



Family Leave Scheme

POLICY STATEMENT

Lancaster City Council recognises that balancing work and family life can create conflicting pressures. Family commitments and domestic responsibility can often hinder employees' ability to fulfil work responsibilities. Where conflicts cannot be resolved this could result in the Council losing valuable employees. To prevent such loss and maintain a skilled and effective workforce, the Council in acknowledging those conflicts, will consider helping through the provision of its Family Leave policies.

To ensure that it is easier to balance work and family life, the Council, taking due account of the Government's White Paper on Fairness at Work and the EC Directive on Parental Leave, will commit to a series of measures to support employees. The provisions include policies on Adoption Leave, Maternity Leave, Paternity Leave, Parental Leave, Family Support Leave and Bereavement Leave.

Further information on any of these policies is available from HR.

1. ADOPTION LEAVE & PAY SCHEME

For further information please refer to the policy under the HR section of the Council's intranet.

2. PATERNITY LEAVE

2.1 Introduction

The Council recognises that increasingly employees want to be involved in supporting their partner around the time of their child's birth or, in the case of adoption, the child's placement. Paternity leave gives employees the opportunity to both spend time with their partner and get to know their new child.

2.2 Conditions of the Scheme

To qualify for paternity leave, employees must expect to have responsibility for the child's upbringing and be the biological father of the child or the mother's husband or partner* (including same sex partnerships). The leave must be used to provide care and support to the mother / primary adopter and / or the child and not for any other purpose.

* The term 'partner' means a person (whether of a different sex or the same sex) who lives with the mother and child in an enduring family relationship but is not a relative of

the mother (i.e. not the mother's parent, grandparent, sister, brother, aunt or uncle etc).

2.3 Employees Obligations Under the Scheme

An employee should notify their Service Head **in writing**, using the Application for Paternity Leave form, of the following by the end of the 15th week before the expected week of childbirth (EWC), and at the latest at least 28 days before the absence begins:-

- (a) The expected week of childbirth (EWC).
- (b) Of the date of the beginning of their absence.
- (c) Whether they wish to take one or two weeks' leave.

If an employee wishes to amend the start date for their paternity leave, 28 days' notice is required, or as soon as is reasonably practicable.

2.4 Paternity Leave Entitlement

- (a) Eligible employees can choose to take either one week or two consecutive weeks' paternity leave (not odd days).
- (b) To be eligible for a second week of leave, employees must have worked continuously for the Council for 26 weeks ending with the 15th week before the baby is due.
- (c) Employees can choose to start their leave from the date of the child's birth or from a chosen date after the child is due to be born.
- (d) Leave can start on any day of the week on or following the child's birth but must be completed within 56 days of the actual date of birth of the child.

2.5 Paternity Pay Entitlement

- (a) All employees, regardless of length of service, are entitled to 5 days leave with pay.
- (b) Those who meet the criteria of 2.4(b) and have average weekly earnings over the lower earnings limit for National Insurance purposes are also entitled to receive Statutory Paternity Pay (SPP) for a second week.

2.6 Right to Return to Work

On return to work the employee has the right to return to the same job on the same terms and conditions that existed prior to paternity leave.

3. PARENTAL LEAVE

3.1 Introduction

The Parental Leave Directive was implemented by the Government in December 1999. The aim of the Directive is to reconcile the parental and professional responsibilities of

working parents, and to promote equality of opportunity and equal treatment between men and women.

3.2 Conditions of the Scheme

It will be the policy of the Council to grant employees, after one years continuous service with Lancaster City Council and **without pay**:

- ❑ **up to 13 weeks parental leave** for men and women when they have a baby or adopt a child (this is in addition to the provisions of the Maternity Leave, Paternity Leave and Adoption Leave policies)
- ❑ **up to 18 weeks parental leave** for men and women whose child is disabled. "Disabled" in this context means a child who is entitled to a disability living allowance.
- ❑ automatic protection from dismissal for exercising this right.

3.3 Timing of leave

The timing of parental leave is a matter for an employee and their Service Head, although it should be agreed well in advance of its commencement to allow for the appropriate cover to be arranged. There will be some flexibility about the timing of parental leave. It may be taken:

- ❑ in a single block or as an annual allowance
- ❑ full or part time
- ❑ at any time up to the child's eighth birthday, or for the eight years following adoption; or up to the age of 18 for children to whom disability living allowance has been awarded.
- ❑ under individual arrangements between employer and employee

Human Resources will provide further advice and guidance if required.

*NB: Parental Leave over and above entitlement to Maternity Leave, Paternity Leave or Adoption Leave will be granted **without pay**.*

3.4 Contract of Employment

The contract of employment will continue during the whole period of parental leave, unless either party expressly terminates it, by dismissal or resignation.

3.5 Rights to Return

Employees taking advantage of the Parental Leave Scheme will be guaranteed their job back, or suitable equivalent, on their return to work. If an employee elects to take parental leave in one block of three months, they will be required to give one calendar months' notice of their intention to return.

4. **FLEXIBLE WORKING ARRANGEMENTS**

Note: The following information about *Flexible Working Arrangements* is distinct from the *Flexible Working Hours Scheme*, which is described in a separate section of the Council's *Attendance Management Policy*.

4.1 **Introduction**

The Council wishes to facilitate and support its employees in achieving a balance between their work and family life. As part of this, the Council recognises its duty to seriously consider requests for flexible working arrangements from employees with young children or adult dependents in accordance with the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2006.

4.2 **Conditions of the Scheme**

To qualify, employees must meet all of the following criteria:

- They must have been continuously employed by the Council for at least six months on the date when they make their application to be considered for flexible working arrangements;
- They must have responsibility, or expect to have responsibility, for:
 - the upbringing of a child aged under 17 years;
 - a disabled child aged under 18 years.

To be eligible they must be the mother, father, adopter, guardian or foster parent of the child, or married to such a person, or the partner of such a person and they must be making the application to enable them to care for the child.

They must make the application no later than 14 days before the child's 17th birthday or 18th birthday in the case of a disabled child.

OR

- They must have responsibility, or expect to have responsibility, for:
 - an adult (i.e. people aged 18 or over) and they must be making the application to enable them to care for the adult.
 - to be eligible they must be the partner, relative or someone living at the same address as the adult requiring care.

The sort of care-giving activities that employees who request flexible working are likely to be involved in are various and include help with personal hygiene, mobility, nursing tasks, household tasks, escorting to appointments etc.

- They must not have made another application to work flexibly under this procedure during the previous 12 months.

Once in operation, the flexible working arrangements may continue indefinitely, including beyond the child's 17th birthday, or disabled child's 18th birthday. Any amendment to the arrangements should be made by mutual agreement between the employee and their Service Head.

4.3 Employee's Obligations under the Scheme

Employees may request a new working pattern at any time from the birth of their child up to 14 days before their child's 17th or, if disabled, 18th birthday.

They must submit their request for a flexible working arrangement in writing to their Service Head. It must be dated and signed and include the following information:

- Their relationship with the child(ren) under 17 years old, or 18 years old if disabled, for whom they have responsibility; or their relationship with the adult for whom they will provide care.
- Whether (and, if so, when) they have made any previous application(s) for flexible working;
- A description of the working pattern they require and their views on how it might impact on the Service and how the flexible working arrangements could be made to work;
- The date on which they propose the new working arrangements should become effective.

It should be noted that requests for flexible working arrangements do not necessarily have to involve a reduction in working hours. It may be, for example, that an employee wishes to change the times they start or finish work or they may request term-time working or an arrangement that permits working from home.

Although the legislation does not require it, employees who opt to work flexibly under an arrangement which involves reduced hours will be offered one opportunity to revert to their original full-time hours before the arrangements have been in place for one year. This option will be discussed at a review of their flexible working arrangements which will be convened by their line manager shortly before the first anniversary of the flexible working arrangements.

It must be recognised that, where an employee's flexible working arrangement involves working reduced hours, this may involve another party who may have accrued employment rights. Therefore it may not be possible for an employee to revert to full-time working before the opportunity arises at the one-year review or after their flexible working arrangements have been made permanent.

In the event that an employee chooses not to return to full-time working at the one-year stage, the flexible working arrangement will be confirmed as permanent by the Service Head.

4.4 Employer's Obligations under the Scheme

Service Heads must seriously consider the business case for accepting or rejecting an employee's request for flexible working.

Service Heads must convene a meeting to consider the employee's request within **28 days** of receiving it. This requirement does not apply if the Service Head agrees to the request and notifies the employee accordingly in writing within 28 days of receiving it.

If the Service Head who would normally consider the request is on holiday or sick leave on the day when the application is made, the 28 day period should commence

on the day that the Service Head returns to work or 28 days after the application is made, whichever is sooner.

Employees may attend the meeting with a trade union representative or workplace colleague if they wish. An officer from Human Resources will advise the Service Head.

□ *If the Service Head accepts the request:*

They should write to the employee within **14 days** of date of the meeting, setting out any action on which the agreement is dependent and establish a start date. They must also specify the date on which the flexible working arrangements will be reviewed. The review should take place before the first anniversary of the flexible working arrangements and is intended to provide an opportunity for the employee to consider the option of reverting to their original full-time hours, as outlined under 'Employee's Obligations' above.

□ *If the Service Head rejects the request:*

They should provide an explanation of the business reasons in full for rejecting the request, in writing, within **14 days** of the date of the meeting and inform the employee of the appeals procedure.¹

Reasons for refusing a request must be based on one or more of a number of legally specified grounds contained in Section 80G(1)(b) of the Employment Rights Act 1996. These are:

- Unjustifiable additional costs;
- Detrimental effect on ability to meet customer demand;
- Inability to reorganise work amongst existing staff;
- Inability to recruit additional staff;
- Detrimental impact on quality or performance;
- Insufficiency of work during periods the employee proposes to work;
- Planned structural changes.

4.5 Right of Appeal against a refusal to grant a request for flexible working arrangements

Employees wishing to appeal against a Service Head's decision to reject their request for flexible working arrangements should do so by writing to the HR Manager, stating their grounds for appeal, within **14 days** of receiving written notification of the rejection of their request.

The Chief Executive will normally hear an appeal within **14 days** of receipt of the appeal. If it is not possible to convene an appeal hearing within 14 days, an extension of time may be agreed between the Council and employee. In these circumstances, the HR Manager (or nominee) will write to the employee, specifying why the extension is required and a date by which the appeal will be heard.

At the appeal hearing the Chief Executive will be advised by the HR Manager (or his/her nominee).

The employee will be informed of the outcome of the appeal within **5 working days** of the appeal hearing. The Chief Executive may:

¹ An employee can make a complaint to an Employment Tribunal if the employer (1) fails to deal with an application under the prescribed procedure, (2) refuses a request for a reason other than the legally specified grounds described in this procedure, or (3) rejects the employee's request on incorrect facts.

□ *Uphold the appeal:*

The notification will specify the contract variation agreed by the Chief Executive and the date from which the new arrangements will take effect.

□ *Dismiss the appeal:*

The notification will state the grounds for the decision and contain a sufficient explanation as to why those grounds apply.

5. **FAMILY SUPPORT LEAVE**

5.1 **Introduction**

Family Support Leave provides time off for urgent family reasons, and is different from annual leave. A decision on whether or not to grant a request for Family Support Leave must not, therefore, be related to the needs of the service.

The Council has stated that it wishes to assist employees in striking a balance between work and family life. It is intended that employees will be protected from dismissal or other action if they exercise their right to time off for urgent family reasons. It would be inappropriate to deny access to Family Support Leave unless there is a suspicion that an employee is abusing the scheme. In such cases consideration will be given to disciplinary action (as with any other case of abuse or dishonesty).

5.2 **Scope of the Scheme**

- The scheme applies to all employees (including temporary employees but excluding casual workers).
- Family Support Leave is available to employees without a qualifying service period.
- Family Support Leave will normally be granted for periods of up to two days **with pay** at the discretion of the Service Head and subject to the conditions outlined below.

5.3 **Conditions of the Scheme**

- Employees are expected to act responsibly when it comes to booking and using their annual leave entitlement. For example, it is not expected that employees would leave themselves with no annual leave for long periods of the leave year. However, it is accepted that, due to unforeseen circumstances, this may, on occasion, occur.
- The granting of up to two days with pay under the Council's Family Support Leave Scheme is conditional on an employee having 5 days or less remaining, unallocated annual leave entitlement left in the 4th quarter of the leave year, that is January to March.
- Those employees who are subject to the Flexible Working Hours Scheme would be expected to go **no more** than 4 hours in debit, to be made up over a period of time at the discretion of their line manager, when taking advantage of Family Support Leave.

5.4 Leave Borrowing

- As an alternative to the above, where an employee requires more than two days leave for the reasons outlined in this section, Service Heads will have the discretion to allow employees to borrow annual leave from the entitlement for the forthcoming leave year.
- An employee wishing to request annual leave for reasons of family support may borrow up to ten working days, in advance of accruing their entitlement to it.
- An employee who has been granted leave in advance of their entitlement will be required to sign an undertaking to repay any salary received in respect of the period should they leave the Council's employment before accruing the holiday granted in advance..

5.5 Family Support - Definitions under the Scheme

Employees may be granted Family Support Leave when the absence is on account of one of the following: -

- to care for sick or convalescing **dependants***
- accompanying children for emergency/unplanned medical treatment
- childcare emergencies, where normal arrangements have broken down (e.g. sickness or unexpected unavailability of the regular childminder)
- urgent domestic/personal circumstances (this does not include school holidays)
- attendance at court hearings in child custody cases.

* For the purpose of the scheme, dependants are defined as: -

- spouse, partner, child, brother, sister, mother, father;
- a close relative or close friend living separately but who relies on the employee for domestic or financial support;
- a person living in the employee's household who is directly dependent on the employee for domestic or financial support.

Service Heads will administer the policy and may refer to Human Resources for guidance if necessary. Where an employee makes a request that is not exactly as described above but is generally within the spirit of the policy, Service Heads will have discretion to grant the leave.

Service Heads may request evidence of the need for such leave e.g. medical certificate, appointment card.

The amount of time off to be granted will be at the discretion of the Service Head but will be up to a maximum of two weeks during a 'rolling year'. Requests for longer periods of leave may be considered and will be referred to the Director and/or HR Manager for guidance.

6. BEREAVEMENT LEAVE

6.1 Introduction

The Council will grant special leave on receipt of a request resulting from bereavement.

6.2 **Conditions of the Scheme**

Employees may be granted up to 3 days' leave **with pay** as a result of the death of a member of their **immediate family**[†].

Service Heads may approve greater amounts of bereavement leave than outlined, having considered the circumstances of the case. Each case will be considered on merit Legal & HR Services should be approached for guidance if necessary.

[†] Immediate family is defined as spouses, partner, child, mother, father, brother, sister.