soon as they are able (this must be no later than the third Monday after their last day of service).

Reservists will be entitled to return to their substantive post, on the same terms and conditions following demobilisation. If their substantive post no longer exists due to organisational change during mobilisation, redeployment opportunities will be sought in line with the Redeployment Process within the Council's Managing Change Policy. If a known restructure is planned within the service at the point of mobilisation the manager should discuss this with the reservist at the earliest opportunity and agree a method of communication if possible (it is acknowledged that it may not be possible to communicate with the employee when they are mobilised).

### 3.12.4 **Time off for Army Cadet Training (for employees under 18 years of age only)**

Employees will be granted 10 days paid leave per annum to attend Cadet Training followed by 10 days unpaid leave if required.

### 3.12.5 **Cadet Force Adult Volunteer [CFAV]**

Time off for adult volunteers in the Cadet Force will be granted in line with the Employer Supported Volunteering Scheme Policy and Procedure.

### 3.12.6 **Time off to Support Military Spouses/Partners**

Managers should be flexible and accommodate annual leave where possible to support military spouses and partners during times of turmoil or hardship linked to their spouses/partners involvement in the Armed Forces. Managers have the discretion to grant



paid leave to support partners/spouses where the partner/spouse has been injured or is suffering illness in line with sections 3.2 and 3.3 above.

### 3.13 **Study Time**

- 3.13.1 Study time can be defined as time required to revise for examinations or undertake assignments, research, project work or compile a portfolio of evidence in relation to training and development. Guidance on study time entitlements is given in Appendix 5 of the **Training and Development Policy and Procedure**

### 3.14 **Attendance at an Interview**

- 3.14.1 Employees will be allowed paid time to attend an interview within Local Government and within the public sector as identified by the Redundancy Modification Order and with the Council's partner organisations such as Berneslai Homes.
- 3.14.2 Interviews with any other external organisation shall take place within the employee's own time by taking annual leave or flexi where applicable.
- 3.14.3 Employees who are considered at risk of redundancy with the Council have a statutory entitlement to take reasonable paid time off to attend an interview on production of appropriate evidence.

### 3.15 **Inclement Weather and Disruption to Public Transport**

- 3.15.1 Paid Special Leave will not be granted for inclement weather and disruption to public transport for employees who have access to flexible working arrangements. For those employees who do not benefit from flexible working arrangements, then dependent on the circumstances, paid special leave can be considered by the Manager, who will need to have regard to their place of work; where the employee lives, their mode of transport or if consideration needs to be given to the employee in line with the **Disability and Impairment Related Leave Policy**.

### 3.16 **Other types of special leave**

#### 3.16.1 **Paid Leave**

- Trade Union activities (please refer to the Trade Union Facilities Agreement with regards to paid leave)
- Paid Special Leave must be authorised where an employee is selected to represent the country as an ambassador for a sporting event and no payment is received from the event.
- Paid Special Leave will be granted to employees who attend official Council Civic Events at the invitation of the Chief Executive where these take place during normal working hours.
- All employees are expected to arrange dental, optical (apart from Health and Safety vision screening), doctor's and donation, i.e. blood (other than where surgery is required) appointments in their own time. Paid Special Leave will be authorised for those employees who do not have access to flexible working arrangements and who can evidence that they are unable to make an appointment in their own time. An appointment card or other documentary evidence will be required prior to any leave being authorised.

- In the case of hospital appointments, for employees who have access to flexible working arrangements credit will be given for the first consultant appointment only; any subsequent appointments must be made during their own time. Paid Special Leave will be authorised for those employees who do not have access to flexible working arrangements and can evidence they are unable to make an appointment in their own time.
- Credit or Paid Special Leave for those who do not have access to flexible working arrangements will be given for antenatal appointments.
- For ongoing treatment for conditions covered by the Equality Act (2010) i.e. dialysis, chemotherapy, radiotherapy please refer to the Councils **Disability and Impairment Related policy**. Confirmation of appointment will be required in all cases. Advice should be sought from Human Resources in respect of conditions covered by the Equality Act.

### 3.16.2 Unpaid leave

- There may be circumstances not covered by the above where your manager may wish to authorise unpaid special leave.

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## 4.0 **PROCESSING APPLICATIONS**

- 4.1 In many circumstances it may not be possible for an employee to give their Manager sufficient notice within which a decision can be made. It is important that the Manager makes sufficient enquiries at such times to determine the details for the absence and to consider granting special leave in the context of the circumstances known at that time.
- 4.2 It should be noted that circumstances facing one employee are likely to be different to that of another, even if the reason appears to be similar; therefore, the Manager need to consider each request independently.
- 4.3 The **Application for Special Leave (SL1)** form can be obtained from the Human Resources section of the Intranet site.
- 4.4 Application forms must be completed by the employee and forwarded to their Manager for consideration within reasonable timescales, dependent on circumstances, even if this is done retrospectively.
- 4.5 The Manager should inform the employee if their request has been authorised with pay or without pay or if their request has been refused detailing reasons for this decision.
- 4.6 Special Leave, with or without pay must be entered onto **Fiori**. A scanned copy of the completed Application for Special Leave (SL1) form should be attached to the employees' electronic record. Guidance is available in the Employee Record Policy which also includes advice on the retention of documents.

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## 5.0 **ABUSE OF THE SCHEME**

- 5.1 Any employee found to have abused the Special Leave scheme will be subject to an investigation in accordance with the Council's/Schools Disciplinary Procedures.

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## 6.0 **GRIEVANCE PROCEDURE**

- 6.1 Employees not satisfied with the decision taken with regard to their request, will have a right to appeal through stage 2 of the Council's/Schools Grievance Procedure.
- 6.2 The employee must submit an appeal by completing a **Grievance Notification GN1** form within 14 days of receiving the response to their request.

**For Non Schools employees**, an appeal will be to the next level of Management. The only exception being a decision issued by an Executive Director. In such cases the Executive Director of another Directorate should hear the appeal. The Panel will include a Trade Union representative and a Human Resources representative who has had no previous involvement in the case.

**For Schools based employees**, an appeal will be to the Governing Body. The panel will include at least 3 Governors who have not been involved in the case or decision connected with the original outcome. Where there are not enough Governors available the appeal may be heard by 2 Governors. Where applicable there should be an equal number of Governors on the panel.

- 6.3 In accordance with the Council's/Schools Grievance Procedure an Appeal Hearing will be arranged without delay on receipt of the written appeal. The employee will be informed in writing, giving 10 working days' notice, of the requirement to attend the Appeal Hearing.
- 6.4 The decision of the Appeal Panel should normally be given verbally to the employee at the conclusion of the meeting and confirmed in writing, within 5 working days. However in exceptional circumstances it may be necessary with the employees agreement to communicate the outcome in writing rather than verbally.
- 6.5 The Appeal Panel may confirm or revoke the original outcome; however the decision will be final.

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### 7.0 **IMPACT ASSESSMENT**

- 7.1 This policy has been impact assessed by Human Resources. If on reading this policy/procedure, you feel there are equality and diversity issues, please contact your Directorate HR Business Partner, who will, if necessary, ensure the policy is reviewed.
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Implementation Date	April 2019
Author	Business Advisory Service
Revised/Updated	August 2024
Brief Reason for Change	Amends made to Jury Service section 3.8.2
Version Control	6.2

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