

Time off for Public Duties Policy

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Governance Committee		Date approved	
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Strategic Alignment
Improving the Council’s Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.

Consultation process		
Stakeholders	Contacts identified for each service	
	<i>Joint Trade Unions</i>	
Distribution		

Change record

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1. Introduction

Employment legislation gives employees who hold certain public positions, an entitlement to take reasonable time off during working hours for performing the duties associated with that position.

There is no code of practice which assists organisations in determining what is reasonable time off, nor does the legislation itself give direction to ways of balancing operational needs of the service and time off for public duties.

The provisions of this Policy accord with the general guidance issued by the Department of Trade and Industry.

2. Legislation

This policy was created taking into account and incorporating those principles detailed within the:-

Employment Protection (Consolidation) Act 1978

Local Government and Housing Act 1989

3. Scope

The provisions contained within this policy apply to all employees of the Council who hold a position as a:-

- (a) Justice of the Peace;
- (b) Member of a Local Authority;
- (c) Member of any statutory tribunal;
- (d) Member of a Prison Visiting Committee appointed under the Prisons (Scotland) Act 1989;
- (e) Member of a National Health Service Trust or a Health Board;
- (f) Member of a school council or board, or the board of management of a self governing school or a college of further education or the governing body of a central institution or a designated institution;
- (g) Member of a Police Authority;
- (h) Member of the Environment Agency or the Scottish Environment Protection Agency;

- (i) Member of the service authority for the National Criminal Intelligence service or the service authority for the National Crime Squad;
- (j) Member of the Scottish water and sewerage authorities and water industry consultative committees.

4. Duties Which Attract Time Off

The duties for which an employer is required to permit reasonable time off are any of the duties of a Justice of the Peace, or duties which relate to membership of any one of the bodies listed in Section 3.

Duties include:-

- (a) attendance at meetings of the body or any of its committees or sub-committees;
- (b) performance of duties approved by the body which need to be done in discharging its functions, or those of any of its committees or sub-committees.

5. The Amount of Time Off

The amount of time off allowed, the frequency and any conditions subject to which time off may be taken, are defined as "those that are reasonable in all the circumstances", having regard in particular to:-

- (a) how much time off is required overall to perform the duties and how much time off is required to perform the particular duty in question;
- (b) how much time off the employee has already been permitted for this purpose or for trade union duties and/or activities; and
- (c) the circumstances of the employer's business and the effect of the employee's absence on the running of the business.

For an employee who is a Justice of the Peace, it is recommended that leave with pay be granted up to a maximum of 10 days in any one leave year

Under the Local Government and Housing Act 1989, it is unlawful for the council to allow an employee who is a Member of a local authority, more than 208 hours of paid time off in a financial year (12 month period ending on 31 March), to perform the duties of a Member of a local authority, with the exception of the duties of chairperson of that authority.

This legislation does not preclude further unpaid leave being granted nor does it limit the paid time off to the chairperson of an authority. (see Section 6)

6. Payment for Time Off

All leave granted for time off for public duties will be paid leave.

The only exception to this is a Member of a local authority, who can be granted unpaid leave if he/she requires time off for public duties in excess of the agreed 208 hours paid leave in a financial year. (see Section 5)

An employee may also be entitled to payment of travel and other expenses by the authority/body of which he/she is a member.

7. Making a Complaint to an Employment Tribunal

If an employee considers that his/her employer has failed to allow him/her to take time off for public duties he/she is entitled to, a complaint may be raised through an employment tribunal

A complaint must be made to a tribunal within three months of the date when the alleged failure to allow time off occurred.

8. Procedures

8.1 An employee requesting time off for public duties must complete Form PS4, providing as much advance notice as possible. Time off will not be deemed to have been authorised without completion of Form PS4 by the employee, authorisation by the employing Service, and onward transmission of the appropriate copy to the Head of Human Resources.

8.2 Form PS4 is a three part self-carbonised form. The employee should complete all parts of Section 1 and pass all three copies of the form to his/her Executive Director or nominated Officer for consideration and completion of Section 2.

8.3 The Executive Director or nominated Officer should, on completion of Section 2, return the white copy to the employee. If the request for time off has been refused, the form should clearly detail the reason(s) for refusal.

8.4 At the same time as the white copy is returned to the employee, the pink copy should be forwarded to the Head of Human Resources.

8.5 The yellow copy should be retained by the employing Service for record purposes.

8.6 The employing Service should maintain a running total of each employee's year to date time off for public duties. The employee should be informed of this via Section 2 of the Form PS4 on each occasion time off for public duties is requested.

8.7 It is the responsibility of the employing Service to ensure that such paid time off granted, for duties as a Member of a Local Authority, does not exceed 208 hours in a financial year.

8.8 An employee who is a Member of a local authority may be granted unpaid leave if he/she requires time off for public duties in excess of the agreed 208 hours paid leave in a financial year. (see Section 5)