

Special Leave

**Practical advice & Guidance for Departmental Managers
on Special Leave.**

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(This page has been inserted for ease of reference)

Appendix I - Parental Leave

Appendix II - Family/Dependant Care Leave

1. PURPOSE

1. This special leave policy is available to all employees of Renfrewshire Council excluding teachers and applies for a wide range of reasons. The purpose of this policy is to determine the circumstances and the extent of the leave which should be granted and whether the special leave is with or without pay.

2. PRINCIPLES

- 2.1 The procedure applies to all Chief Officials, craft operatives and employees covered by the Scottish Joint Council for Local Government Employees. In respect of Directors all leave requested in terms of this policy must be referred to the Chief Executive.
- 2.2 The procedure takes cognisance of the Employment Relations Act 1999; the Employment Rights Act 1996; the Local Government and Housing Act 1989; the Local Government (Scotland) Act 1973, the Scottish Joint Council for Local Government Employees and the Joint Negotiating Committee for Chief Officials of Local Authorities (Scotland) Scheme of Salaries and Conditions of Service.
- 2.3 When approving requests for special leave, consideration should always be given to the operational requirements of the Service together with requests that may have been previously granted and outstanding annual leave.
- 2.4 Applications for special leave must be submitted initially to line managers for onward submission to appropriate Heads of Services and departmental personnel sections providing as much notice as possible. Heads of Services may delegate authorisation of certain requests for special leave to line managers. Where appointment cards or other similar forms of notification are available these should be submitted to the line manager at the time of the request.
- 2.5 Special leave for circumstances not covered by the following guidelines or regulated by legislation must be referred to the Head of Personnel Services who shall have the authority to make a final decision on special leave.

3. OPERATIONAL ASPECTS

3. Balancing Work and Family Life

3.1 Parental Leave

Parental leave is a right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and to strike up a better balance between their work and family commitments. Refer to Appendix I for guidance on parental leave.

3.2 Family/Dependant Care Leave

Where an employee is required to be absent from duty to make special domestic arrangements arising from a family/dependant emergency such as the sudden and unexpected illness of a relative/partner/dependant, leave with pay for one day per occasion subject to a maximum of 2 days paid leave per annum will be granted. Any requests for leave outwith this allowance will be unpaid.

Where the illness of a near relative/partner/dependant is of a serious nature and other domestic arrangements cannot be made, an employee who has completed at least one year's continuous service with the Council may be granted leave of absence without pay subject to monthly review and the submission of medical certificates at regular intervals which confirms the requirement for continued caring.

Administrative Note

Refer to Appendix II for guidance on family/dependant care leave.

3.3 Victims of Domestic Violence

Where an employee is required to be absent from duty to make special domestic arrangements arising from being a victim of domestic violence, leave with pay for one day for each incident up to a maximum of 2 days per annum will be granted. Any requests for leave in addition to this entitlement would be granted as unpaid leave.

3.4 Medical etc. Treatment

Employees requiring optical, dental, orthopaedic or other medical treatment should make arrangements to obtain such treatment outwith normal working hours, but where a Director/Head of Service/Line Manager with delegated authority is satisfied that this is impracticable, reasonable time off with pay may be granted. In these circumstances, employees should arrange appointments at times which will mean the time off that is required will be minimal such as early morning, lunch time or late afternoon. Where treatment is required over a lengthy period, time off will be reviewed on a monthly basis and will be granted subject to the exigencies of the services.

An employee who is pregnant and who, on the advice of a doctor, midwife or health visitor, attends a clinic or other place for antenatal care, will be granted reasonable time off with pay.

An employee will be entitled to reasonable time off with pay for the purpose of preventative medical examinations e.g. screening for breast, cervical or testicular cancer and well women or well men clinics.

3.5 Bone Marrow, Kidney etc. Donations

An employee who has been accepted as a bone marrow, kidney etc. donor will be granted a maximum of five days paid leave at the time when the donation is required. If more than 5 days are required the employee will be required to set the additional days against annual leave entitlement or apply for a period of unpaid leave of absence.

3.6 **Bereavements**

Leave with pay will be granted on the following basis:

- (i) In the case of a near relative, such as husband, wife or similar relationship, son, daughter or parent of an employee leave should not exceed 5 days.
- (ii) Where an employee is required to conduct business in connection with a bereavement, leave as necessary will be allowed, due regard being taken of the circumstances but in any event should not exceed 3 days.
- (iii) In other cases, the time necessary to attend the service subject to a maximum of not more than one day with pay.

Administrative Note

In dealing with cases covered by items (i) and (ii) it is expected that management will be sympathetic to the situation faced by the employee. In exceptional circumstances where additional leave may be required such requests should be approved by the departmental Director/Head of Service/Line Manager with the delegated authority.

With regard to (iii) above, management and the employee should liaise and agree the time off required to attend the service, which of course will include an element for travelling time. In normal circumstances it is expected that the employee will attend work before and after the service, but obviously this will depend on the actual time of the service. Where the service is held at a time outwith an employee's normal working hours, it is expected that the employee will report for work as usual or as otherwise agreed. Where the employee does not report for work, payment will not be made unless the manager is satisfied as to the reason(s) for non-attendance.

3.7 **Adoption Leave**

An employee who will be the principal carer in the adoption of a child (up to and including 10 years of age) may be granted leave of absence for up to 29 weeks:

The first week will be paid leave followed by a period of up to 28 weeks unpaid leave.

To qualify for consideration, the employee must have completed at least one year's (52 weeks) continuous service prior to the commencement of the leave. Continuous service will be defined as in the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 at the date of the commencement of the proposed leave.

The leave will commence on the date which the employee adopts the child.

Where an employee has been absent under these terms, this period of absence will not affect the length of his/her annual leave entitlement in the leave year(s) in which the leave falls.

Administrative Note

An employee wishing to apply for leave under these terms should do so in writing to the Director/Head of Service as soon as approval in principle has been given by the authorities in relation to the adoption.

Any requests for special leave connected with the adoption of older children should be referred to the Head of Personnel Services for consideration on an individual basis.

3.8 **Maternity Support/Adoption Support Leave**

Maternity support/adoption support leave of five days with pay will be granted to the husband/partner or nominated carer of an expectant mother/principal carer at or around the time of the birth or adoption. In respect of adoption this support leave is available where there is the adoption of a baby under two years of age.

An employee should apply for maternity support/adoption support leave by completing the appropriate form as soon as the dates required are known.

Definitions

A nominated carer is the person nominated by the mother/principal carer to assist in the care of the child and to provide support to the mother/principal carer at or around the time of the birth or adoption.

At or around the time of the birth/adoption, in normal circumstances, means within one week before the birth/adoption and three weeks after the birth/adoption.

The five days do not require to be consecutive.

3.9 Visiting Relatives Overseas

Employees visiting relatives overseas must use their annual leave entitlement. Where an extension of leave is necessary, employees who have completed five years continuous service in terms of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 at the date of the commencement of the proposed leave, may be granted a period of normally up to a maximum of 8 weeks unpaid leave of absence.

In exceptional circumstances, employees with less than five years continuous service may be granted leave without pay. Requests should be submitted to the Director/Head of Service who, if supporting the application, should forward it to the Head of Personnel Services for consideration.

3.10 Weddings

Leave for weddings, including an employee's own marriage, must be set against annual leave entitlement.

3.11 Removal of Home

Leave required in connection with an employee moving home will normally be set against the employee's annual leave entitlement, except in cases covered by the Council's Resettlement Scheme.

An employee whose full annual leave entitlement has been exhausted may be granted leave without pay for one day.

4. National and Public Services

4.1 Service in Non-Regular Forces

An employee who is a member of the non-regular forces and attends an annual training camp for a period of not less than one week will be granted special leave with pay equal to the period which the employee actually attends the training camp, but not exceeding a period of 15 days and subject to the deduction of service pay and allowances received in respect of the period of special leave.

4.2 Jury and Witness Service

An employee receiving a summons to serve on a jury must report the fact to the Director/Head of Service/Line Manager with the delegated authority and will be granted special leave with pay to attend, unless exemption is secured, subject to the deduction of the allowances to which the employee is entitled under the Jurors'

Allowances Regulations, and accordingly the employee must claim such allowances.

Where an employee is cited to attend as a witness, leave of absence will be granted as follows:

- i) In the case of professional witnesses, leave with pay, on the understanding that witness fees received (excluding travelling and subsistence expenses) are notified to the appropriate Services to allow the equivalent deduction from pay;
- ii) In all other cases, leave without pay, it being left to the employee to claim from the person citing him/her an allowance in respect of loss of remuneration.

Employees who are required to attend an Employment Tribunal relating to their employment with the Council may be given reasonable leave of absence with pay. This covers employees who are called as witnesses, including those who are required to attend in relation to submissions that they have made against the Council, e.g. claims of discrimination, claims under the Wages Act etc.

Administrative Note

Upon receipt of a citation and after having reported the fact to the Director/Head of Service, an employee should present the document to the Department of Finance and Information Technology (Salaries and Wages Section), whereupon the individual's current daily or hourly rate of pay will be entered in the loss of earnings section and certified as correct by an official stamp.

Having attended Court, the Court staff will calculate the loss of earnings and other expenses (as appropriate) to be paid and will record these on the citation. On payment of the claim, the signature of the claimant will be required and the citation will be retained by the Court. The employee should ask the court staff for a copy of the receipted claim and after recording his/her employee number on the document should submit the copy claim to the Director of Finance and Information Technology so that the amount received for loss of earnings may be deducted from the next available salary/payment.

Any other expenses received (ie travelling and subsistence) should be retained by the employee.

4.3 International Events

An employee who is representing his/her country at an amateur international event (e.g. sporting) may be granted reasonable leave with pay depending on the nature of the event. Requests may also relate to duties such as being a national coach and umpiring/refereeing at international events.

Where an individual is representing his/her country at an international event then a period of up to 10 days paid leave in any annual leave year may be granted on the understanding that any remuneration received is notified to the employee's department to ensure the equivalent deduction from pay.

All requests for special leave in respect of international events must be referred to the Head of Personnel Services.

5. Leave and Support of the Democratic Process

5.1 Election Duties

Subject to the exigencies of the service being met, leave with pay will be granted to allow employees to undertake official duties at Parliamentary Elections, Referenda, Council Elections, Assembly and EU or similar Elections.

5.2 Parliamentary Candidates

Leave of absence without pay for a period not exceeding four weeks at the time of the election shall be granted to employees who are Parliamentary Candidates.

5.3 Parliamentary Election Agents

Leave of absence without pay for a period not exceeding four weeks at the time of the election shall be granted to employees to undertake the duties of an Election Agent for a Parliamentary Candidate.

5.4 Council Candidates and Duties of Elected Members

5.4.1 Council Candidates

One day's leave of absence, without pay, will be granted to employees of the Council who stand as candidates at Council elections (i.e. Councils other than Renfrewshire Council) and this one day will be the day of the election.

Employees who intend to seek being nominated as a candidate for election as a member of Renfrewshire Council will require to resign from their post.

5.4.2 Duties of Elected Members

Time off as detailed below will be granted to an employee to perform duties as an elected member of a local authority (i.e Councils other than Renfrewshire Council), provided such time off does not interfere with the efficient discharge of the functions of the Council:

- ~ leave with pay to a maximum of 208 hours in any financial year;
- ~ further leave will be without pay.

In respect of an employee who has been appointed as Convener of a local authority, leave with pay will be granted but the maximum of 208 hours does not apply.

6. Voluntary and Community Service

6.1 Voluntary Service Overseas

Employees applying for voluntary service overseas with the Voluntary Service Overseas Organisation shall be granted leave of absence without pay for a period of up to two years, provided they have at least two years continuous service with the Council. Following completion of the period of absence, resumption of duties with the Council will be on the basis that the employee will be reinstated on the salary grade and placing held immediately prior to the commencement of the period of leave, but not necessarily to the same post. During the period of absence, the post held by the employee may be filled.

Administrative Note

Any requests received by Departments should be forwarded to the Head of Personnel Services for approval.

6.2 Community Emergency Services

Employees who participate in community emergency services, e.g. retained fire-fighters, lifeboat crew will be granted leave of absence with pay to attend emergencies which occur during working hours.

6.3 Special Purposes

Leave with pay will be granted to allow duties or services of an honorary, charitable, philanthropic and civic character, to be undertaken. Normally this leave will not exceed two days per annum.

6.4 Youth Organisation Holiday Camps etc.

Leave of absence without pay may be granted to employees who are required to assist at Youth Organisation Holiday Camps etc., provided the exigencies of the service can be met.

7. Interviews

7.1 Interviews

An employee seeking employment with another local authority who is required to attend for interview will be granted leave with pay for a maximum of one day. If more than one day is required, e.g. for travel purposes, the employee will be required to set

the additional days against annual leave entitlement or be granted leave of absence without pay, dependent on the circumstances of the case.

Administrative Note

Management and the employee should liaise and agree the amount of time off required to attend the interview up to a maximum of one day, which of course will include an element for travelling time. In normal circumstances it is expected that the employee will attend work before and after the interview, but obviously this will depend on the actual time of the interview. Where the interview is held at a time outwith an employee's normal working hours, it is expected that the employee will report for work as usual or as otherwise agreed. Where the employee does not report for work, payment will not be made unless the manager is satisfied as to the reason(s) for non-attendance.

8. Special Circumstances

8.1 Religious Festivals - Employees who have Fixed Annual Leave

Employees who are members of religious groups other than Christian and who have fixed annual leave confined to periods when their work places are closed for holidays (eg. term-time), will be allowed, subject to the requirements of the service, up to a maximum of three separate days leave of absence with pay per year to participate in certain principal Religious Festivals which fall outwith the fixed annual leave periods.

8.2 Meetings

In appropriate cases, leave of absence with pay will be granted to employees attending meetings concerned with Scottish Joint Council or Scottish Council affairs, meetings of the Council's Employees' Joint Consultation Committees or corporate bodies e.g. SODOPS, CIPFA, SOLAR.

Leave with pay, up to a maximum of 12 days per annum, will be granted to employees, subject to the exigencies of the service, to facilitate their attendance at meetings of Children's Panel or to undertake duties as Justices of the Peace, or business arising therefrom. Any request for leave in addition to this entitlement would be granted as unpaid, again subject to the exigencies of the service.

Leave with pay, up to a maximum of 2 days per annum, will be granted to employees, subject to the exigencies of the service, to facilitate their attendance at meetings as members of Community Councils or Health Councils, or business arising therefrom. Any requests for leave in addition to this entitlement would be granted as unpaid, again subject to the exigencies of the service.

Leave with pay, as necessary, will be granted to employees to facilitate their attendance at meetings as members of DSS Appeals Tribunals, School/College Councils, School Boards, Board of Visitors for Prisons and Young Offender Institutions, or business arising therefrom.

8.3 **Lateness and Absence due to Inclement Weather**

Employees must note that the onus for attendance at work rests with the individual.

In the event of being prevented from attending for work employees must contact their supervisor to advise of the reasons for non-attendance. Such notification must be made as early as possible in the working day and thereafter on a daily basis if the situation continues.

Having been contacted by an employee who is unable to attend for work, the supervisor, having satisfied him/herself (as far as is reasonably practicable) of the legitimacy of the reason, will note the employee's circumstances and where appropriate advise the employee to report to the nearest accessible Council workplace.

Where an employee has pre-arranged to take annual leave this will not be cancelled, even though had they not been on annual leave they would have been prevented from attending for work because of adverse weather conditions.

Requests for annual leave made by telephone on a day of adverse weather will be considered by Departmental supervisors in the normal way, subject to the exigencies of the service.

The question of payment to employees prevented from attending for work due to adverse weather conditions will be considered by the appropriate departmental Head of Service in consultation with the Head of Personnel Services.

Where adverse weather conditions occur during the working day, employees should be released only when there is evidence that they will personally encounter difficulty in reaching their own home at a reasonable time. This necessarily means that those employees who will not encounter difficulties and any other essential employees, should remain at work until normal finishing time in order to maintain services.

In respect of employees covered by the flexible working hours scheme the following shall apply:

- ~ During periods of adverse weather conditions, management may waive the application of the stipulated core times for staff attendance;
- ~ Employees who are unable to attend work should use flexi leave or annual leave;
- ~ Credited time will not be afforded in respect of periods of non-attendance unless weather conditions are so bad that the Chief Executive sanctions early closure of all offices in the locality. In that event, those employees at work will be credited to the

normal end of the working day. Any employees not at work will not be affected by such a decision.

Any employees who participate in the Flexible Working Hours Scheme and who incur debit hours as a result of non-attendance or attending for truncated days will be allowed to exceed the maximum debit provision of seven hours and will be required to make up the time over the next two accounting periods.

8.4 Time off for Trade Union Duties

The Council has approved a separate policy document covering time off for trade union duties.

8.5 Examinations and Study Leave

The following arrangements will apply to employees who have been authorised to study for an approved course on a block/day release basis, by evening class, distance or open learning, or by secondment with pay. They do not apply to employees who have been granted secondment without pay.

8.5.1 Examinations

Time off with pay will be granted to any employee sitting examinations during normal working hours which have been authorised by the Council.

Administrative Note

Leave with pay will only be granted on the day(s) of the examination(s) on the basis of a half day or full day as appropriate.

8.5.2 Study Leave

Leave with pay will be granted to employees, subject to the exigencies of the service and to paragraph 8.5 above, for the purpose of final revision prior to sitting a formal examination (not a class examination). The amount of time off will usually be limited to one day per subject examination. Any leave approved beyond that should be taken as part of annual leave entitlement.

8.6 Eye Examinations

Where a department determines that an employee is a “user” or is to be designated as a “user” and the employee requests an eye examination, the department must allow the employee appropriate time-off with pay for the test. Time-off with pay also requires to be granted for any initial fitting of spectacles and for repeat NHS examinations at intervals determined by the ophthalmic optician. In the case of an employee who is to be designated as a “user”, the examination shall take place before the employee becomes a “user”.

Time-off will be granted taking account of the exigencies of the service, but as soon as practicable after the display screen “user’s” request.

Employees and manager are recommended to consult the full policy in respect of this issue. (As at the date of the Committee the current version of the policy was issued as Circular PER 2/00).

8.7 Other Purposes

Requests for special leave for purposes other than those detailed above must be referred to the Head of Personnel Services for consideration.

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Appendix I

Parental Leave

Practical advice and guidance

**Corporate Services Department
Personnel Services**

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1 **What is parental leave?**

Parental leave is a right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and to strike up a better balance between their work and family commitments. The right to parental leave will apply only to employees with children born or adopted after 15 December 1999.

2 **Who can take parental leave?**

Employees with children born or adopted after 15 December 1999. The parents must either be named on the child's birth certificate or they must have parental responsibility under law for the child. Parental leave will also apply to individuals with responsibility for looking after a child, such as grandparents or step-parents.

The parents of a child do not have to be living with the child in order to qualify for parental leave.

Parental leave will apply to both mothers and fathers and a person who has obtained parental responsibility for a child under the Children (Scotland) Act 1995.

Employees will be able to start taking parental leave when the child is born or placed for adoption or as soon as they have completed one year's service, whichever is later.

3 **How much service should the employee have?**

Employees who want to take parental leave must have one year's continuous service in terms of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999.

4 **How much parental leave should be granted?**

Employees have a statutory non-transferrable entitlement to 13 weeks unpaid leave. Renfrewshire Council will take account of any parental leave taken in previous employments.

5 **Is parental leave in addition to existing family friendly policies such as maternity support/adoption support leave?**

Parental leave is granted in addition to both adoption leave and maternity support/adoption support leave.

6 **How can the leave be taken?**

Up to a maximum of 4 weeks parental leave per annum in respect of any individual child can be granted. Requests in excess of this amount must be approved by the appropriate Departmental Director. Leave may be taken in single days.

7 **Age of the child after which parental leave is no longer applicable**

There will be an entitlement to Parental Leave for employees (as detailed in section 1) with children born after 15 December 1999 and until the children reach their sixth birthday, or following placement in the case of adoption until the six years have elapsed, or until the child's eighteenth birthday whichever, is the earlier.

Parents of disabled children will be able to use their leave up until the child's eighteenth birthday.

A disabled child is a child for whom disability living allowance is granted.

8 **How much notice is required?**

An employee must provide 21 calendar days notice when requesting any period of parental leave up to 4 weeks. The employee must also specify the dates on which the period of leave is to begin and end.

If, in exceptional circumstances, a departmental director has granted additional leave the notice period may be increased by 7 calendar days for each complete week of additional parental leave required.

In rare cases where it is not possible to provide the notice period(s) as detailed above the Director/Head of Service/Line Manager with the delegated authority may grant the leave after giving due consideration to the reasons provided by the employee. In these circumstances an employee should give the notice as soon as is reasonably practicable.

9 **Response to an employee's request for parental leave**

The employee should receive a response to the request for leave in as short a timescale as possible. Parental leave may be postponed for up to 6 months for service delivery reasons except at the time of the birth or adoption of a child. If the leave is postponed until the child is older than the qualifying age, (i.e. under 6 years of age) the leave would still be allowed.

10 **What record keeping is required?**

Parental leave granted will be recorded on the special leave section of the annual leave card and the attendance record card.

11 **Evidence to support a request for parental leave**

An employee will require to provide evidence that the employee is the parent of a child or has parental responsibility for the child; evidence might take the form of information contained in the child's birth certificate, papers confirming a child's adoption or the date of placement in adoption cases, or in the case of a disabled child, the award of disability living allowance for the child. Normally, the employee will only require to produce this evidence when making the first request for parental leave.

12 **What happens if an employee tries to claim leave dishonestly?**

The purpose of parental leave is to care for a child. This means looking after the welfare of a child and can include making arrangements for the good of a child. If the employee uses the leave for some other purpose then he or she would be acting dishonestly and the normal disciplinary provisions would apply.

13 **What is the employment status of the employee when off on parental leave?**

The employment status of the employee taking parental leave is the same as those employees on additional (extended) maternity leave.

There is no statutory right to pay whilst on parental leave.

The employment contract continues whilst the employee is on parental leave unless it is terminated by either the employer or employee. (The normal notice periods from either party will continue to apply). An employee continues to benefit from his/her statutory employment rights during parental leave.

The continuation of other contractual terms and conditions will not be affected by breaks for parental leave. With regard to the occupational pension rights that have accrued prior to going on unpaid parental leave the rules and regulations as laid down by Local Government Pension Scheme will apply.

Continuous service will not be broken by periods of parental leave. A period of parental leave counts towards a period of continuous employment for the purposes of statutory employment rights, including determining the length of service for calculating a redundancy payment.

14 **Does the employee have the right to return to the same job?**

An employee who takes parental leave, regardless of the length of the leave, is entitled to return to the post held by him/her prior to the leave being granted. It should be noted that this provision will **not** apply in cases where, for example, appointment is to a temporary post and the requirement for this post has ceased. In such cases, reference will be made to redeployment rights detailed in the temporary contract of employment.

15 **Part time and job sharing employees**

Parental leave will be granted on a pro-rata basis determined by the average hours worked per week.

A week's leave will be a period of absence from work that is equal in duration to the period for which the employee is normally required to work under the contract of employment. If he or she works three days a week, the three-day week is counted as a week and the employee is entitled to take up to 13 of these weeks as parental leave.

16 **Employees who have working patterns which vary**

These employees will require to have an average working week calculated.

17 **Calculation of unpaid leave**

The reduction of earnings resulting from taking parental leave will be calculated in the same way as for any other period of unpaid leave.

18 **Refusal or postponement of parental leave - Grievance procedure**

In the event that an employee has been refused or has had parental leave postponed and he/she is not satisfied with the reason(s) for such action, the employee should in the first instance be encouraged to exhaust the internal grievance procedures.

19 **Harassment, Discrimination and Victimisation at Work**

The Council recognises that any employee who feels that he/she has suffered from harassment, discrimination or victimisation as a result of taking parental leave may seek remedies at an employment tribunal. However, all employees are encouraged to exhaust the internal procedures in the first instance.

May 2000

Appendix II

Family/Dependant Care Leave

Practical advice and guidance

Corporate Services Department

Personnel Services

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1 What is family/dependant care leave?

It is an entitlement to take a reasonable amount of time off during working hours in order to take action which is necessary:

- ~ to provide assistance on an occasion when a dependant falls ill, is injured or assaulted;
- ~ to make arrangements for the provision of care for a dependant who is ill or injured;
- ~ because of the unexpected disruption or termination of arrangements for the care of a dependant;

2 Is there a qualifying period?

There is no qualifying period for the right, so it applies on the first day of employment.

3 Who can count as a dependant?

The statutory definition of a dependant includes an employee's wife, husband, child, parent or someone who lives in the same household as the employee but who is not his or her employee, tenant, lodger or boarder. This clearly covers non-married partners, including same-sex partners, but also potentially covers family members or friends who live together. The definition also covers children who are not the employee's children but who live in the same house.

A dependant also includes any person who reasonably relies on the employee either for assistance on an occasion when the person falls ill or is injured or assaulted, or to make arrangements for the provision of care in the event of illness or injury. Furthermore, where the time off relates to unexpected disruption or termination of arrangements for the care of a dependant, then a dependant will also include any person who reasonably relies on the employee to make arrangements for the provision of care.

Examples of this wider category of dependants include an aunt who lives nearby and whom the employee looks after outside work, who falls ill unexpectedly, or an elderly neighbour living alone who falls and breaks a leg.

4 When will the family/dependant care leave be 'necessary'?

This will totally depend on the circumstances. There may be instances where a dependant has a physical or mental illness which does not necessitate full-time care but suffers from occasional relapses which require assistance from the employee. There may also be many cases where the employee's presence is not 'necessary' from a medical point of view, but may be necessary with regard to both the employee's and the dependant's psychological needs in difficult circumstances, such as attendance at an important medical examination.

The practical realities of the action that needs to be taken will be very relevant. So, for example, while it might perhaps be necessary for both parents of a child to take time off when the child is seriously ill, it would not be necessary for both of them to take time off if the childminder did not turn up, although it would be necessary for one of them to take time off.

5 What illnesses does the new right cover?

The types of illness are not defined - the dependant merely needs to be 'ill'. The Government has made it clear that the illness does not need to be life-threatening, although it is probably fair to say that the more serious the illness the more likely that action will be necessary. So, for example, it may be difficult to argue that the right is triggered by the mere fact that a spouse is at home with 'flu when the employee's presence is not necessary in the circumstances. However, if the dose of 'flu means that there is no one to care for a young child, then the right may be triggered.

6 What about other domestic incidents, such as a flood?

There is no general right to time off for domestic incidents, only those which involve the need to care for a dependant. Therefore, any right to time off to deal with domestic emergencies such as a boiler not working, a flood from a washing machine or taking a pet to the vet will not be covered by the new right.

7 How much time can the employee take off?

Where an employee is required to be absent from duty to make special domestic arrangements leave with pay for one day per occasion subject to a maximum of 2 days paid leave per annum will be granted. Any requests for leave outwith this allowance will be unpaid.

Where an illness of a near relative/partner/dependant is of a serious nature and other domestic arrangements cannot be made, an employee who has completed at least one year's continuous service with the Council may be granted leave of absence without pay subject to monthly review and the submission of medical certificates at regular intervals which confirms the requirement for continued caring.

8 Are there notice requirements for the new right to dependant care leave?

There are no formalised notice requirements for exercising the right. All an employee must do is notify his or her employer as soon as is reasonably practicable of the circumstances giving rise to the leave. Any notification does not need to be in writing.

9 How does the new right relate to the right to take parental leave?

When an employee takes time off related to a child born on or after 15 December 1999, the time taken off as dependant care leave will not diminish the amount of

parental leave available to that employee. Where there is a longer period of absence required that may not fall within the definition of circumstances qualifying for dependant care leave, an employee may be better advised to take parental leave.

10 What right to payment does an employee have during dependant care leave?

Leave will be with pay for one day per occasion subject to a maximum of 2 days paid leave per annum. Any requests for leave outwith this allowance will be unpaid.