

Leave Policy

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SECTION 1: GENERAL GUIDING PRINCIPLES

1.1 POLICY STATEMENT

- 1.2 This document outlines the council's arrangements for all forms of authorised leave that are available to employees and the procedures for applying for them. The entitlements in this document, at a minimum, comply with the Employment Rights Act 1996, the Equality Act 2010, the Working Time Regulations 1998 (as amended), NJC for Local Government Services and the JNC National Agreement on Pay and Conditions of Service for Local Authority Craft & Associated employees as supplemented by local Agreements.
- 1.3 The council is committed to improving the working lives of all staff and helping them to achieve a balance between the demands of their jobs, through a range of additional paid and unpaid leave provisions detailed in this policy, and their wider caring responsibilities and personal lifestyle. The leave arrangements in this document should assist staff in achieving this balance and recognise the social benefits of facilitating this.
- 1.4 The council recognises that employees have the right to take a reasonable amount of time off work to deal with emergencies, or may need to attend medical or other health appointments. Such requests will be treated sympathetically and flexibly in such circumstances.

1.5 SCOPE

- 1.6 This policy will apply to all CBC employees subject to any specific eligibility criteria detailed below.

1.7 PRINCIPLES

- 1.8 The following principles will apply for all employees:
- All leave is stated as full-time working days (or equivalent hours). Leave entitlements for part time employees will be calculated on a pro-rata basis to the proportion of working days or hours that they work.
 - All employees have the right to be treated fairly and with dignity in the spirit of the Equality Act 2010. Employees shall be protected against detrimental action based on the assertion or exercise of any of the rights provided by this policy.
 - As with any request for leave the operational requirements of the council must remain a priority.
 - Should a request be refused an employee shall receive a written explanation and has the right to seek resolution through the council's Grievance Policy.
 - Abuse by an employee of the leave arrangements described in this document could result in disciplinary action, which may include dismissal.

SECTION 2: ANNUAL LEAVE

2.1 An employee's annual leave year commences on the 1st of the month during which that employee originally commenced employment with the Council.

2.2 Entitlement to annual leave is based on the employee's spinal column point (scp) and their length of continuous local government service as at 1 April.

	<u>Entitlement</u>	<u>Over 5 Years service</u>
Up to scp 21	23 days	28 days
From scp 22 to scp 29	25 days	30 days
Above spinal point 30	27 days	32 days
Chief Officers	32 days	32 days
Craft Graded	24 days	29 days

Where employees reach an anniversary which will increase their annual leave entitlement, the new entitlement will be calculated from the 1st day of the month following the anniversary.

2.3 Part-time employees (including Job Sharers) should receive a pro rata entitlement calculated by the following formula:

contracted hours multiplied by number of days annual leave full time entitlement multiplied by standard day, divided by the standard hours of working week

For example. An employee who works 22.5 hours per week on scp 15 with more than 5 years' service would have the following entitlement each year:

$$22.5 \times 28 \times 7.5 / 37 = 127.70 \text{ hours}$$

If you do not have a standard day ie you don't work the same hours each day please contact HR to clarify your entitlement.

See section 4.4 for the bank holiday calculation for part time employees.

2.4 Pay during annual leave will include regular payments that the individual would have received had he/she been at work e.g. compulsory overtime, regular bonus.

2.5 If staff have pre-arranged annual leave but then fall sick, they must follow the council's absence reporting procedures in order for the leave to be taken at another time.

2.6 Staff working on a variable hours or flexible contract shall have their annual leave calculated 13 weeks in arrears. The allowance will be given and taken

in hours.

- 2.7 On leaving the council any leave taken (including Bank Holiday entitlement) which is in excess of that which the employee would have been entitled to (on a pro-rata basis) will be deducted from the final salary payment.

SECTION 3: CARRY FORWARD OF ANNUAL LEAVE

- 3.1 Under the working Time Regulations 1998 Reg 13. it is stated that the four weeks statutory annual leave must be taken in any given leave year and that this annual leave cannot be carried forward unless it could not be taken through long term illness or maternity leave.
- 3.2 In exceptional circumstances leave over the statutory minimum can be carried forward. CMT managers have the delegated authority to approve such requests.
- 3.3 Up to five annual leave days (subject to 3.2 above) can be carried forward to the next annual leave year subject to:-
- (a) Mutual agreement and with the CMT managers prior approval.
 - (b) There being exceptional circumstances i.e. long term sick leave or maternity leave.
 - (c) The carry forward days are taken within three months of the start of the new annual leave year.
- 3.4 Approval is subject to consideration of an individual's personal circumstances and needs of the council.

SECTION 4: BANK HOLIDAYS

- 4.1 The statutory eight bank holidays are:
- Good Friday
 - Easter Monday
 - May Day
 - Spring Bank
 - Summer Bank
 - Christmas Day
 - Boxing Day
 - New Year's Day
- 4.2 In addition to the eight statutory bank holidays the council adds one discretionary day to the Christmas holiday period. The exact timing of the discretionary day is decided each year.
- 4.3 Many religions or beliefs have special festival or spiritual observance days which do not fall within the eight statutory bank holidays. Where an employee

requests leave in order to celebrate festivals or attend ceremonies it should be considered sympathetically where it is reasonable and practical for the employee to be away from work.

- 4.4 Part-time employees (including Job Sharers) should receive a pro rata entitlement calculated by the following formula:

Contracted hours multiplied by 9 multiplied by standard day divided by the standard hours of working week

For example. An employee who works 22.5 hours per week would have the following entitlement each year:

$$22.5 \times 9 \times 7.5 / 37 = 41 \text{ hours}$$

- 4.5 Where an employee has more bank holidays than which fall on their working pattern i.e. they work towards the end of the week, they should use it as they would annual leave.
- 4.6 If an employee has less bank holidays than which fall on their work pattern i.e. they work towards the beginning of the week, they should use annual leave or amend their work pattern for the week as agreed in advance with their line manager.

SECTION 5: COMPASSIONATE LEAVE

- 5.1 Compassionate leave usually refers to time off given in response to major personal distress, e.g. bereavement or major domestic crisis, e.g. a house fire or vehicle theft.
- 5.2 A CMT manager can approve paid leave of absence up to seven days for 'compassionate leave'. Paid leave in excess of three days should, however, only be given in exceptional circumstances (e.g. the death of a close relative or partner).
- 5.3 Each application for paid leave of absence should be judged on the specific circumstances relating to the individual case. There is no automatic right to paid compassionate leave.
- 5.4 The following advice is to be used as a guideline only, to encourage consistency of approach across all service areas.

SECTION 6: BEREAVEMENT LEAVE

- 6.1 The amount of paid leave granted for bereavement will depend on:
- The relationship between the employee and the person who has died;
 - The level of responsibility to be taken on by the employee for the funeral or for other tasks arising from the death of that person;

- c. The distance which has to be travelled to attend. For example if a deceased close relative lived in another country.
- 6.2 On the death of close relative i.e. a parent, a partner or a child, up to seven days paid leave should be allowed.
- 6.3 On the death of a partner's parent or sibling, a grandparent, uncle, aunt or cousin normally one day's paid leave would be allowed. However consideration should be given as to the circumstances of the deceased and the bereavement. If, for example, the employee has been the carer of the deceased or is responsible for making arrangements for the funeral or has other urgent responsibilities which have to be discharged in relation to the deceased, then up to three days paid leave may be allowed.
- 6.4 Where the deceased does not fall into the above category, i.e. is a friend or colleague then unpaid time off to attend the funeral should be facilitated wherever possible. Where an employee is representing the council at a funeral service, paid time off will be given to attend.
- 6.5 Where further time off is necessary, this must be agreed and should be taken as annual leave, flexi-time (where appropriate) or unpaid leave.

SECTION 7: MAJOR DOMESTIC CRISIS LEAVE

- 7.1 A period of paid leave of absence up to seven days in any leave year, on compassionate grounds may be allowed for reasons relating to a major domestic crisis (for example, a house fire or burglary) or significant personal distress.
- 7.2 The amount of paid leave allowed should be commensurate with the level of the crisis. However, paid leave in excess of three days should only be given in exceptional circumstances and should not exceed seven days in any leave year.
- 7.3 Circumstances of significant personal distress include, but are not restricted to, going through a divorce, redundancy of a partner, bankruptcy, domestic abuse or where an employee is the victim of a crime.
- 7.4 When an employee has such a crisis, the manager will need to sympathetically ascertain basic information in order to make a recommendation to his or her CMT manager as to whether paid leave should be allowed.
- 7.5 When deciding the level of paid leave to be allowed consideration should be given to:
 - a. The nature and seriousness of the crisis or problem;
 - b. The closeness in relationship between the employee and any other party involved;
 - c. The age and/or condition of the person involved, e.g. is it a child/children or an elderly dependant who needs care?

- d. Suddenness of problem - did the employee have any time to prepare or plan?

SECTION 8: EMERGENCY DEPENDANTS LEAVE

8.1 Under the European Union Parental Leave Directive, contained in the Employment Rights Act 1996, effective from December 1999, there is a right to reasonable **unpaid** time off during the employee's working hours for emergency and unforeseen circumstances to a dependant. No limit applies to the amount of unpaid time off that an employee can take to deal with an emergency involving a dependant.

8.2 Such circumstances include:

- a dependant falls ill, gives birth or is injured or assaulted;
- to make arrangements for the provision of care for a dependant who is ill or injured or hospitalisation (includes mental health);
- in consequence of the death of a dependant;
- due to the unexpected disruption or termination of arrangements for the care of a dependant;
- to deal with an incident which involves a child of the employee which occurs unexpectedly at a child care facility;
- a child becomes distressed for some reason or where a child has committed a serious misdemeanour.

8.3 **Who is defined as a 'dependant'?**

- a partner, husband or wife (a partner is someone who lives at the same household)
- a child of any age
- parent or step-parent
- an elderly relative living with the family
- a person who reasonably relies on the employee, e.g. an elderly neighbour who has no relatives nearby and who the employee regularly helps
- a person who is dependent on the employee as a primary or secondary carer

8.4 **Making a request for Emergency Dependants' Leave**

8.5 An employee faced with any one of the above emergency and unforeseen circumstances involving a dependant must inform their supervisor/manager as soon as possible as to why s/he needs to be absent and how long it is likely to be before a return to work.

8.6 The manager will probably be asked to consider the request for Emergency Dependants' Leave in relation to the guidance for the allowance of paid leave on compassionate grounds.

8.7 'Reasonable time off'

8.8 It is reasonable for a manager to expect a carer to have considered measures to deal with emergencies such as the sudden sickness of a child. Most employees keep some annual leave or flexi-time in reserve for emergencies.

8.9 However if the employee feels that they need compassionate leave, a request for paid leave of absence will be considered. The manager should gather the facts of the case as best they can and make a recommendation to his/her CMT manager in order for a decision to be made.

8.10 Often, in cases of real emergency, the employee will not have much time to negotiate compassionate leave and the decision will have to be made retrospectively.

8.11 If paid compassionate leave is not considered appropriate the employee should, wherever possible, be allowed to use annual leave or flexi-time (if applicable). The time off could be accommodated by temporary alteration of working time/arrangements, e.g. extra hours spread over the next day(s).

8.12 If the required time off is a relatively short period of time, e.g. up to two hours, the supervisor/manager has the discretion as to whether pay is deducted, or the hours taken worked at another time.

8.13 If the employee has a genuine emergency relating to a dependant as defined above unpaid leave **must** be allowed for an amount of time that is considered to be 'reasonable' given all the circumstances.

8.14 Clearly it is in the best interests of the service to apply this policy sensitively and sympathetically to avoid use of the council's occupational sick pay scheme.

8.15 Evidence of the need for time off

There is no specific right for a supervisor/manager to ask for evidence of an employee's need to take time off. The supervisor/manager will need to ask relevant questions in order to determine that an employee is not taking unnecessary time off. Such questions must be asked sympathetically and must not be personal or intrusive.

However, in order to decide whether paid leave is appropriate and its duration, it will probably be necessary to ascertain:

- the nature of the emergency (e.g. what has happened? Why is it an emergency?)
- who the dependant is

- whether the employee is the sole carer for the dependant
- if not, whether a joint carer can contribute to the support of the dependant in the emergency.

SECTION 9: LEAVE FOR PUBLIC DUTIES

9.1 Under the Employment Rights Act 1996, s.50, employees have the right to a reasonable amount of unpaid time off work for the performance of public duties. The public positions and the purposes for which time off may be granted for each position are set out below.

- magistrate (or justice of the peace)
- local councillor
- school governor
- member of any statutory tribunal (for example employment tribunal)
- member of the managing or governing body of an educational establishment
- member of a health authority
- member of a school council or board in Scotland
- member of the General Teaching Councils for England and Wales
- member of the Environment Agency or the Scottish Environment Protection agency
- member of the prison independent monitoring boards (England or Wales) or a member of the prison visiting committees (Scotland)
- member of Scottish Water or a Water Customer Consultation Panel

9.2 Under national conditions of service, the employee should receive paid leave of absence for undertaking jury service or serving on public bodies or undertaking public duties

9.3 Where an allowance is claimable for loss of earnings the employee should claim and inform the Treasurer in order that the equivalent amount can be deducted from employee's pay.

9.4 **Justice of the Peace**

9.5 Council policy is as follows:-

- (1) Employees undertaking duties as a JP should be granted up to 18 days paid leave of absence per year (this may be taken in half day sessions), after taking into account the recovery of the allowance that can be claimed and paid to JP's for loss of earnings.

- (2) Any time off in addition to the above should be in the employee's own time (e.g. annual/flexi-leave, or without pay) subject to the CMT manager approval.
- 9.6 The employee should inform the Borough Treasurer of deductions to be made from pay to take into account the "Financial Loss Allowance". It is also the employee's responsibility to claim the allowance from the Clerk to the Magistrates' Court.
- 9.7 **Member of a Local Authority**
- 9.8 The council has accepted the undertaking to grant paid leave to an employee for council duties, provided it does not exceed 208 hours a year, under the provisions of the Local Government and Housing Act 1989.
- 9.9 **Jury Service**
- 9.10 Paid leave of absence should be granted, but an employee should claim the allowance for loss of earnings to which s/he is entitled. A deduction from the employee's pay of an amount equal to the allowance paid will be made.
- 9.11 **Reservists**
- 9.12 Employees are required to inform the organisation through their line manager as soon as possible that they are, or intend to become, reservists.
- 9.13 Paid leave of absence may be granted of up to 10 days per calendar year to undertake reservists' activities.
- 9.14 Any request for additional time off to undertake specific non-regular forces training that cannot be undertaken in non-working time will be considered taking into account service requirements.
- 9.15 If a reservist is mobilised, there is no requirement for the council to pay the reservist during his/her absence. During this period the reservist receives service pay from the Ministry of Defence, along with a standard award to make up any difference (up to the statutory limit) between his/her service pay and normal average weekly earnings.

SECTION 10: INCLEMENT WEATHER

10.1. Where offices/buildings are open

- 10.2 The assumption is that staff (including variable hours staff) will attend work as expected unless instructed not to do so. Where no such instruction is given i.e. the buildings are open, but employees cannot get into work, employees are expected to use annual leave, flexi time or reach an agreement with their manager to make up the time over a defined period.

- 10.3 The flexi scheme will be relaxed to allow a greater debit if this means someone's flexi goes into more debit than the scheme allows at the end of the period.
- 10.4 If employees had planned to take flexi time due to reaching the maximum credit and they came into work to maintain staffing levels then the scheme will be relaxed to allow them to carry over more than the maximum hours.
- 10.5 If an employee does not have access to the flexi scheme and they are at the end of their leave year with no annual leave to use a request to bring forward annual leave from the new leave year would be considered.
- 10.6 The council does not credit time for those who cannot get in as this can cause bad feeling amongst staff who do struggle to get in if others are perceived to have taken an easier option of staying at home. Reasonable adjustments will be considered for employees with a disability on an individual basis.
- 10.7 Where staff are notified not to attend due to full closure**
- 10.8 If staff are notified that they are not required to attend because premises are closed (i.e. the absence is enforced) then they will be credited with the time or paid as normal.
- 10.9 Where staff attend and the buildings are closed early**
- 10.10 If the Council takes the decision to close the buildings early and staff who have been working normally are sent home, they will be credited with time to make up their standard working day.
- 10.11 If the building remains open and functioning normally standard flexi rules apply so if employees choose to leave early then normal flexi rules apply.
- 10.12 Working at home**
- 10.13 Where employees had pre-agreed with their manager that they were working at home the standard day will be credited.
- 10.14 Other Scenarios**
- 10.15 Employees who had pre-booked leave will take the leave as normal.
- 10.16 Employees taking time off due to sickness will discuss the circumstances as normal in the 'return to work interview' and will receive their normal credit/pay as appropriate.

SECTION 11: TIME OFF IN LIEU (TOIL)

- 11.1 Time off in lieu (TOIL) refers to time taken off at a later date for any additional hours worked over the contracted working hours.

- 11.2 Managers must ensure that they manage TOIL within the requirements of the Working Time regulations 1998, ensuring that:
- Employees do not work more than a maximum of 48 hours in an average working week.
 - Employees have a minimum of 11 hour's rest in a 24 hour period.
 - Employees have 24 hours rest in a seven day period.
 - Employees have at least a 30 minute break after 6 hours working.
- 11.3 It is the employee's responsibility to seek prior approval from their line manager before working additional hours that could accrue as TOIL.
- 11.4 TOIL entitlement for employees who are contracted into the Flexitime Scheme**
- 11.5 Employees who are contracted into the flexitime scheme are expected to manage any additional working hours within the confines of the flexi scheme bandwidth (i.e. 7:00 am to 7:00 pm) where possible. *See the guidance on the flexitime scheme for details.*
- 11.6 Where a manager approves, in advance, work in the normal job role outside the flexitime scheme bandwidth (i.e. before 7:00am or after 7:00pm) it should be recorded on the form at Appendix 1 as time to be taken as TOIL at a later date. Alternatively the manager may approve payment for additional hours working/overtime which would be paid as per the council's pay agreement (enhanced rates for employees on band 7 and below only).
- 11.7 TOIL entitlement for employees who work set contractual hours**
- 11.8 Where a manager approves, in advance, for an employee on fixed hours (i.e. are not contracted into the flexitime scheme) to work outside of their contracted hours, these hours should be recorded on form at Appendix 1 as time to be taken as TOIL at a later date. Alternatively, the manager may approve payment for the additional hours which would be paid as per the council's pay agreement (enhanced rates/overtime for employees on band 7 and below only).
- 11.9 Taking Time off in Lieu (TOIL)**
- 11.10 Time off for TOIL must be agreed in advance with the manager and the needs of the service will, in all circumstances, take precedence, ensuring that operational requirements continue to be met.
- 11.11 Wherever possible, TOIL should normally be taken within an eight week period of the TOIL being accrued. However, this may not always be possible, e.g. if the workload is such that it is impossible to take or staffing levels need to be managed.
- 11.12 In exceptional circumstances, if it becomes difficult for an employee to take their TOIL due to workloads, then the employee may be paid for this time by mutual agreement.

11.13 Monitoring of TOIL

- 11.14 The Health and Safety of our employees is paramount and the council does not want employees to regularly be working an excessive number of hours.
- 11.15 It is essential that managers monitor the amount of time that employees are accruing and should not allow employees to accrue an excessive amount of time. The reasons for accruing TOIL should also be monitored to enable managers to address issues where hours are being accrued on a regular basis.
- 11.16 Any abuse relating to the accrual or taking of TOIL will be dealt with under the council's disciplinary procedure.
- 11.17 In the event of a disagreement relating to the use of TOIL, the employee should follow the Grievance Procedure.

SECTION 12: FERTILITY LEAVE

12.1 Time off work for fertility treatment

- 12.2 Under NJC guidance circular 7/00, employees have the right to take 5 days' leave in any one year to undergo fertility treatment. The policy applies equally to either partner if they are undergoing fertility treatment. If employees require time off beyond the permitted number of days they may be allowed to take time off using annual leave or unpaid leave.
- 12.3 The term 'partner' means a person (whether of a different sex or the same sex) who lives with the person undertaking the fertility treatment in an enduring family relationship but is not a relative of the person undergoing the proposed treatment (i.e. is not the mother's parent, grandparent, sister, brother, aunt or uncle)

12.4 Qualifying Period

In order to qualify for the time off work for fertility treatment employees must have a minimum of 12 months continuous service at the time of making the request.

12.5 Pay

- 12.6 Time off for fertility treatment (up to 5 days in one year) will be paid at the normal rate of basic pay.

12.7 Process

Any employee who wishes to take advantage of this policy must:

- Inform their line manager in writing as soon as plans to undergo fertility treatment have been confirmed. The manager should then inform HR.

- Provide a statement from a qualified medical practitioner that fertility treatment has been recommended and approved and at the request of your line manager produce an appointment card for each occasion on which time off is requested.
- Try to arrange appointments at times that will cause the minimum amount of inconvenience to the council.
- Give as much notice as possible of the days on which time off is required.

12.8 Any information given to your line manager will be maintained in strict confidence.

SECTION 13: MEDICAL APPOINTMENTS

13.1 Employees are allowed time off to attend regular hospital appointments or medical screening. Where the employee is on the flexi-scheme appointments will normally be managed within the scheme. Where the employee is not on the flexi-scheme appointments should be arranged outside working hours wherever possible. Where this is not possible managers will allow time to attend.

13.2 Managers may ask to see the appointment card/letter prior to agreeing the amount of time the employee needs to be absent from work.

13.3 Where the employee has a disability and is required to keep regular appointments in connection with their disability, this may be treated as disability leave as a “reasonable adjustment” under the Equality Act 2010. If managers have any doubt please refer to HR for advice.

TOIL RECORDING FORM

Appendix 1

NB Each entry needs to be on a separate line, with a new Balance in Column (d).

Record of Additional Hours Worked					Claim for Lieu Leave			To Be Claimed as Overtime <small>(Sc. 6 or below)</small>		(d) Balance	
Date	Time Worked		(a) Time Earned	Reason	Authorised	(b) Lieu	Comment	Authorised	(c) Overtime Claimed		Authorised
	From	To									

**Time Earned in Column (a) added to Balance in Column (d).
 Claims in Columns (b) and © deducted from Balance in Column (d).
 After authorisation by Line Manager, pass to Senior Admin Officer for record purposes.**