

Item: 22

Human Resources Sub-committee: 2 November 2021.

1. Recommendations

It is recommended:

1.1.

That the Committee approves the attached minute as a true record.

1.2.

That the Committee considers the recommendations at paragraphs 1.3 and 1.4.

2. Appendix

Draft Minute of the Meeting of the Human Resources Sub-committee held on 2 November 2021.

Minute

Human Resources Sub-committee

Tuesday, 2 November 2021, 14:00.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Councillors W Leslie Manson, Alexander G Cowie, Robin W Crichton, Steven B Heddle, John T Richards and Duncan A Tullock.

Clerk

- Sandra Craigie, Committees Officer.

In Attendance

- Gareth Waterson, Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- James Wylie, Executive Director of Education, Leisure and Housing.
- Gavin Mitchell, Head of Legal Services.
- Andrew Groundwater, Head of HR and Performance.

Observing

- Lorraine Stout, Press Officer.

Apologies

- Councillor Gwenda M Shearer.
- Councillor James W Stockan.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor W Leslie Manson.

1. Leave of Absence Policy

After consideration of a report by the Executive Director of Education, Leisure and Housing, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Head of HR and Performance, the Sub-committee:

Noted:

1.1. That the Council's policy in respect of Leave of Absence was last reviewed in October 2016.

1.2. The revised Leave of Absence Policy, attached as Appendix 1 to the report by the Executive Director of Education, Leisure and Housing, which had been amended to ensure it was fully compliant and up to date with relevant employment law, statutory provisions and existing terms and conditions of employment.

Councillor Steven B Heddle moved that the revised policy on Leave of Absence, incorporating minor points and typographical errors raised by members, be approved.

On receiving no seconder his motion fell.

On the motion of Councillor Duncan A Tullock, seconded by Councillor W Leslie Manson, the Sub-committee resolved to **recommend to the Council**:

1.3. That the revised policy on Leave of Absence be approved, subject to incorporating minor points and typographical errors raised by members, and section 3.8.1 of the policy being amended as follows:

- Leave of Absence with pay, up to a maximum of two days, will be granted to employees who wish to attend their own graduation ceremony provided the qualifications directly relate to their employment and leave of absence is approved in advance with line management.

1.4. That the revised policy on Leave of Absence, attached as Appendix 1 to this Minute and incorporating the amendments referred to at paragraph 1.3 above, be approved.

2. Conclusion of Meeting

At 14:31 the Chair declared the meeting concluded.

Signed: W Leslie Manson.



ORKNEY
ISLANDS COUNCIL

Leave of Absence Policy and Procedure

October 2021

Next scheduled for review October 2026

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact HR Support on 01856873535 extension 2250 or email hrsupport@orkney.gov.uk

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1. Policy Statement

1.1. Policy Statement

1.1.1. This policy is to inform all employees of their rights and responsibilities when requesting leave of absence and to establish consistent treatment of all employees to whom this policy applies.

1.1.2. The Council is committed to be a good employer and to developing people and supportive employment policies. This approach not only allows employees to balance their personal and working lives but also helps us to maintain employee productivity, loyalty and motivation. In keeping with this, we recognise that from time to time, employees' lives outside of work may necessitate some form of support from the Council. Consideration will therefore be given to allow employees access, where appropriate, to special leave and depending on the nature of the request, this may be paid or unpaid

1.2. Scope of Policy

1.2.1. The scope of this policy applies to all employees of Orkney Islands Council on Scottish Joint Council (SJC), Orkney College Academic, and Chief Officials Conditions of Service and on permanent and temporary contracts. Part-time and job share staff are entitled to the same provisions with the exception of paid leave, which will be on a pro-rated basis. Teaching staff are subject to a separate Leave of Absence policy as agreed with the Orkney Joint Negotiating Committee for Teachers.

1.3. Definitions

1.3.1. Immediate family – for the purposes of this policy 'immediate family' is defined as spouse/partner, parent, child, brother/sister, foster parent or foster child, any of the aforementioned whose relation is 'in-law' or 'step' would also be part of this definition. Under special circumstances grandparents or aunt/uncle may be classed as immediate family i.e. if the member of staff has been raised by them.

1.3.2. Entitlements – all periods of time quoted within the policy are on the basis of 5 day working. Any employees working less than 5 days per week would normally receive the appropriate pro-rata entitlement.

1.3.3. Pay – for all periods of unpaid leave, it is essential to ensure that the necessary documentation is completed and passed to the Payroll section.

2. Procedure

2.1. Requesting Leave of Absence

2.1.1. The policy on leave of absence is based on the principle that employees should not make personal arrangements which conflict with work time other than in the circumstances outlined in this policy. It is recognised that certain requests, in the case of emergencies, will be at short notice, but wherever possible, requests for leave should be planned and submitted in advance.

In order to request Leave of Absence you should use the Leave of Absence Request form as per appendix 1 of this document and send to your Line Manager as appropriate.

2.2. Approval of Leave of Absence

2.2.1. Leave of absence requests require to be approved by a Head of Service or Executive Director.

2.2.2. Applications for leave of absence should be considered and a decision confirmed normally within 14 calendar days of the receipt of the completed application by the Head of Service/Executive Director.

2.3. Appeal

2.3.1. Where a request for a leave of absence (paid or unpaid) is declined the employee can appeal within 14 calendar days in writing to the relevant Executive Director and ask for their request for leave of absence to be re-considered. Any such appeal will normally only consider the application submitted and will not require a formal hearing/meeting to be convened.

2.3.2. Where an application for leave of absence was originally considered by an Executive Director, any appeal will be considered by another Executive Director of the Council.

2.4. Pay and Pensions Issues

2.4.1. For all periods of unpaid leave, Line Managers must ensure that the necessary documentation is completed to stop pay for the period of leave. For leave periods of longer than 30 days, the appropriate action must be taken if the employee wishes to continue with their pension contributions.

2.5. Pension Regulations in Relation to Unpaid (Special) Leave

2.5.1. Pension regulations state: "If you are granted unpaid leave of absence, including jury service, the period will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. The amount of pension lost is calculated as the appropriate fraction of your lost pensionable pay for that period of absence (i.e. 1/49th of your lost pensionable pay if you were in the main section of the scheme or 1/98th if you were in the 50/50 section)."

2.5.2. "If you wish to purchase the amount of lost pension and make the election within 30 days of returning to work (or such longer period as your employer allows) then the cost of the APC is split between you and your employer. You will pay one-third of the cost and your employer will pay the rest. This is known as a Shared Cost Additional Pension Contributions (SCAPC). You can pay these additional contributions in a one-off lump sum or through regular payments from your wages. The maximum period of absence you can elect to buy back by a SCAPC is a period of 3 years."

2.5.3. "If you are absent for a day or more due to a trade dispute the period will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. The amount of pension lost is calculated as the appropriate fraction of your lost pensionable pay for that period of absence (i.e. 1/49th of your lost pensionable pay if you were in the main section of the scheme or 1/98th if you were in the 50/50 section)."

2.5.4. "The cost of purchasing the amount of lost pension for the period of absence would be met fully by you (unless your employer voluntarily chooses to contribute to the APC)."

2.5.5. You should contact the Pension Section for further information about paying Additional Pension Contributions.

3. Leave of Absence for Personal and Family Reasons

3.1. Severe illness of immediate family - with pay for up to three days

3.1.1. The Council recognises and is sympathetic to the demands placed on staff by family illness or injury and wishes to fulfil a supportive role when these occur. Nevertheless, the Council has a duty to recognise and to minimise the potential service disruption and cost which results from staff absence, as far as is compatible with good employment relations and existing agreements.

3.1.2. Severe illness is intended to cover emergency situations where incapacitating or life-threatening injury or illness forms the basis of the request and will not be interpreted as referring to normal childhood ailments. In all cases "severe" will be strictly interpreted.

3.1.3. When absence is requested in order to support members of immediate family who are afflicted by injury or illness of a less severe nature, paid leave of absence will not normally be granted, and staff should be aware of the need to establish support from elsewhere. Where a member of staff does not report for work in such circumstances the appropriate absence returns will need to be submitted and pay will be deducted.

3.1.4. Employees who, through the ongoing illness of members of their immediate family, find it necessary to request leave of absence on a recurring basis should consult their Line Manager. Advice may be sought from Human Resources and a discussion undertaken to:

- clarify the situation with regard to the long-term implications.
- where practicable, consider revising working arrangements to lessen the adverse effects of such absence.
- consider investigating the possibility of obtaining support from other sources.

3.2. Personal/Individual Medical Appointments

3.2.1. Employees are expected to make every effort to arrange their own medical appointments outwith work time and the provisions of the Council's Flexi-time Scheme apply in respect of this. However, where this is not possible, or the employee works in a post not subject to the provisions of Flexitime, reasonable paid leave may be granted. Employees should however still try and arrange such appointments to minimise disruption to their work e.g. at the start or end of their shift or during unpaid breaks. For this purpose, medical appointments include necessary and preventative GP, dentist and optician appointments.

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3.2.2. For appointments where the employee cannot influence the timing or location, e.g. to attend preventative medical examinations such as hospital/consultant appointments as an out-patient, paid leave of absence will be awarded, and employees will therefore not be required to complete sickness absence forms. Where such appointments involve being admitted to and discharged from hospital for treatment, the absence should be treated as sickness absence.

3.2.3. In all cases sufficient notice and evidence should be provided. Time off will not normally be refused unless, for example, their absence would leave service users/children/customers at risk. Employees should present appointment cards etc. as evidence of their appointment.

3.2.4. This section is not intended to cover time off in respect of dependents/family members, for that please refer to section 3.6.

3.3. Family bereavement

3.3.1. In the case of absence following the death of the employee's immediate family, leave of absence with pay for up to three days shall be granted. In situations where the death is outwith Orkney, sympathetic consideration should be given to apply discretion to extend the time off in such cases, to allow travel up to an additional two days.

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3.3.2. In the case of relatives outwith immediate family, e.g. an aunt/uncle or grandparent, leave of absence with pay for one day shall be granted. In situations where the death is outwith Orkney, sympathetic consideration should be given to apply discretion to extend the time off in such cases, to allow travel up to an additional two days.

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3.3.3. Leave of absence related to bereavement leave can be taken at any time between the death and the day after the funeral. This covers situations where the funeral is to be held some weeks following the death and includes employees' travelling time, where necessary. Part-time workers will have a pro-rata entitlement calculated for this leave.

3.3.4. Where time does not permit applications to be made in the normal manner, emergency requests for leave should be made to the Line Manager after which a leave of absence application will be made retrospectively.

3.4. Parental Bereavement Leave

3.4.1. Parents and primary carers i.e. adopters, foster parents, guardians and those classed as kinship carers (those that have assumed responsibility for looking after a child in the absence of parents) and parents that have suffered a still birth (after 24 weeks of pregnancy) have a right to two weeks statutory parental bereavement leave in the event of the death of their child.

3.4.2. Leave can be taken at any point following the death of the child up to 56 weeks following the death.

Deleted: 3.4.2. The two weeks leave can be taken as either a block of two weeks, or two separate blocks of one week. ↑

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3.4.3. The Council policy position is that the right to this leave is available from day one of employment and the 2 weeks' leave will be on full pay. This is above the statutory entitlements.

3.4.4. If an employee loses more than a child, they will be entitled to take a separate period of parental bereavement leave for each child.

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3.4.5. Managers must not ask for or seek any form of evidence of the child's death i.e. a copy of the death certificate.

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3.4.6. Given the distress and sensitivity of such situations, it is not expected that applications may be able to be made in the normal manner. Emergency requests for leave should be made to the Line Manager after which a leave of absence application will be made retrospectively.

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3.5. Funerals

3.5.1. For attendance at funerals other than as detailed above, up to one day of unpaid leave may be allowed at the discretion of the Line Manager as appropriate. In certain circumstances it may be possible for employees to work back these hours or use the provisions of the Council's Flexi-time Scheme to incorporate the time off.

3.6. Time off For Dependants (Statutory Entitlement)

3.6.1. All employees have a legal right to take unpaid leave to deal with a family emergency involving a dependant (defined as a partner, child or parent, or someone who lives with the employee as part of the family). This covers emergencies only, so if the employee knew beforehand that time off was needed, alternative arrangements should have been made.

3.6.2. The amount of time allowed is that which is necessary to deal with the emergency and to make longer-term care arrangements, not to undertake longer term subsequent commitments. Normally, this will be one or two days, but this will depend on individual circumstances.

3.6.3. Typical circumstances that may result in the employee exercising this right within the terms of this policy may include situations where the employee has to deal with:-

- Unexpected disruption or breakdown of care arrangements for a dependent, (for example, the nurse who comes to take care of an elderly relative fails to turn up as arranged).
- A dependant who has fallen ill, is injured or assaulted (for example, the employee's child is injured while at school or in after school care).
- A dependant who has gone into labour.

3.6.4. Line Managers should use their discretion and common sense in these situations and where possible, employees should have the opportunity to make the time up later or to use some of their annual leave. If the employee has accrued flexi-time hours, then these can be used to accommodate such a situation. If none of the options outlined are possible then the time off to deal with the emergency is unpaid.

3.6.5. Please note Orkney Islands Council will normally grant leave with pay if these circumstances are covered under paragraph 3.1 Severe Illness of Family Member.

3.7. Interviews

3.7.1. Job interviews for external organisations will be unpaid. Interviews for posts within Orkney Islands Council will normally be with pay if held during normal working hours and the time off should be agreed in advance with your Line Manager.

3.8. Attendance at own graduation

3.8.1. ~~Leave of Absence with pay, up to a maximum of two days, will be granted to employees who wish to attend their own graduation ceremony provided the qualifications directly relate to their employment and leave of absence is approved in advance with line management.~~

3.8.2. ~~Where qualifications are not related to their employment, then annual leave, flexitime, or unpaid leave~~ can be used for time off to attend Graduation Ceremonies, including those held ~~outwith~~ Orkney. No travel or subsistence is paid for this purpose.

Deleted: Leave of absence without pay will be granted to employees who wish to attend their own graduation ceremony for qualifications directly related to their professional duties.

Deleted: Alternatively,

Deleted: or

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3.9. Unpaid Leave of Absence

3.9.1. There is no right to unpaid leave of absence, although requests can be made where the period of leave cannot be covered through other normal procedures i.e. annual leave, career break etc.

3.9.2. At least four weeks' notice is usually required and will be expected. If a request is made with less than this then the request may be denied because of the difficulties in planning efficient service delivery. If there is a reasonable explanation as to why four weeks' notice could not be given, then the request should not be unreasonably refused purely on the basis of sufficient notice having been provided.

3.9.3. Leave of absence without pay should not be considered for longer than three months. Reference should be made to the Council Career Break Policy for requests for periods of leave in excess of three months.

3.9.4. An employee who takes time off work despite having a request for unpaid leave rejected will be subject to normal disciplinary procedures for unauthorised absence.

3.9.5. When considering a request for any period of unpaid leave, the employee's length of service, attendance record, and any other requests for leave (both paid and unpaid) should be considered. It is also important to ensure that the workplace is able to cope with the absence.

4. Leave of Absence for Public Duties and Voluntary Activities

4.1. Public duties

4.1.1. Employees who are considering undertaking public duties should inform their Line Manager and seek prior approval from their Head of Service to undertake the duties. They should provide an indication of the level of commitment this entails, i.e. the anticipated number of occasions and amount of time off likely to be required. It should not be assumed such a request will be granted, as all requests must be considered with regard for the exigencies of the service.

4.1.2. Should an appointment be made, the employee should inform his/her Line Manager. Evidence of public and voluntary body appointments should be provided by the employee. The Manager should monitor the impact these absences have to ensure there is a minimal detriment to service provision.

4.1.3. The following public duties will qualify staff for paid leave of absence, subject to prior approval from your Executive Director:

- Children's Panel.
- ~~Honorary Sheriff.~~

Deleted: Justice of the Peace

4.1.4. The following public duties will qualify staff for paid leave of absence, subject to prior approval from your Head of Service:

- Emergency Services.
- Jury duty.
- Obligatory attendance at court, e.g. called as a witness.

4.1.5. Where paid leave of absence has been approved in respect of public duties payment is made on the expectation that where a claim can be made to the organisation for loss of income this should be claimed and paid to the Council, where possible.

4.2. Parent Councils

4.4.1. Leave of Absence with pay may be granted for employees who are Parent Council representatives to allow attendance at short-leeting meetings and interview panels or associated training.

4.3. Sporting, recreational, social and cultural activities

- Representing your country in sport or coaching will qualify the participant for leave of absence with pay up to five days in any one leave year.
- If representing Orkney, unpaid leave of absence may be granted.
- If representing Orkney at the Island Games, appropriate leave of absence (with or without pay) for all participants will be decided by the Chief Executive, considering the duration of the Games and required travel arrangements.

Deleted: (Scotland/Great Britain or United Kingdom)

4.4. Armed Forces

4.4.1. Members of the British Armed Forces Reserve taking part in formal training may be granted up to fifteen days leave of absence in any one year, subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

4.4.2. Salary costs must be claimed by the employee and submitted to the Armed Forces; payments received (up to the value of normal salary) should be paid to the Authority.

4.5. Foster Carers

4.5.1 Council employees who are foster/kinship carers (under formal fostering arrangements) are entitled to up to five days paid leave per year to attend approved training and meetings related to their fostering responsibilities as laid out below.

4.5.2. Training:

- Child protection training (One off training refreshed 5 yearly).
- Studio 3 training (Challenging Behaviour).
- Child specific training as required – e.g. epilepsy training.

4.5.3. Meetings:

- Child's review meeting – 6 monthly.
- Fostering and Adoption/Permanency panel meetings – Initial approval, annual review, permanency panel, plus occasional ad hoc attendance.

4.5.4. This leave can be taken in whole or part days. Where both foster carers are employed by the Council only one of the individuals can take the leave or the leave may be apportioned between them.

4.5.5. Paid leave of absence is not available for foster carers to deal with routine situations relating to the young person i.e. sickness absence of a child, school appointments, school closures/in-service days or routine medical appointments i.e. Doctor, Dentist, Optician etc. In these circumstances the other relevant Council policy/procedures would apply.

4.6. Retained Firefighters

4.6.1. Retained Fire Fighters shall where necessary in terms of their regular working pattern, be granted paid leave of absence to undertake their initial training course and any ongoing mandatory training requirements. This is subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

4.6.2 Initial training for service in Orkney is normally delivered via a two-week residential course, run out of Orkney.

4.6.3. Release from employment, where necessary to attend ongoing mandatory training, shall be limited to a maximum of up to 5 days (pro-rata for part-time or part-week employees) paid leave of absence per year.

4.6.4. Where agreement is given for an employee to be a Retained Firefighter, any routine necessary release from scheduled work to attend call outs will be on the basis of unpaid leave.

4.7. Police Scotland - Special Constabulary

4.7.1. Members of the Special Constabulary shall where necessary in terms of their regular working pattern, be granted paid leave of absence to undertake their initial training course and any ongoing mandatory training requirements. This is subject to the approval of the Head of Service to whom application must be made, in the normal manner, before each absence.

4.7.2. Initial training for remote communities such as Orkney is normally delivered over six weekends in Orkney (not normally concurrent weekends) rather than the three-week residential course at the Scottish Police College, Tulliallan.

4.7.3. Release from employment, where necessary to attend ongoing mandatory training, shall limited to a maximum of up to 5 days (pro-rata for part-time or part-week employees) paid leave of absence per year.

4.7.4. Whilst it not normally expected that release from employment shall be required, where agreement is given for an employee to be in Police Scotland – Special Constabulary, any routine necessary release from scheduled work to undertake duties will be on the basis of paid leave, subject to operational exigencies.

Deleted: unpaid leave.



Leave of Absence Request Form

Name		Job Title	
Service		Section	

PERIOD OF ABSENCE (INCLUSIVE)

Time off required from / to:	
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REASON FOR APPLICATION – (See notes below)

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Signed	Date
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Notes: Bereavement - state relationship if any.

ESTABLISHMENT (Brief Comment by Line Manager)

I confirm that the request is as per policy and that cover arrangements, where required, can be made.	
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	working hours / working days paid leave and / or
--	---

	working hours / working days unpaid leave*
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Signed	Date
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Where the appropriate Manager has exercised his/her discretion and recommended leave of absence in line with the policy for emergency requests, he/she should initial this box. This form should be submitted for approval before commencement of absence wherever possible.

APPROVAL by appropriate Head of Service/Executive Director

Signed	Date
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Please tick	With Pay		Without Pay	
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* If unpaid leave is approved, Payroll must be notified of the amount of unpaid leave being taken.

FOR ADMIN PURPOSES

Notification of change form completed

Copy of form placed in employee's personal file