



# Special Leave Policy

This policy applies to all Employees.

6 April 2024

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review of amendment by the council will be following consultation with the Trades Unions.

<b>Policy Title</b>	Special Leave Policy
<b>Policy Section</b>	HR Policies
<b>Prepared By /Policy Author</b>	Human Resources
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<b>Links to other Council Policies/ processes</b>	Worksmart Policy Family Leave Policy Time off Work Policy Career Break Scheme (Teachers)
<b>Approved By</b>	Cabinet
<b>Date Approved</b>	December 2011
<b>Review Date(s)</b>	October 2017 (LNCT) & 6 April 2024 (Legislative changes)
<b>Date of next Review</b>	This policy will be reviewed as necessary, including but not limited to changes to legislation; agreement of new national terms and conditions of service or government policy, organisational change or changes agreed through Trade Union consultation.
<b>Policy Lead</b>	Team Manager, HR Operations, Council Resources

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## **1. INTRODUCTION**

- 1.1 East Lothian Council aims to promote both excellent customer service and flexibility in working arrangements that enable employees to balance their home and working lives more effectively.
- 1.2 However, it is also recognised that responsibilities and events, on occasion, can impact on the working lives of employees, and that employees may require a reasonable amount of time off to deal with personal matters and responsibilities.
- 1.3 In line with current legislation the Council is committed to developing and applying employment policies and procedures which assist employees to undertake these personal matters and meet other personal responsibilities as far as possible, without adversely affecting service delivery or their continuity of employment and employment opportunities.

## **2. SCOPE AND GENERAL APPLICATION OF THE POLICY**

- 2.1 This Policy applies to all Council employees and covers a range of circumstances where an employee may require leave to provide support or care for a family member and/or a dependant. It also covers leave for other personal matters such as attending hospital appointments or funerals.
- 2.2 Employees must, as far as possible, make any appointments or arrangements outwith normal working hours.
- 2.3 Where employees are unable to make any appointments/arrangements outwith normal working hours they should give as much notice of a request for special leave as they can. In circumstances where advance notification is not possible the employee must contact the appropriate manager as soon as possible. Failure by the employee to contact their manager could result in the employee taking unauthorised leave of absence which could lead to disciplinary action.
- 2.4 Employees may utilise annual leave and or flexi leave (where applicable) in place of any unpaid leave granted under this Policy. In addition, line managers, Executive Directors, and Heads of Service will, where practical, support applications for Annual Leave and/or flexi leave which are requested at short notice for urgent reasons as per this policy.
- 2.5 Special Leave should be authorised in hours or half/full days as appropriate to the employee's request and contract of employment. A request for special leave should be completed on MyHR for your line manager's approval. Alternatively, for those who do not have access to MyHR, the Special Leave form can be found on the Intranet.
- 2.6 In authorising Special Leave, line managers should consider: -

- All the circumstances surrounding the request.
- The need to ensure that services are minimally disrupted.
- Any previous similar leave granted, and
- Fair and consistent application of this Policy.

2.7 Special Leave will be pro-rata for part time employees and will only apply to sessional employees during term time. If employees are already on approved leave when Special Leave circumstances arise this cannot be substituted with Special Leave.

2.8 If clarification is required on any area of the Policy, managers should contact Human Resources.

2.9 Employees who have any questions with regards to how any period of unpaid leave under the terms of this Policy might affect their Pension entitlements they should contact the appropriate pension agency i.e., Lothian Pension Fund on 0131 529 4638 or the Scottish Public Pension Agency 01896 893000.

### **3. CARER'S LEAVE**

An employee is eligible to a reasonable amount of time off, some of which will be paid and some unpaid, during working hours, to deal with emergencies/cope with an immediate crisis in the circumstances set out below.

**Note:** Under the Employment Rights Act 1996 and the Carer's Leave Regulations 2024, "dependant" means a spouse, civil partner, child, parent, or person who lives in the same household as the employee other than as an employee, tenant, lodger, or boarder; or anyone who reasonably relies on the employee to make arrangements for the provision of care.

#### **3.1 Breakdown in normal care arrangements**

Unpaid leave can be granted to an employee where normal care arrangements breakdown due to unforeseen circumstances. The purpose of this leave should be for the parent or carer to make alternative arrangements for the care of the dependant, and not for the ongoing care of the dependant.

#### **3.2 Planned Health Care of a Young Child/Illness of a Dependant**

Line managers will have discretion to grant up to 5 working days paid leave (pro-rata) in any rolling 12-month period to an employee who is required to take leave in the following circumstances:

- Leave to care for a sick child or adult dependant e.g., parent/spouse/civil partner etc.

- Leave to care for a dependant recovering from surgery/hospital stay/accident.
- Leave to be with a dependant who is in hospital.
- Leave to attend a hospital/orthodontic/post-natal appointment with a dependant (where it has not been possible for this appointment to be made outwith normal working hours)
- Leave to attend preventative treatment i.e., inoculation of dependant or development check-ups of dependants.
- Leave to be with a dependant who has been injured or assaulted.

An additional 10 working days **unpaid** leave (pro-rata) may also be granted at the discretion of the line manager.

Where the absence continues beyond one day under this provision, the employee will be required to notify their line manager of the continuing need to provide day-to-day care on the second day of absence and will agree with their line manager the frequency of contact which is to be maintained throughout the period of leave granted. Employees should note that should they require any of the unpaid leave entitlement indicated above they will need to submit a further request for this additional unpaid leave.

### 3.3 **Parental Leave**

Information in relation to Parental Leave is set out in the Family and Maternity Leave Policy which can be found on the Intranet.

### 3.4 **Unpaid Carer's Leave - New Statutory Entitlement**

The [Carer's Leave Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk) introduces **a day one right** for all employees to have one week's **unpaid** leave each year for those who are unpaid carers, for the purposes of caring for a dependant or arranging care for a dependant, with long-term mental or physical health needs. This leave is pro rata for part time employees and can be taken in periods of a day or half a day subject to provision of due notice and approval from line managers.

A dependant is considered to have a 'long-term care need' if they are disabled (using the Equality Act 2010 definition), require care due to old age, or have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months.

A dependant does not have to be a family member, it can be anyone who relies on an employee for care.

#### 3.4.1 **Key Aspects**

- A dependant has a long-term care need if they have any of the following:
  - disability as defined under the Equality Act 2010.

- an illness or injury that is likely to need care for at least 3 months.
- a care need related to old age.
- Carer's leave can be used by employees for:
  - taking their disabled child to a hospital appointment.
  - moving their parent who has dementia into a care home.
  - accompanying a housebound dependant on a day trip.
  - providing meals and company for an elderly neighbour while their main carer is away with work for the day.
- Employees can take up to 1 week of carer's leave in a rolling 12-month period.
- Leave to be taken in half or full days (not in hours e.g., 2 hrs).
- Employees must give their employer notice before the start of their leave. The minimum notice they must give will depend on how many days of leave they want to take (see below):

<b>Number of Days Requested</b>	<b>Minimum Notice Required</b>
Half a day up to 1 day	3 calendar days' notice
1.5 to 2 days	4 calendar days' notice
2.5 to 3 days	6 calendar days' notice
3.5 to 4 days	8 calendar days' notice
4.5 to 5 days	10 calendar days' notice

- Where an employee has been working with ELC for less than a week, a week is the number of days or hours they would normally work in that week.
- If an employee has more than one dependant, they can still only take 5 days/1-week pro rata for part time.
- Requests do not have to be in writing but must be recorded as special leave via MyHR.
- Employees does not need to provide evidence of their dependant's care need.
- Manager cannot refuse carer leave but can ask employee to take it at a different time but **only where** the absence would cause serious disruption to the service.
- Where manager delays the leave, they must:
  - Agree another date within 1 month of the original date requested.
  - Explain **in writing** why they need to delay the leave either within 7 days of the request **or** before the leave starts, whichever is earlier.

- It is against the law to dismiss someone or cause them detriment because of something related to Carer's Leave.
- The Acas guidance here [Carer's leave - Acas](#) outlines how to work out leave for employees working part of the year or variable hours.
- The ELC Special Leave and Family & Maternity Leave policies outline other types of leave that employees may be eligible to request.

### 3.5 **Leave to Care for Dependant who is Terminally Ill**

There may be occasions when employees would like to request an extended period of unpaid time off to care for a dependant who is terminally ill. The circumstances of each application should be considered by the line manager, and up to a maximum of 6 months unpaid leave may be granted in any one leave year.

It is appreciated that a change in circumstances could result in the employee seeking to shorten any period of unpaid leave so that they can return to work earlier than previously agreed. In these circumstances they will normally be required to give one week's notice of their intention to return to work.

If the employee does not require or is unable because of financial or service implications to take a complete unpaid break from work to care for a dependant who is terminally ill, he/she may request that their hours of work be reduced or re-arranged for a temporary period. Such requests should be made under the Council's Worksmart Policy which can be found on the Intranet.

The line manager will make arrangements for employees granted extended leave under this provision to be kept informed of any relevant developments in their work field and in the Council in general. The line manager and employee should agree what contact is appropriate while on this period of unpaid leave.

## **4. EMPLOYEES HEALTH RELATED LEAVE**

### 4.1 **Routine Health Related Appointments**

An employee requiring *routine* optical, physiotherapy, dental or other medical or GP appointment should arrange these appointments outwith their normal working hours. If leave is granted it will be unpaid, although employees may be able to use their annual leave or flexitime entitlement, or to make up the time.

### 4.2 **Hospital/Non-Routine Health related Appointments**

An employee who has been referred to hospital or an appropriate healthcare setting for examination, consultation or treatment should,

where feasible, try to arrange appointments outwith their normal working hours. If this is not possible, then a reasonable amount of paid leave, pertinent to the individual employee's circumstances, will be granted for attendance at hospital or an appropriate healthcare setting. Where an employee has attended hospital or an appropriate healthcare setting and the effects of the treatment require that they are unable to attend work the following day, then the 2<sup>nd</sup> day will be treated as sick leave and the employee should inform their Line Manager in accordance with the Managing Attendance Policy.

A hospital appointment card or a letter from the hospital/treatment centre may be required by the employee's line manager prior to authorisation of leave.

#### **4.3 Elective Surgery**

Leave for employees who have a hospital appointment in relation to elective surgery, will be unpaid. However, following elective surgery if they are unable to attend work the following day, then the 2<sup>nd</sup> day will be treated as sick leave and the employee should inform their Line Manager in accordance with the Managing Attendance Policy.

A hospital appointment card or a letter from the hospital/treatment centre will normally be required by the employee's line manager prior to the appointment to support authorisation of leave.

#### **4.4 Fertility Treatment**

Leave for employees who have hospital appointments in relation to fertility treatment will be paid for the first course of treatment, thereafter it will be unpaid. If following a hospital appointment or procedure, the employee is unable to attend work the following day, then the 2<sup>nd</sup> day will be treated as sick leave and the employee should inform their Line Manager in accordance with the Managing Attendance Policy.

A hospital appointment card or a letter from the hospital/treatment centre will normally be required by the employee's line manager prior to the appointment to support authorisation of leave.

### **5. OTHER LEAVE**

#### **5.1 Compassionate Leave**

Employees may be granted up to 5 days paid leave, authorised by the line manager, to be with a spouse/civil partner, or close relative or friend who is terminally ill, or who has a life-threatening condition.

#### **5.2 Leave to Make Funeral Arrangements/Attend Funeral**

Up to 3 days paid leave may be granted to an employee to make funeral arrangements, and/ or to attend a funeral.

It is expected that the line manager will take all circumstances into account when granting paid leave such as:

- the closeness of the relationship e.g., parent/spouse/civil partner/sibling etc
- If the employee is responsible for making the funeral arrangements
- If the employee is required to travel over long distances

Where employees are unfit for work due to the loss of a close relative or friend then the terms of the Managing Attendance Policy will apply.

### **5.3 Interviews**

Paid Leave will be granted to employees invited to attend a job interview within East Lothian Council. The employee may be required to produce an interview letter to the line manager prior to authorisation of leave.

Any job interview outwith the Council will be unpaid, however employees may be able to substitute annual, flexi or otherwise make the time up, subject to line manager's approval. Teachers will be given paid leave to attend interviews for teaching jobs outwith the Council in accordance with the particular Special Leave provisions that relate to them.

### **5.4 Member of Children's Panel**

Paid leave to attend meetings held during normal working periods will be granted by the line manager.

### **5.5 Religious/Cultural Observance**

All employees who require time off for religious or cultural observance will be entitled to request leave, subject to the needs of the service. This will be unpaid although employees may be able to use their annual leave or flexi entitlement or to make up the time.

### **5.6 Domestic Emergencies**

An employee may be granted unpaid leave to deal with domestic emergencies such as a household fire, household flood or burglary.

## **6. OTHER LEAVE PROVISIONS SPECIFIC TO TEACHERS**

In addition to the above provisions there are additional special leave provisions that can be agreed by Head Teachers in accordance with Part 4, paragraph 11.13.2 of the SNCT Handbook. Any leave granted under these provisions is limited to up to 2 days and can only be agreed provided arrangements suitable to the Council can be made to cover the duties of the teacher seeking the leave of absence.

Special Leave provisions for teachers are devolved to the Local Negotiating Committee for Teachers for approval.

- **House Removal**

Teaching Employees are encouraged to arrange house removals out with normal working periods. Where alternative arrangements cannot be made, one day's paid leave may be authorised by their Head Teacher.

- **Attendance at a Wedding**

Teaching Employees may be granted up to one day's paid leave by their Head Teacher to attend the wedding of a close relative, any leave granted is otherwise unpaid. Special consideration will be given where travelling difficulties are involved.

- **Marriage/Civil Partnership during Term Time**

Leave should not normally be granted during school term time. Exceptionally a limited amount of unpaid leave may be authorised by the Head Teacher however such leave will not normally be granted immediately preceding or following a holiday period.

- **Holidays during Term Time**

Leave should not normally be granted during school term time. Exceptionally a limited amount of unpaid leave may be authorised by the Head Teacher however such leave will not normally be granted immediately preceding or following a holiday period.

- **Member of Children's Panel**

Paid leave to attend meetings held during normal working time will be granted by the Head Teacher.

- **Attendance at Interviews for Other Teaching posts**

Up to one day's paid leave may be granted to allow a teacher to attend an interview for any teaching job applied for. Paid time off will be restricted to up to 5 occasions in any one academic session for all teachers. Thereafter any approved time off will be unpaid.

## **7. PROCESS FOR APPLYING FOR SPECIAL LEAVE**

All applications for Special leave under the terms of this policy should be completed on MyHR for your line manager's approval. Alternatively, for those who do not have access to MyHR, the Special Leave form can be found on the Intranet.

## **8. MONITORING AND CONTROL**

Line managers should monitor applications for paid leave to ensure that maximum entitlements over a period of time are not exceeded.

## **9. MISUSE OF THIS POLICY**

This Policy is intended to provide support and leave for employees to help them balance the demands of home and work life at times of need or urgent and/or unforeseen circumstances. Any misuse of this Policy may lead to disciplinary action. An employee who is dissatisfied with the way in which this Policy is applied has the right to raise a grievance through the appropriate Grievance Procedure.

## **10. REVIEW ARRANGEMENTS**

This is a Council Policy subject to ongoing review. Any amendments will be made following consultation with the relevant Trade Unions.

**Head of Corporate Support**  
**April 2024**

(Amendment at Section 6 above approved in Local Negotiating Committee for Teachers - October 17)

<b>Special Leave Summary Table</b>				<b>(Appendix 1)</b>
Type of Leave	Qualifying Conditions	At management Discretion	Maximum Period of Paid Leave	Maximum Period of Unpaid Leave
<b>Special Leave for Breakdown in normal care arrangements (3.1 above)</b>				
When normal care arrangements breakdown and where the dependant is being cared for by the employee.	Leave granted to deal with emergencies/cope with an immediate crisis where normal care arrangements breakdown and alternative arrangements have to be made for the dependant to be cared for. This leave is <b>not</b> for the ongoing care of the dependant.	Yes	N/A	Reasonable unpaid time off to deal with the emergency and make alternative arrangements.
<b>Special Leave for Planned Health Care of a Child/Illness of a Dependant (3.2 above)</b>				
Leave to attend preventative/health appointments with a dependant or leave to care for a dependant who is ill or injured	Employee must notify their line manager on the first and second days of absence to agree the level of contact to be maintained throughout the absence	Yes	Up to 5 working days paid leave in any 12-month period. Pro rata for part-time employees	After 5 days paid leave, up to 10 days unpaid leave can be granted in any rolling 12-month period. Pro rata for part-time employees
<b>Special Leave for Statutory Unpaid Carers (3.4 above)</b>				
To provide or arrange care for a dependant with a <b>long-term</b> care need.	For employees who are unpaid carers undertaking long term care for a dependant/vulnerable adult or child i.e., family member or friend or other person who reasonably relies on the employee for care who has a disability as defined by Equality Act 2010, physical or mental illness or injury likely to need care for at least 3 months; care need related to old age.	Yes – however, leave cannot be refused unless it will cause severe disruption to the service	N/A	One week's unpaid leave (pro rata for part time employees) in each rolling 12-month period.
<b>Special Leave to care for Dependant who is Terminally Ill (3.5 above)</b>				
Special Leave for the purposes of caring for a dependant who is terminally ill	A Dependant who is terminally ill	Yes	N/A	Maximum of 6 months in any rolling 12-month period
<b>Special Leave for Compassionate Purposes (5.1 above)</b>				
Special Leave to be with a spouse/ civil partner or close relative or friend who is terminally ill/ has a life-threatening condition	A close relative or friend who is in the latter stages of a terminal illness or who has a life-threatening condition	Yes	Maximum of 5 days paid leave	After 5 days paid leave, up to 10 days unpaid leave can be granted in any rolling 12-month period. Pro rata for part-time employees
<b>Special Leave for Bereavement – Leave to make funeral arrangements/attend a funeral (5.2 above)</b>				
Special Leave to make funeral arrangements and/or attend a funeral	Responsible for the organisation of a funeral or to attend a funeral	Yes	Maximum of 3 days paid leave when responsible for arranging a funeral	N/A
<b>Special Leave for Routine Health Related Appointment (4.1 above)</b>				
Special Leave for employee to attend routine optical, physiotherapy, dental, medical or GP appointments	If it has not been possible to arrange your appointment outwith normal working hours	Yes	N/A	Reasonable unpaid leave to be granted where necessary
<b>Special Leave for Hospital/Non-Routine Health related Appointment (4.2 above)</b>				
Special leave to attend hospital referral appointment for examinations, consultation, or treatment	If it has not been possible to arrange the appointment outwith working hours	Yes	A reasonable amount of paid leave, pertinent to the individual employee's circumstances	When a reasonable amount of paid leave has been exhausted, unpaid leave may be granted
<b>Elective Surgery (4.3 above)</b>				
Special Leave to attend appointments	Having surgery	Yes	N/A	Reasonable unpaid leave to be granted
<b>Fertility Treatment (4.4 above)</b>				
	To begin fertility treatment	Yes	Reasonable paid time off for the first course of treatment.	Reasonable unpaid time off for subsequent courses.

## APPLICATION FOR SPECIAL LEAVE (Appendix 2)

(1) Employees **WITHOUT myHR access** can use this form for all requests  
 (2) Employees **WITH myHR access** should request special leave via MyHR;  
**BUT** use this form for JURY DUTY and Special Leave requests not explicitly covered by the Special Leave Policy.

PLEASE RETURN COMPLETED FORM TO PAYROLL ([payrollforms@eastlothian.gov.uk](mailto:payrollforms@eastlothian.gov.uk))

Employee Details			
<b>Employee Name</b>			
<b>Employee No.</b>		<b>Job Title</b>	
<b>Department</b>		<b>Division</b>	
<b>Dates of Requested Leave:</b>	<b>From:</b>	<b>No. of Hours of Special Leave Requested:</b>	
	<b>To:</b>		
<b>Employee</b> – Please ✓ appropriate boxes & Provide Relevant Information Below			
<b>Ante-natal Appointment:</b>			
<b>Paternity Leave</b>			
<b>Adoption Leave:</b>	<b>Attend Meetings (pre-adoption)</b>		
	<b>Placement of Child</b>		
<b>Foster Carers Leave:</b>	<b>Preparation &amp; Assessment Process <i>or</i></b>		
	<b>Attend Meetings</b>		
<b>Parental Leave (up to child's 18<sup>th</sup> Birthday):</b>			
<b>Planned Health Care of a Young Child/Illness of a Dependant:</b>			
<b>Unpaid Carer's Leave</b> To provide or arrange care for a dependant with a long-term care need.			
<b>Leave to Care a Terminally Ill Dependant:</b>			
<b>Breakdown in Normal Care Arrangements:</b>			
<b>Hospital/Non-Routine Health Related Appointment</b> (please specify):			
<b>Compassionate Leave</b>			
<b>Leave to make Funeral Arrangements/attend Funeral</b> - please specify Relationship to Deceased:			
<b>Parental Bereavement Leave:</b>			
<b>Other (please specify):</b> Including Elective Surgery, Fertility Treatment, Domestic Emergency, Jury Service, Special Forces, etc.			
<b>Employee Signature:</b>	<b>Date:</b>		
<b>To be Completed by Manager</b> - I approve this application for Special Leave.			
<b>Number of Hours:</b>	<b><i>Paid:</i></b>		<b><i>Unpaid:</i></b>
Manager Signature:	Print Name:		
Designation:	Date:		