



# St Helens Borough Council

## Leave of Absence – Guidance for Staff

This guidance contains additional information relating to various types of leave and absence situations. St Helens Borough Council recognises the need for you to have time off from work and encourages you to take appropriate rest from work. The Leave and Time Off Policy provides an over-arching framework for dealing with a range of leave and absence situations that arise and ensures that the Council complies with the legal requirements in respect of statutory time off and ensures fair and consistent treatment for all employees.

The purpose of this guidance is to set out the detail of the provisions that the Council will make to allow appropriate types of leave and time-off to support you in fulfilling your public, personal and family responsibilities and to achieve a good work-life balance.

This guidance aims to ensure you and your manager understand the entitlements to leave and the required processes in place to manage leave. The principles that underpin the guidance are:

- having a uniform approach to the approval of leave and other time-off;
- compliance with relevant employment legislation;
- giving all leave and time off requests serious consideration within a reasonable timescale, ensuring that employee's statutory rights are met, and that service delivery is not affected;
- encouraging employees to pursue interests outside of their work role and, where appropriate, to provide appropriate time-off (paid or unpaid) for this purpose.

### WHAT YOU CAN EXPECT FROM THE COUNCIL

The Council will:

- Take all reasonable steps to promote an environment to ensure that you are treated fairly and consistently, within the terms of the Policy, giving due regard to your personal circumstances.
- Seek to ensure that your mental health and wellbeing is always treated as a priority, and make sure that you are supported if you are facing such issues.
- Give all leave and time off requests serious consideration within a reasonable timescale, ensuring your statutory rights are met.
- Review and consider both the operational needs of your Service and your personal circumstances and the impact on the rest of your team before agreeing a request.

- Listen, respond and act appropriately and in a timely manner when an employee raises any concerns with a request for leave or time off.
- Respect the confidentiality of all information relating to your personal circumstances in line with the Data Protection Act 2018.

## WHAT THE COUNCIL EXPECTS OF YOU

We expect you to:

- Speak to your manager at the earliest opportunity when planning to request leave or time off so that as much advance notice as possible is provided.
- Work with your manager to help seek positive solutions and consider any impact on your colleagues and the provision of Council services before making a request.
- Tell your manager if you feel that your request has not been considered in accordance with the relevant guidance so that any issues can be resolved at the earliest opportunity.
- Act reasonably and co-operate with the terms of the policy.

## Leave of Absence

There are times when a personal event or emergency will demand your time. Reasons for this can include bereavement, seriously ill relatives or other family emergencies.

Some provisions for paid/unpaid time off are detailed in legislation and/or covered by the National Conditions of Service although the amount of leave may in some cases be determined at the discretion of the Council.

### Dependant Care/Family Emergencies

The granting of leave in these circumstances is at the discretion of the Executive Director, Director, Assistant Director or Head of Service, and may be **with or without pay**, in accordance with the guidance below.

The Employment Rights Act 1996 gives you the right to have reasonable time off from work when it is necessary for you to deal with unexpected or sudden emergencies which occur in relation to your dependants. A dependant is defined as:

- a spouse;
- a civil partner;
- a child;
- a parent;
- a person who lives with you other than as your employee, tenant, lodger or boarder;
- any other person who would reasonably rely on you for assistance if they fell ill or was injured or assaulted, or who would rely on you to make arrangements for the provision of care in the event of illness or injury; or
- in relation to the disruption or termination of care for a dependant, any other person who reasonably relies on the employee to make arrangements for the provision of care.

The circumstances in which the employee may take time off are:-

- To provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted
- To deal with unexpected disruption or breakdown of care arrangements for a dependant
- To make longer term arrangements for a dependant who is ill or injured
- To deal with the death of a dependant

- To deal with an incident that involves a child of an employee which occurs unexpectedly during a period which an educational establishment that the child attends is responsible for them

In all circumstances there should be a 'common sense' approach and a determination of what is necessary and reasonable.

In most cases (except bereavement) 1 or 2 days would be sufficient for you to deal with most problems. In the example of a child falling ill the leave should be enough to enable you to deal with the crisis - to deal with the immediate care, visit the GP and make longer term care arrangements. In most circumstances it would be unreasonable for you to expect to take 2 weeks dependant care to look after the child.

Guidance on the legislation confirms that the right to this time off is intended to cover unforeseen circumstances and if you are aware in advance they you are going to need time off, you may look at making arrangements for annual or parental leave.

Time off in most circumstances (except bereavement or when a dependant is seriously ill) would normally be approved **without pay**. However, each case will be considered according to your circumstances.

### **Care for Seriously Ill Dependants**

Situations may arise when you are required to provide care for a seriously/terminally ill dependant or during the hospitalisation of a child. In such circumstances up to 5 days paid leave may be granted to assist with this (pro rata for part time employees).

An additional 5 days unpaid leave may also be granted at the discretion of the Executive Director if warranted by the employee's circumstances.

If the period of dependency is expected to be lengthy, the use of annual leave, parental leave or a career break may be considered. Requests for unpaid leave up to a maximum of 3 months in exceptional circumstances will be considered and granted at the discretion of the Executive Director in consultation with the Head of People Management. Any such requests must be approved by an Administrative Decision.

You should be advised to seek advice on how extended periods of leave may affect your pay and terms and conditions of employment.

### **Bereavement**

In the case of a bereavement the following guidance is offered in relation to the amount of paid leave agreed:-

- Up to 5 days paid leave may be granted in the event of a death of an immediate relative e.g. mother, father, husband, wife, partner, child
- 1 - 3 days may be agreed in the event of the death of a brother, sister, grandchild, grandparent, In-laws
- 1 day might be granted to attend the funeral of an Aunt, Uncle, Cousin, brother/sister-in-law
- Funeral time may be awarded for other relatives, close friends and colleagues. Time off to attend a colleague's funeral will be managed via the line manager and will be dependent on the circumstances when you are representing the Council.

It must be emphasised that each case should be considered on its merits taking into account factors such as the existence of other relatives to assist with funeral arrangements or closeness of the relationship and the circumstances of the bereavement.

The Council recognises that personal relationships in families vary and it may be appropriate to award more paid time off if you may have been brought up by your grandparents rather than your natural parents, in circumstances where you are the appointed Executor of the will or circumstances where the funeral is taking place some considerable distance away.

A temporary arrangement has been agreed by the Council in response to the COVID-19 pandemic which recognises that the grieving process could be affected by restrictions placed on you. The bereavement leave provision has therefore temporarily been extended to allow line managers to grant 10 days paid bereavement leave in the event of the loss of a immediate relative as defined above. Requests for bereavement leave for the wider family/friends should be considered on a individual case by case basis and in conjunction with People Management.

### **Parental Bereavement Leave**

The Council recognises that, while dealing with any bereavement is difficult, the death of a child is among the most devastating events that anyone can ever face. We are committed to supporting bereaved parents through their grief by ensuring they can take parental bereavement leave.

Parental bereavement leave is available to employees who suffer the loss of a child under the age of 18 on or after 6 April 2020. This includes parents who suffer a stillbirth after 24 weeks of pregnancy.

Whatever your length of service, you can take this type of leave if you are the parent of the child who has passed away, or the partner of the child's parent. In general, you can take this type of leave if you have parental responsibility for the child. This includes adoptive parents.

If you have suffered a bereavement but are unsure if you are entitled to parental bereavement leave, please contact People Management for advice.

### **Amount of Leave Available**

Two weeks of parental bereavement leave is available and can be taken as either:

- a single block of two weeks; or
- two separate blocks of one week at different times.

Unfortunately the leave cannot be taken as individual days.

You can choose to take the leave at any time within the 56 weeks after your bereavement. You might choose, for example, to take it at a particularly difficult time such as your child's birthday.

If you have lost more than one child, you have a separate entitlement to bereavement leave for each child who has passed away.

### **Taking Parental Bereavement Leave**

If you need to take parental bereavement leave within the first 56 days after your bereavement, you can take the leave straight away. You do not have to provide any notice. Please let your line manager know no later than when you are due to start work on the first day on which you wish to take leave or, if that is not feasible, as soon as you can.

To take leave more than 56 days after your bereavement, please give your line manager at least one week's notice.

You can cancel your planned leave and take it at a different time (within the 56 weeks after your bereavement). Where your planned leave was due to begin during the first 56 days after your bereavement, please let your line manager know you no longer wish to take it before your normal start time on the first day of the planned leave.

Where your leave was due to begin more than 56 days after your bereavement, please let your line manager know at least one week in advance that you wish to cancel it.

You cannot cancel any week of parental bereavement leave that has already begun.

### **Pay During Parental Bereavement Leave**

To receive statutory parental bereavement pay you must have:

- at least 26 weeks' continuous employment with us by the week before the one in which your child passed away (and still be employed by us on the date of the bereavement); and
- normal weekly earnings in the eight weeks up to the week before your bereavement of at least the lower earnings limit for national insurance contribution purposes.

If you are unsure if you are entitled to statutory parental bereavement pay, please contact People Management, who will be able to advise you.

If you qualify for statutory parental bereavement pay, you will be paid during your leave at the rate set by the Government, or at 90% of your average weekly earnings where this figure is lower. For your first week of parental bereavement leave the Council will top up the statutory pay to ensure that you receive a normal week's salary. The second week of leave will be paid at the statutory rate of pay.

If you are not eligible for statutory parental bereavement pay, you will be able to apply for a week's paid leave of absence and the second week of parental bereavement leave will be unpaid.

You need to give us notice of the weeks for which you wish to claim statutory parental bereavement pay, via a form that People Management will ask you to sign which is accessible [via this link](#).

You must normally sign and return the form to Human Resources within 28 days of the first day for which you are claiming. However, if that is not possible, please sign and return the form as soon as you can.

### **Rights During Parental Bereavement Leave**

During your leave, all the terms and conditions of your contract, except normal pay, will continue. All other contractual benefits will remain in place. For example, holiday entitlement

continues to accrue, and pension contributions will continue to be paid if you are a member of the pension scheme.

### **Returning to Work**

When you return to work after taking parental bereavement leave, you generally have the right to return to the same job.

However, a slightly different rule applies if you return from time on bereavement leave that follows on immediately from some maternity, adoption, paternity leave or shared parental leave (taken in relation to the child who has passed away), and your total time on leave is more than 26 weeks. In these circumstances, you have the right to return to the same job, unless this is not reasonably practical, in which case you have the right to return to a suitable and appropriate job on the same terms and conditions.

This rule also applies if your leave includes more than four weeks of ordinary parental leave (taken in relation to any child), regardless of the total length of the leave.

If you are taking parental bereavement leave and have any questions regarding your return to work please contact People Management, who will be able to provide further advice.

### **Leave in Other Circumstances**

Leave may also be granted in other urgent or domestic circumstances, where no other provision exists to accommodate such absences. The Council would not wish to rule out any application that fits with this broad category which could include religious holidays, special visits abroad etc.

Executive Directors can consider such requests and providing that they are justified can authorise leave of up to 5 days with pay and 5 days unpaid leave dependent upon the circumstances.

Requests for leave in excess of this amount for any reason will be considered at the discretion of the Executive Director in consultation with the Head of People Management, bearing in mind the requirement for consistency. Any such requests must be approved by an Administrative Decision.

### **Career Breaks**

You may wish to request a career break for a defined period of time, usually of no longer than 12 months. Such requests should be made in writing to the relevant Executive Director and each application will be considered taking into account the circumstances of the individual situation. Any such requests must be approved by an Administrative Decision.

### **Procedure for Applying for Special Leave**

Leave should only be taken with the prior approval of the Executive Director. However, it is recognised that in an emergency situation it is not always possible to seek formal approval and as such this approval should be obtained retrospectively.

Requests should be made via the Leave of Absence Form accessible [via the COG](#).

Wherever possible you should provide written evidence or supporting facts to allow the Executive Director to give your request full consideration.

Requests should be submitted via your manager to People Management.

Your managers should also consider the use of lieu time, which will allow you to work back the time taken, changing shift patterns or other changes to working patterns as an alternative to special leave.

### **Further Information**

Any questions relating to this Guidance or issues connected with Leave of Absence applications, can be obtained from People Management.