

Report of Head of Resources

TIME OFF FOR PUBLIC DUTIES POLICY

1 Purpose of report

To seek approval for the updated policy relating to employees' time off for public duties.

2 Executive summary

The council is required to allow employees who hold certain public positions reasonable time off to perform those duties. In addition, the council has discretion to allow time off for other public duties. This policy aims to provide a consistent approach across the whole council, recognising the positive contribution employees make to the local community.

3 Appendices

The draft policy is attached as an appendix.

4 Proposed action:

4.1 The committee is invited to RESOLVE to approve the policy which allows employees time off for public duties.

5 Background

5.1 A decision was made at the Council meeting on 6 November 1990 that up to 15 days paid leave of absence per year be granted to employees to enable them to undertake duties as a Justice of the Peace.

5.2 It was agreed that the Head of Paid Service (the Chief Executive) be given authority to determine if, and how much, paid leave should be granted in future cases of employees undertaking public duties.

5.3 It was also agreed that, if time off for public duties was granted, any time taken off for this purpose would be subject to the exigencies of the service and the prior approval of the relevant Head of Service.

5.4 The policy was revised in 2008 in line with 5.2 above, but no change was made to the council's decision in relation to magistrates.

6 Discussion

- 6.1 The policy relating to time off for public duties has recently been reviewed in the light of latest legislation and best practice.
- 6.2 As magistrates are required to sit for a minimum number of sessions each year (13) this is reflected in the draft policy.
- 6.3 The remainder of the policy has provided clarity in respect of time off for other public duties, including reservists.
- 6.4 A consultation exercise has been carried out with UNISON representatives, and the wording of the draft policy has been agreed with them.

7 Legal powers

The Employment Rights Act 1996, Reserve Forces Act 1996.

8 Financial and value for money implications

There are no direct financial implications in respect of this policy, but granting paid time off to employees will result in an indirect cost to the council. Where possible (eg. for jury service) the council will seek to recoup any payments made to employees where they have been granted paid time off.

9 Risk analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Policy not best practice	Minimum impact, but could result in inconsistent practices	Possible	Revised policy
Lack of consistency			Consistency provided by advice from HR

10 Implications for resources

If any employee takes time off to carry out public duties it will inevitably impact on colleagues, particularly now that the workforce is much reduced. The policy does, however, ensure that managers – where possible – have the right to refuse an application for time off so that services can be delivered.

11 Implications for stronger and safer communities

By supporting employees in their wish to undertake public duties the council is promoting stronger and safer communities.

12 Implications for equalities

This policy aims to provide a consistent framework, ensuring that applications for time off are treated fairly, whilst providing sufficient flexibility to take individual

circumstances into account.

13 Author and contact officer

Bridget Lawrence, Head of Resources

14 Consultees

UNISON
Principal Organisational Development Manager
Head of Finance

15 Background papers

Minutes of meetings with UNISON (Joint Consultation and Negotiating Committee) to discuss the content of the policy.

Appendix

TIME OFF FOR PUBLIC DUTIES

1. What does the law say?

The Employment Rights Act 1996, s.50, gives employees the right to a reasonable amount of paid or unpaid time off work for the performance of public duties.

Whilst there is no specific statutory duty to release employees for jury service, the employer could be in contempt of court if it refuses to do so.

There is no statutory right to paid time off, the council supports employees' contribution to the local community and has agreed maximum levels of paid time off, subject to the needs of the service. These are outlined in appendix 1.

2. What does this policy cover?

The public duties covered by the Act, and detailed in this policy are:

- Magistrate
- Local Councillor
- School governor (member of the managing or governing body of an educational establishment)

The Act also covers other public duties. Those listed above are the most commonly held; others are listed in statute and applications for time off will be treated in the same way as applications for time off as a school governor.

This policy also contains information on time off for performing other public duties not covered by the Employment Rights Act. These are:

- Members of the Reserve Forces (Reserve Forces Act 1996)
- Special Constabulary (no specific statutory requirement to allow time off)
- Jury service
- Witness (potential for witness summons if time off not granted)

3. What does this policy not apply to?

You will need to refer to the relevant policies covering the following activities:

- A trade union member who is carrying out trade union duties and activities
- Other voluntary activities or work
- Time off to work on elections
- Additional paid or unpaid employment

4. Who does this policy apply to?

This policy applies to all employees (except agency workers), regardless of how long you have worked for the council, or for how many hours a week you are employed.

If the activity you require time off for is not covered by the above, contact HR for advice.

5. What do I need to consider before taking on public duties?

If you are thinking of taking on public duties you will need to think about how much time off will be required. The amount of time off you need will vary depending on the nature of the role and any minimum requirements it may have.

You must discuss with your manager the impact of undertaking a public duty on your job and your service before making a final decision to apply.

You must also consider the impact on others in your service when time off is needed, and think about possible solutions to any problems.

6. How do I apply for approval to take time off?

As soon as you have agreed to take on one of the roles outlined above you will need to complete a form (appendix 2) to gain general approval for taking time off.

The completed form will be placed on the next available Senior Management Team (SMT) agenda for consideration. The final decision rests with the Chief Executive, who will instruct HR of the decision. HR will write to you notifying you of the outcome of the application.

Each time you need to arrange time off you should do so as far in advance as possible, and following the procedure outlined below.

7. How can I appeal against the decision?

If you believe that you have a legitimate request for time off for public duties which has not been granted, you should pursue an appeal through the council's grievance procedure.

8. How much time can I take off in total?

If you perform more than one of the public duties listed in the appendix you are entitled to the stated paid leave for each individual duty.

This is subject to up to a maximum combined sum of 16 days paid leave each year (pro-rata for part-time staff); this maximum will include paid time off for duties included in paragraph 3 above.

Further leave for you to perform these duties will be on an unpaid leave, annual leave or flexitime basis. All leave is subject to the approval of your manager beforehand.

9. How does this apply to part-timers?

If you work part-time all entitlements will be on a pro-rata basis. If you work a variable-hours contract or a term-time only/annualised hours contract you will be entitled to the equivalent amount of leave as detailed in the policy, subject to it being

discussed and agreed with your manager beforehand.

10. Are any special working arrangements in place?

Your manager can consider flexible working arrangements such as hot-desking and home-working to make it easier for you to attend meetings or perform duties associated with your public duties.

11. Can I claim travel expenses?

The council will not pay for any travel or subsistence expenses associated with performing your public duties.

12. What if I am already undertaking public duties but have not previously asked for time off to perform them?

If you already undertake one (or more) of these roles and have not previously applied formally for time off, you must complete a request form even if you currently receive time off to undertake these duties on an ad hoc basis, or receive no time off at all at present. This process should be easier for those who are already undertaking the duties as there is some experience of the time demands made by those duties.

13. What is reasonable time off?

This will vary from case to case. However, in accordance with the Employment Rights Act 1996, when deciding what is reasonable time off to perform public duties, you and your manager must think about:

- how long the duties might take
- the amount of time you have already had off for public duties
- how the time off will affect the council's services

14. How do I arrange to take time off?

On each occasion you need time off you must make an electronic application for special leave, giving as much notice as possible.

You must also keep a record of:

- date/time leaving work;
- date/time returning to work;
- purpose of time off;
- total hours absent;
- cumulative total of paid/unpaid for the leave year.

If your attendance is on an ad hoc basis, eg. for jury service or for occasional governors' meetings, you must provide a summons or letter to confirm the need for you to attend.

If your manager has any doubts about being able to grant your request, they will discuss the situation with HR in order to ensure that they are giving fair and

consistent consideration.

A request can be refused on operational grounds and you will be told the reasons for the refusal of your application. However, requests for jury service and mobilisation of reserve forces personnel cannot be refused as they are covered by separate legal requirements.

15. How do I get paid for time off?

You will receive your normal salary for any approved time off for public duties.

Any monies received to cover your loss of earnings will be deducted from your salary by Payroll. It is your responsibility to claim for any allowances that you are entitled to, in order to reduce the costs incurred by the council.

If you are sitting on a jury you will receive from the court a 'certificate of loss of earnings form' to pass to Payroll for completion. Payroll will return the completed form to you to take to the court on your first day of jury service. At the end of your jury service the court will pay you for your loss of earnings and expenses, and will give you a statement which contains this information. This statement must be passed to Payroll.

For work done wholly within normal working hours the whole fee will be deducted, irrespective of whether this is in excess of your normal pay.

You are entitled to retain any fees that relate to work done in your own time.

Human Resources
Swanspool House
Wellingborough
NN8 1BP

TIME OFF ALLOWANCES

Magistrates/Justices of the Peace

New magistrates/employees appointed as magistrates after [date of publication of this policy] will be entitled to 13 full days/26 half days' paid leave each year to cover the minimum number of sessions required to sit each year. Any further leave required will be on an unpaid, annual leave or flexileave basis.

Time off allowances for existing employees who are magistrates appointed before April 2013 are unaffected by this policy.

School governors

Although many school governors' meetings take place outside normal working hours, it is recognised that you could occasionally be required for meetings during the working day.

To assist with this, the council will allow up to 20 hours per annum paid leave. Any further leave to perform these duties will be on an unpaid, annual leave or flexileave basis.

Councillors

If you are employed as a local councillor (including town or parish councillor) you will be entitled to up to 20 hours per annum paid leave. Any further leave to perform these duties will be on an unpaid, annual leave or flexileave basis.

Reservists

If you are a volunteer reservist with the UK's armed forces you must make your manager aware of this commitment, and the fact that you will request time off work to perform these duties. The Reserve forces consist of:

- The Territorial Army
- The Royal Naval Reserve and the Royal Marines Reserve
- The Reserve Air forces including the RAF Reserves and Royal Auxiliary Air Force.

You are entitled to additional paid leave of up to two weeks to attend camp each year. Any further leave beyond two weeks must be taken as part of your annual leave entitlement.

Any other training should be arranged to take place in your own time or as part of your annual leave entitlement. Alternatively, your Head of Service may grant unpaid leave of up to one week.

To request time off for training or to attend camp you should give your manager as much advance notice as possible in order to avoid operational difficulties.

You need to make an electronic application for leave, but also provide the relevant paperwork from the Ministry of Defence (MoD) to your manager to be passed on to HR. Your manager has the discretion to refuse a request for leave, whether paid or unpaid, if your absence will present business difficulties.

If you are mobilised (being called up for active service) there are certain legal obligations that your manager and the council must comply with. HR will provide further details to the employee and manager.

If you are mobilised as a member of the Reserve Forces there is no requirement for the council to pay your salary whilst you are on military operations.

On your return from active service the council has a legal obligation to re-employ you in your original role or a similar role with the same terms and conditions of service.

Jury service

If you are called to do jury service your manager must allow you time off for this. You will need to complete an electronic application for special leave and show your manager the confirmation of jury service letter received from the court prior to going on jury absence.

During periods where your attendance is not required in court, and it is practicable, you should return to work. If this is not possible you must discuss the situation with your manager.

If you are sitting on a jury you will receive from the court a 'certificate of loss of earnings form' to pass to Payroll for completion. Payroll will return the completed form to you to take to the court on your first day of jury service. At the end of your jury service the court will pay you for your loss of earnings and expenses, and will give you a statement which contains this information. This statement must be passed to Payroll.

For work done wholly within normal working hours the whole fee will be deducted, irrespective of whether this is in excess of your normal pay.

Witness

Attendance at court as a witness for a non-related work issue is not paid for. You can claim expenses from the court for loss of earnings, travelling expenses, subsistence and child care.

Special constabulary

Members of the Special Constabulary may apply for up to 3 days unpaid leave per annum.

Appendix 2

**TIME OFF FOR PUBLIC DUTIES
REQUEST FORM**

Name	
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Job Title	
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Service	
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- I currently undertake the following public duty/duties; or
- I am considering undertaking the following public duty/duties
 - Magistrate
 - Local Councillor
 - School governor
 - Trade union representative
 - Other statutory public duty, namely:
.....
 - Member of the Reserve Forces
 - Special Constable

How much time overall is needed to perform (each of) the duties? Give details of frequency and duration where possible.
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Do you currently undertake any other public duty for which you receive paid time off? If yes, what is that role and how much time off were you granted to undertake that duty?

Will your absence impact on service provision? If yes give brief details.

Can the impact be overcome/lessened? If yes give brief details

Manager's Comments

Employee Signature: Manager's Signature:
.....

Employee Name: Manager's Name:
.....

Dated: Dated:
.....

For use by SMT

Recommendation:

Signed:

Dated:

For use by the Chief Executive

Instruction to HR:

Time off authorised: YES/NO

Number of days/hours authorised:

Any other details to feedback to the applicant:

For use in HR

Date received:

Date actioned: