

## SPECIAL LEAVE POLICY – SUMMARY OF CHANGES MADE

November 2015

Section (in new policy)	Details of Change	Reason	Comment
Introduction – section 1	Re-worded to reinforce that it is expected that there will be instances where annual/flexi leave is used and special leave can supplement this.	Reinforce that special leave will not automatically be available.	This has an impact on people who work condensed hours because of childcare or a caring role as they are unable to build up flexi leave. This group tends to be more women than men.
Legislation – section 2	Updated to include new legislation	Update	
Our position – section 3	Include reference to updated policies and link to relevant HR team.	Update	Should also include reference to the Managing Attendance Policy as this policy deals with for instance disabled employees, reasonable adjustments and hospital visits.
Scope – section 4	Include reference to eligibility criteria elsewhere in the policy.	Accuracy.	
Bereavement – section 5	Gives clearer guidance on the number of days bereavement leave which will normally be provided; expands definition of close relationships to include grandparents and grandchildren; clarifies that all bereavement leave for part-time/job-share employees will be pro-rata and limits the number of occasions where leave to attend funerals will be given (other than where the funerals are for those of a close relationship).	While up to 5 days leave is still available, this clarifies that 5 days will not be the starting point. Leave will be authorised in accordance with appropriate circumstances. These changes provide clarity for employees and managers as to the support available and when it may be appropriate to use annual/flexi leave.	There needs to be an element of flexibility within this, particularly in regard where the limit on the number of occasions to attend funerals is concerned. There should be room for discussion with line managers in special circumstances where e.g. there has been a tragic accident where some

		<p>Clarification on how the policy applies to those who do not work the standard 35 hour working week.</p> <p>The expansion of the definition of close relationships is appropriate based on experience of the time that is required when grandparent/grandchild passes away and seeks to offer support to employees in this position.</p>	<p>people have lost several family/friends.</p> <p>If you lose more than one close family member at the same time, for example two parents dying in a car crash, does bereavement leave run consecutively or concurrently? Do you get up to 5 days or up to 10 days in instances like this?</p>
<p>Time Off for Dependants – section 6</p>	<p>In line with the responsibilities of the Equality Act, the new policy ensures that special consideration is given to those employees who are required to support a person with a disability.</p> <p>Clarifies that paid leave will be to a maximum of contracted daily hours.</p> <p>Advises that it is not appropriate to make contact with the line manager by text or email.</p> <p>Provides a definition of “occasion”.</p> <p>Advises that an employee may also use flexi/annual leave in addition to the special leave available in this section.</p>	<p>This is a key responsibility in the Equality Act 2010.</p> <p>Clarification on how the policy applies to those who do not work the standard 35 hour working week.</p> <p>This is in line with notification procedures in other policies e.g. Managing Attendance.</p> <p>Provides clearer information.</p> <p>Reinforce that special leave will not automatically be available.</p>	<p>A definition of disability should be explicit within the policy (see. Attending Hospital with a Dependant – section 6.2 below)</p> <p>What may this special consideration include and how will a manager make a decision on whether to grant or not? Will this be at the manager’s discretion?</p> <p>The policy requiring contact with a line manager by telephone would have an adverse impact on Deaf employees who may use text or e-mail as their main form of</p>

			communication. Reasonable adjustments should be made in regard to this group of employees
Support of Dependents – section 6.1	<p>This section combines previous availability which offered up to 8 days special leave to support dependants. This has now been combined to offer up to 3 occasions over a rolling 12 month period.</p> <p>Under this category of special leave, employees will be able to use the 3 occasions over consecutive days, subject to exigencies of the service. Changes made clarify contact and authorisation arrangements.</p>	<p>This change brings NLC into line with other local authorities' provisions.</p> <p>Allowing employees the opportunity to use leave over consecutive days recognises that it is not always possible to arrange care for dependants after one day.</p>	<p>As a higher percentage of women are the primary carers for children or other relatives, this will have a greater impact on this group.</p> <p>For those LG employees with school age children who need to take time off through annual leave, as they've reached the maximum 3 days, this will eat into A/L needed for school holiday periods.</p>
Attending Hospital with a Dependant – section 6.2	Clarifies that leave will be available over a rolling 12 month period, up to a maximum of one day on each occasion.	The move to a rolling 12 month period is aligned with monitoring of sickness absence under the Managing Attendance policy.	A definition of disability should be explicit within the policy. For instance a dependent of an employee who needs to attend hospital for cancer treatment. There has been recent instances when an employee has had to take annual leave after the special leave ran out as there was a lack of understanding about

			what conditions are classed as a disability and no 'special consideration' was given.
Carers' Leave – section 6.3	<p>This is the area of the policy which attracted most comment. The changes to the approach have kept Carers Leave at a maximum of 26 weeks availability, but the focus of what Carers Leave will be granted for has changed to apply to support required for those with terminal or serious illnesses. <b>Special consideration will be given where the person who requires support has a disability.</b></p> <p>The changes clarify support which will be available for employees who wish to provide support to those recovering from short term illness.</p> <p>Clarifies the medical evidence which will be needed to support applications.</p> <p>Provides information for managers on the approval process for Carers Leave and the contact arrangements when applications are granted.</p>	<p>Statistics show that 80% of Carers' Leave lasts 6 weeks or less. It is recognised that the Council wishes to continue to support individuals who require leave to support dependants with serious illnesses, however, there are a growing number of applications for Carers' Leave for the purpose of providing short term support which could be met by other means e.g. temporary change in working hours. Even with the proposed changes, the NLC policy continues to be extremely generous in comparison to other Councils.</p> <p>While medical evidence is currently required this will now be specified in the policy.</p> <p>Contact arrangements provide information for employees and managers.</p>	<p>How will it be decided which conditions come under 'permanent or degenerative and ongoing' or whether this is classed as a disability? This is vague and requires clearer guidance for managers.</p> <p>What may this special consideration include and how will a manager make a decision on whether to grant or not? Will this be at the manager's discretion?</p> <p>Is the medical evidence for the carer or the cared for person? Would there be a contravention of data protection legislation?</p> <p>What will happen in circumstances where there is more than one primary carer e.g. where partners share the care of a disabled child or two siblings share the care of a parent?</p>

			<p>What if the primary carers are both Council employees?</p> <p>Again this policy will impact mostly on women, lone parents and people with school age children or elderly parents.</p>
Attending Court with a Dependant Minor – section 6.4	Clarifies that leave will be available over a rolling 12 month period, up to a maximum of one day on each occasion.	The move to a rolling 12 month period is aligned with monitoring of sickness absence under the Managing Attendance policy.	
Maternity Support/Adoption Support Leave – section 7.1	<p>This section now includes Adoption Leave.</p> <p>Clarifies that all leave will be pro-rata.</p> <p>Clarifies when MSL/ASL will be available to eligible employees.</p> <p>Explains the link to paternity leave and how this is paid.</p> <p>Provides details on how to apply for MSL/ASL.</p>	<p>Updated in line with legislative position.</p> <p>Clarification on how the policy applies to those who do not work the standard 35 hour working week.</p> <p>Provides clearer information.</p> <p>Provides clearer information.</p> <p>Provides clearer information.</p>	
Statutory Paternity Leave – section 7.2	Provides details on who is eligible for Statutory Paternity Leave (wording taken from legislation).	Provides clearer information.	
Shared Parental Leave – section 7.3	Reference to SPL included as an update, with signposting to more	Update	

	details in Maternity Policy and Adoption Policy.		
<p>Leave for Non Medical Purposes:</p> <p>Non-Emergency Medical/GP Appointments – section 8.1</p>	<p>This section combines what was previously 2 sections – Routine medical treatment and GP appointments.</p> <p>Clarifies that it is expected that that appointments will be made outwith working hours. If this is not possible, appointments must be made at the beginning or end of the working day.</p>	<p>Reinforce that special leave will not automatically be available. Where special leave is granted, this must be at the beginning or end of the day to minimise disruption in the workplace.</p>	<p>Need clarity on non-urgent medical appointments that are made at the beginning or end of the working day. Will time off simply be given outwith Special Leave?</p> <p>What of other non-emergency appointments that aren't opticians, dentist G.Ps or hospital appointments e.g physiotherapy, counselling, well- woman/ family planning clinics etc?</p>
<p>Hospital Appointments – section 8.2</p>	<p>Clarifies paid leave will be to a maximum of contracted daily hours.</p> <p>Previous sections on Elective Surgery and Leave for Fertility Treatment have been removed.</p>	<p>Clarification on how the policy applies to those who do not work the standard 35 hour working week.</p> <p>Leave for such medical treatment will be managed under the Managing Attendance policy or as Other Special Leave (section 21).</p>	<p>This will have a greater impact on disabled staff members who might have to attend hospital several times in a 12 month period. The policy leaves this open to individual managers' interpretation, with some managers being more supportive than others.</p> <p>There needs to be reference here to attendance for hospital appointments for disabled employees and reasonable adjustment if it is linked to their disability. This should be</p>

			<p>explicit for both employees and managers – link to managing attendance policy.</p> <p>What guidance will be given to managers regarding any decision to grant or not – how will an employee be able to appeal against a refusal?</p> <p>Women are represented disproportionately at hospital outpatient appointments with first average appointment being at age 25. For men this is at age 50. This, outwith antenatal and post natal appointments, is mostly concerning fertility and gynaecological treatment. This therefore has an adverse impact on women because they are women – less favourable treatment for women as no regard has been given to women's needs.</p> <p>What consideration has been given for an employee requiring medical gender re-assignment treatment for medical and non-medical</p>
--	--	--	---

			intervention? Will they use the special leave policy and be bound by 4 hospital visits?
Participation in Sporting Events – section 9	Clarifies the number of days which may be available and that all leave will be pro-rata.  Wording updated in paragraph.	Clarification on how the policy applies to those who do not work the standard 35 hour working week.	
Jury Service – section 10	Text added to clarify that a jury citation letter must be shown before leave can be authorised.	This mirrors other areas of the Special Leave policy.	
Service as a Witness – section 11	Previous wording combined to show Employment Tribunal and Attendance at Court in Course of Duties in one section.	The same information applied to both situations.	
Election Duties – section 12	No change		
Election Agents – section 13	Clarifies all leave will be pro-rata	Clarification on how the policy applies to those who do not work the standard 35 hour working week.	Why is leave given as pro-rata here and not consistent throughout the policy (section 6 – ‘in all circumstances paid leave will be up to a maximum of contracted daily hours’)?
Candidates for Election – section 14	Clarifies all leave will be pro-rata	Clarification on how the policy applies to those who do not work the standard 35 hour working week.	
Service in Non-Regular Forces – section 15	Clarifies all leave will be pro-rata	Clarification on how the policy applies to those who do not work the standard 35 hour working week.	
Community Emergency Services – section 16	No change		



Holidays or Festivals of Religious or Ethnic Groups – section 17	Removes the right to request paid leave on 2 occasions for all LGE employees with the exception of those on fixed annual leave (e.g. term-time).	This change brings NLC into line with other local authorities.  Non term-time employees who wish to take paid leave for religious holidays will have the option of annual/flexi leave.	This may be open to challenge as it is not universal and one group of employees may be seen to be given 2 days extra leave.
Interviews – section 18	Clarifies that employees attending interviews for <u>all</u> posts outwith NLC will be required to use annual or flexi leave for this purpose.	Special leave will only apply when employees attend interviews for internal positions.	
Training Connected with Course of Study – section 19	Updates the name of the appropriate policy to refer to for more information.	Update.	
Career Breaks – section 20	Clarifies that employees must specify the benefits for the individual and the Council in making their application.  Advises on “normal” rules on taking on employment while on a career break.  Clarifies position on early return from a career break.	Provides more information for managers to consider when making a decision.  Provides clearer information for employees.  Provides clearer information for employees.	
Other Special Leave – section 21	Clarifies all leave will be pro-rata	Clarification on how the policy applies to those who do not work the standard 35 hour working week.	Are there any examples of what would be considered as an exceptional circumstance?  What will the process be now the Exec Director posts will no longer exist in the new operational structure of the Council?

			Would someone seeking time off to undergo gender re-assignment apply via this section.
Process of Applying for Special Leave – section 22	No change		The guidance should include information on the steps an employee can take if an application is refused. Will there be an appeal process?
Additional comments from EEF			<p>The guidance note accompanying the policy will require to have:  a definition of disability otherwise the manager may not know that the employee's condition or the employee's dependent is protected by the Equality Act</p> <p>Where disability is the issue for the employee as a disabled person or carer then the policy should mention reasonable adjustments within section 6,,6.3 and 8.1 and 8.2. as opposed to the position in section 6 and 6.3 "...special consideration to appropriate provision must be made where</p>

			<p>the person for whom the employee is providing support has a disability”</p> <p>Disability is only mentioned in section 6 and 6.3 in relation to dependents who are disabled. There needs to be mention in section 8 in regard to disabled employees themselves.</p> <p>How will this policy link to new legislation e.g The Carers Bill that is going through the Scottish Parliament.</p>
--	--	--	---