



**POLICY AND PROVISION FOR  
THE HANDLING OF COMPASSIONATE AND SPECIAL LEAVE AND  
APPROVED ABSENCE FOR RELIGIOUS OBSERVANCE**

**1. Introduction**

The welfare, skills and experience of employees are highly valued and recognised by Luton Borough Council, who therefore, seek to clarify and rationalise the compassionate and special leave arrangements and approved absence for religious observance in order to prevent additional distress in what can be confusing and/or difficult circumstances. Managers have a responsibility to respond reasonably and sensitively to any requests from an employee for compassionate and special leave or time off for religious observance. However, it must be appreciated that managers must always ensure the effective delivery of service.

**2. Purpose of the Policy**

The purpose of this document is to ensure that all employees are treated fairly and equitably by the Council.

**3. Scope of the Policy**

The position held by an employee within Luton Borough Council does not effect their right to access this policy.

**4. Responsibility of Employees**

It is the responsibility of every employee wishing to apply for any leave covered by this Policy to apply for and obtain authorisation for that leave in advance if possible.

**5. Bereavement Leave**

Corporate Directors are authorised to grant up to 7 days paid leave absence on the grounds of family bereavement in line with the following formula: -

- (i) 3 days leave on the death of a member of the immediate family (e.g. spouse, partner, parent, child, brother, sister or legal guardian)
- (ii) 1 days leave for other members of the family (i.e. grandmother, grandfather, aunt, uncle, nieces, nephews and in-laws) to attend the funeral.
- (iii) A further 2 days leave for any employee who as next of kin is required to make arrangements for the funeral, estate, etc.
- (iv) Sympathetic consideration should be given to allowing travelling time to and from the funeral (maximum entitlement 2 days).

Employees wishing to attend family funerals abroad should ensure that they have been granted compassionate leave before leaving this country.

## 6. Leave to Care for Sick Dependants

### A) Care for the chronically sick or terminally ill

- i) Corporate Directors are authorised to grant up to 4 weeks paid leave of absence to an employee needing to care for a chronically sick or terminally ill member of their immediate family (i.e. spouse, partner, child or parent). Consideration will be given to the effect on the family of not granting the leave and the difficulties this would create for the individual.
- ii) A doctor's note outlining the circumstances will be required. Consideration may need to be given to the use of any outstanding annual leave entitlement.
- iii) Flexible working arrangements such as part-time working, working at home etc., which may permit continued employment, will be considered.
- iv) The Head of The Human Resource Service will consider granting a further period of 3 months at half-pay following an examination of the circumstances.

### B) Care for dependent who is sick (not chronically or terminally)

It is not the intention of this policy to grant leave under this heading for routine doctor's appointments, clinic appointments or routine childhood vaccinations/illnesses - these should be accommodated either by flexible working arrangements or by the taking of annual leave. This section of the policy is for example intended to assist parents whose children are admitted to hospital (not a pre-planned admittance) or who contract a contagious disease etc.

- i) Corporate Directors are authorised to grant up to 1 week's leave of absence on full pay and 1 week's leave of absence on half-pay, following a full examination of the circumstances.
- ii) A doctor's note outlining the circumstances will be required. Consideration may need to be given to the use of any outstanding annual leave entitlement.
- iii) Flexible working arrangements will also be considered.

## 7. Fertility Treatment/Investigation

- (i) All employees can apply for leave for fertility treatment/investigation, regardless of their contract.
- (ii) All requests for leave for fertility treatment/investigation should be made in writing by completing the Request for Special & Compassionate Leave form at Appendix 1 of this policy. If any appointment cards are available, copies should be attached to this form.
- (iii) There is a maximum of four weeks paid leave for fertility treatment/investigation per employee per annum (per annum being 1<sup>st</sup> April to 31<sup>st</sup> March).
- (iv) Any employee who requires more than four weeks fertility treatment/investigation leave per annum, should request either annual leave or unpaid leave, to cover the difference.
- (v) Any sickness accrued as a result of fertility treatment/investigation will be recorded as normal sickness absence and will be recorded in accordance with the Council's Sickness Absence and Monitoring Procedure.

## 8. Parental Leave

- (i) The parents of children who were under five years old on 15<sup>th</sup> December 1999 can by statute apply for parental leave. Due to an amendment in the Regulations transitional arrangements apply to parents with children born or adopted between the 15<sup>th</sup> December 1994 and 14<sup>th</sup> December 1999.\* However, by Local agreement from January 2003, the facility to take parental leave will be extended to the child's 8<sup>th</sup> birthday.

- (ii) All requests must be made in writing by completing the Special and Compassionate Leave Form at Appendix 1 of this Policy and attaching any relevant documentation.
- (iii) Both mothers and fathers can apply for parental leave providing they are named on the child's birth certificate or have parental responsibility under the law (as defined by Section 3 of the Children's Act 1989). The parents of a child do not have to be living with the child to qualify.
- (iv) Employees wishing to take parental leave must have one year's continuous service with Luton Borough Council by the time they wish to take the leave.
- (v) Parental leave can only be taken to care for the child or to make arrangements for the good of the child.
- (vi) Parental leave can only be granted if the child is: -
  - under 8 years of age
  - for 8 years after the date of adoption up to the age of 18 years
  - up to 18 years of age providing a disability living allowance is paid for the care of the child.
  - Unless the transitional scheme applies. In these cases leave may be taken up until 31 March 2005.
- (vii) The entitlement to parental leave is 18 weeks for parents whose children are disabled. The entitlement to parental leave, for parents whose children are not disabled, is 13 weeks (in total) unpaid leave for each child subject to: -
  - A maximum entitlement of 4 weeks unpaid leave per year minus any paid entitlement that may have been obtained for a similar purpose under other sections of this Policy. (A year is a twelve-month period commencing when an employee first becomes entitled to take parental leave in respect of an individual child). Managers will also consider requests from employees who may wish to extend their maternity leave for a period not exceeding 13 weeks by utilising some or all of their entitlement to paternity leave. However, the granting of such requests will be dependant on the exigency of the service. (If parental leave is granted following a period of maternity leave, this period will not count towards the required return to work period of 3 months for occupational maternity pay purpose.)
  - To be normally taken in 1 week blocks at any 1 time (N.B. 1 weeks parental leave is the equivalent to the length of time that an employee is normally required to work in a week. Where working patterns vary, the average working week will be calculated as a fraction for the period he/she is required to work in a year) with the exception for parents of disabled children who can take leave in days. However, in exceptional circumstances and subject to managerial approval, consideration will be given to grant parental leave to be taken in half days at a time or in a pattern providing a reduced working week for a set period.
  - To be taken after the employee has given a minimum of 7-calendar days notice unless the employee is in an emergency situation, which can be justified to the Director of the appropriate Department. Even in these circumstances the employee should not commence a period of parental leave before obtaining consent, and ensuring that their work station/place is as safe as reasonably possible before leaving it.
  - Wherever possible requests for parental leave will be facilitated. However in exceptional circumstances and for operational reasons, Luton Borough Council may need to postpone approval for a parental leave for a period not exceeding 6 calendar months

### 9. **Urgent Family Leave**

- (i) This is a provision allowing employees to take a reasonable time off work (unpaid) to deal with certain unexpected emergencies or sudden emergencies and to make necessary longer-term arrangements relating to a dependant of the employee. Any employee wishing to access this part of the Policy should first check that the circumstances are not covered elsewhere in this document.
- (ii) All employees are entitled to access this provision from the commencement of employment.

- (iii) A dependant for the purposes of this Policy is defined as the husband, wife or partner, child or parent of the employee. It also includes someone who lives in the same household as a member of the family. In the case of illness, injury or where care arrangements breakdown, a dependant may also be someone who reasonably relies on the person for assistance e.g. elderly aunt or elderly neighbour.
- (iv) Reasonable unpaid time off will be granted to help the employee cope with the initial crisis and to make longer term care arrangements.
- (v) This provision is for unforeseen matters. If employees know in advance that they require time off they should ask for annual leave in the normal way. It is also not a right to time off solely to provide any care the Dependant requires.
- (vi) Employees are expected to contact their manager as soon as is reasonably possible and advise them of the reason for their absence and how long they will be off work. For all periods of absence the Special and Compassionate Leave Form at Appendix 1 will be completed and passed to the Director of the employing Directorate for approval.
- (vii) Even in emergency situations employees should not leave their place of work without advising someone with managerial responsibility for that service and without ensuring that their workplace is safe.

### 10. **Adoption Leave**

- i) The scheme for adoption leave applies to employees who have completed not less than one year's continuous service. It is based on the maternity leave scheme.
- ii) The adoptive parent (this being the prime carer for the adopted child) would be allowed 29 weeks leave of absence with 12 of those weeks being on half-pay rate and the other 17 weeks taken as unpaid leave.
- iii) The adoptive parent [prime carer as defined in ii)] would be required to return to work for a qualifying period of 3 months or he/she would be required to repay the twelve weeks pay at half-pay.
- iv) The adoptive parent would be entitled to maternity support leave in accordance with the following paragraph.

### 11. **Maternity Support Leave / Paternity Leave**

Corporate Directors are authorised to grant to 5 days paid maternity support leave to employees who are the nominated carer of an expectant mother at or around the time of the birth.

A nominated carer is the person nominated by the mother as their primary provider of support at or around the time of the birth; this could be the baby's father, a relative or someone who has a caring relationship with the mother and/or the child. A copy of the mother's certificate of expected confinement - Form MAT B1 will be required before any leave is granted.

**Or**

#### **Statutory Paternity Leave Scheme.**

Alternatively employees who fulfil the following criteria can request paternity leave in accordance with the statutory paternity leave scheme. However employees can either apply for and be granted, maternity support leave as outlined above or statutory paternity leave but not either a combination of the two schemes and / or both.

The statutory paternity leave applies to employees whose children are expected to be born on or after 6 April 2003 (the effective date is the date recorded on The Certificate of Expected Confinement – form Mat B1) or where an approved adoption agency notifies the adopter of a match with a child on or after 6 April 2003 (or where the child is placed on or after 6 April 2003.)

To be eligible for leave under this scheme, the employee:

- Has to declare in writing that the absence is for the purpose of caring for a child or supporting the child's mother
- That the employee has been continuously employed for a period of not less than 26 weeks ending immediately preceding the 14<sup>th</sup> week before the expected week of childbirth
- Has or expects to have responsibility for the upbringing of the "child" (a child is a new born or expected child)
- Is the biological father of the child or is married to or the "partner" of the child's mother – a partner is a person (whether of a different sex or the same sex) who lives with the mother in an enduring family relationship but is not a blood relative
- Must comply with any request by his/her employer to produce for inspection evidence of his/her entitlement and
- Gives notice in accordance with the specified conditions.

### Multiple Births

Only one period of maternity leave can be taken in the case of multiple births.

### Length of Paternity Leave

The period of paternity leave is 2 calendar weeks. An employee must choose whether to take 1-week leave or 2 consecutive weeks leave – an employee cannot take 2 non-consecutive weeks.

### Commencing Paternity Leave

Leave must be taken during the period of 56 days beginning with the date on which the child is born, or the 1<sup>st</sup> day of the expected week of the child's birth, whichever is the later. (The later option is to account for premature births.)

### Notice Requirements

Notice must be given in writing and specifying the following:

- The expected week of the child's birth
- The length of the period of leave that the employee has chosen to take; and
- The date on which the employee has chosen that his/her period of leave should begin.

The written notice must be given to the appropriate Personnel Unit during or before the 15<sup>th</sup> week before the expected week of the child's birth (or where this was not reasonably practicable, as soon as is reasonably practicable.)

### Adoptive Parents

In the case of adoptive parents similar conditions apply. Adoptive parents cannot have both adoption leave and paternity leave. Entitlement for adoptive parents will be based on a document containing the date on which the child is expected to be placed, and if the placement has already occurred the date of the placement.

The conditions for SPP – Adoption, are that an employee:

- Is not taking adoption leave in respect of the child
- Has or expects to have responsibility for the upbringing of the child
- Is either married to or the partner of the child's adopter
- Has been employed for a continuous period of at least 26 weeks as at the week in which the adopter is notified of being matched with the child for the purposes of adoption
- Has been employed for a continuous period beginning with the end of the week in which the adopter is notified of being matched with the child for the purposes of adoption and ending with the day on which the child is placed for adoption
- Has normal weekly earnings for the period of 8 weeks ending with the week in which the adopter is notified of being matched with the child for the purposes of adoption which are not less than the lower earnings limit for the payment of NI contributions, where the employee has elected to receive SPP (an employee may not elect to receive SPP if they have elected to receive Statutory adoption Pay). No extra SPP is payable for the placement for adoption of more than one child as part of the same arrangement.

### Period of Payment of SPP – adoption

An employee may choose the SPP period to begin on:

- The date on which the child is placed with the adopter or, where he/she is engaged in working for his/her employer under his/her contract of employment the following day:
- A pre determined date, specified by the employee, which is later than the date on which the child is expected to be placed with the adopter
- A date falling a number of days after the date on which the child is placed with the adopter as the employee may specify.

An employee may choose for SPP to be paid in respect of a period of a week or two consecutive weeks – an employee cannot take 2 non-consecutive weeks.

The leave must be taken within 56 days beginning with the date of the child's placement for adoption. Where more than one child is placed for adoption as part of the same arrangement, the relevant date is the date of placement of the first child.

### Caring for the child and supporting the adopter

SPP is only payable if it is the employee's purpose at the beginning of a week in which SPP is payable to:

- Care for the child and have responsibility for it upbringing or
- To support his/her spouse or partner who is the co-adopter

### Notice Requirements for SPP – adoption

An employee is only entitled to SPP on the adoption of a child if:

- He/she gives 28 days written notice of intention to take SPP
- Specifying the expected date of the placement
- And indicating whether the SPP is in respect of 1 week or 2 consecutive weeks
- He/she confirms that he/she meets the conditions as to relationship with the child and the child's adopter and that the leave will be taken to care for the child and to support the co-adopter
- He /she confirms that he/she is also not taking adoption leave

### Disentitlement to SPP

Certain circumstances will disentitle an employee to SPP – some of these include:

Being in receipt of SSP

Working for another employer

Working under a contract of service.

## 12. **Disability Leave**

- i) The scheme for disability leave applies to all employees who have a disability as defined under the Disability Discrimination Act 1995.
- ii) All applications for Disability Leave must be booked in advance, using the form attached at the back of this policy. (Please note that employees can only take disability leave when they are well.)
- iii) There is a maximum entitlement for each disabled employee (as defined in the Disability Discrimination Act) of 2 weeks disability leave per annum (per annum being 1<sup>st</sup> April to 31<sup>st</sup> March).
- iv) Disability leave is not a substitute for sick leave. Any sickness accrued as a result of an individual's disability (or from treatment) will be recorded as normal sickness absence and will be recorded in accordance with the Council's Sickness Absence and Monitoring Procedure.

### 13. **Extended Leave**

- i) The scheme for extended leave would only apply to employees with at least one year's continuous service at the time of the request and who wish to visit close/extended family or friends living abroad.
- ii) Extended leave should only be taken by prior agreement with the Corporate Director; and except in cases of emergency or in exceptional circumstances requests for extended leave should be made in writing at least six months prior to the date of commencement of such leave.
- iii) The employee should take at least 3 weeks from their annual leave entitlement (it should be noted that some employees will have annual leave entitlement in excess of 4 weeks) and the remainder may be given as unpaid leave. Employees may be able, with the prior written agreement of their Corporate Director, to "bank" annual leave or time-off in lieu from their previous annual leave year for this purpose only.
- iv) Extended leave, in normal circumstances, should only be allowed once in every 3 years period, although more frequent extended leave may be permissible in very special circumstances.
- v) Extended leave should wherever possible be taken outside the main holiday periods e.g. July and August and Christmas.
- vi) The maximum period allowed for extended leave is 6 weeks.
- vii) If an employee who has taken extended leave is delayed in the country they have visited for any reason e.g. strikes (in either Country), mechanical faults in transport, sickness etc they are required to maintain communication with their Manager.
- viii) If an employee fails to return to work on the expected date due to sickness and submits foreign medical certificates, the Council will not pay either Statutory Sick Pay or Occupational Sick Pay unless the DSS would recognise and pay sickness benefit on the submission of such a certificate.
- ix) The employee should be warned in advance that failure to return to work on the expected date will be considered seriously and may affect consideration being given to any future requests.

### 14. **Approved Absence for Religious Observance**

- i) Managers have a responsibility to respond reasonably and sensitively to any requests from an employee regarding their cultural or religious needs.
- ii) It is the policy of the Council that managers will whenever possible enable employees to participate in their religious festivals. Managers should use the discretion available within the rules for granting annual leave, time off in lieu, flexitime and unpaid leave to facilitate these requests. However, it must be appreciated that managers must always ensure the effective delivery of service.
- iii) Managers should as a matter of practice speak to their employees at the commencement of the leave year, or when an individual joins the department, to ascertain their religious leave requests, if any, for the coming year.

When employees seek approval for absence for a religious festival, the following must apply:

- \* Managers should give serious consideration to these requests.
- \* Manager must consider the flexible use of time off in lieu, e.g. by either allowing employees to build up time off for a religious festival by accruing and taking flexitime. This to be in accordance with the flexitime scheme.

- \* Where flexitime arrangements are not available to employees, managers should ensure that employees are able to take their normal days off wherever possible in order to celebrate religious festivals through the adjustments of rotas.
- \* A further option is for the individual employee to be granted unpaid leave at the manager's discretion.

### 15. **Fasting**

Management and employees should recognise the importance of fasting for the individual. Details of why people fast can be obtained by reference to Appendix A.

Managers should consider the following in order to support colleagues:

- i) Flexibility in relation to commencement/finishing time.
- ii) The opportunity to work reduced lunch hours in order to facilitate i) above.

### 16. **Grievances/Appeals**

Where an employee feels that he/she has been unfairly treated in respect of this policy and practice, he/she will have a right of appeal under the Grievance Procedure.

### 17. **Disciplinary Procedure**

Any employee making false or inaccurate claims for leave or time off under this Policy will be subject to disciplinary action.

### 18. **Deduction of Unpaid Leave**

In all cases where unpaid leave is granted the employee has equal responsibility with Luton Borough Council to ensure that the appropriate deductions are made from salary.

### 19. **Further Information and Guidance**

In the event that further guidance and/or advice is necessary surrounding the contents of this Policy statement, this advice can be obtained from the Human Resource Service within Corporate and Customer Services, or the Personnel Units of Housing and Social Services, Environment and Regeneration, and Lifelong Learning.

### 17. **Review of Policy.**

This policy will be reviewed and updated from time to time in accordance with statutory provisions and changes in best practice. This policy is scheduled to be reviewed in January 2004.



**Personal & Confidential****Request for Special & Compassionate Leave**

You must complete this form if you are aware that you will be absent from work for any period specified in the Special and Compassionate Leave Policy.

You must include any non-working days (e.g. Saturday, Sundays or Bank Holidays) after the first day of absence. Failure to complete this form accurately and fully may result in loss of payment.

Surname \_\_\_\_\_

First Name \_\_\_\_\_

Department \_\_\_\_\_

Section \_\_\_\_\_

Request is for: (please tick appropriate box).

Bereavement Leave ☐Adoption Leave ☐Leave To Care For Sick Dependants ☐Maternity Support Leave ☐Parental Leave ☐Extended Leave ☐Fertility Treatment Leave ☐Urgent Family Leave ☐Approved Absence For Religious/Observance/Fasting ☐Disability Leave ☐Paternity Leave Statutory Scheme ☐Paternity Leave Statutory Scheme Adoption. ☐

Describe circumstances briefly to support request. Include any relevant details. If requesting time off to care for a relative or dependant please explain relationship and if relevant why other family members are not undertaking or assisting in these tasks.

Date first absent from work \_\_\_\_\_ day Month \_\_\_\_\_ Year \_\_\_\_\_

Date returned to work \_\_\_\_\_ day Month \_\_\_\_\_ Year \_\_\_\_\_

Attachments - please tick all relevant boxes.

I attach

Birth Certificate (Parental leave) ☐Adoption Certificate (Adoption leave/parents leave) ☐Proof of receipt of disability living allowance (parental leave) ☐Mat B1 of expectant mother (Maternity support leave) ☐Proof of illness/Dr's/Appointment note (Care for sick dependants/Fertility) ☐Letter from expectant mother (Maternity support leave) ☐

*Use this space to detail any other supporting documentation/declarations attached.*

State relationship to child/dependant \_\_\_\_\_

Declaration

I will not work during any period of absence and that the information I have given is complete and accurate. I note that knowingly providing false information may result in disciplinary action being taken including the possibility of dismissal.

Signed \_\_\_\_\_ Date \_\_\_\_\_

From Director or designated representative of \_\_\_\_\_ Department

Director or Designated representative: Print Name \_\_\_\_\_

c.c. Payroll  
\_\_\_\_\_ (Employee)

The following leave has been granted

\_\_\_\_\_ days paid leave from \_\_\_\_\_ to \_\_\_\_\_ (dates)

\_\_\_\_\_ day's unpaid leave from \_\_\_\_\_ to \_\_\_\_\_ (dates)

Signed \_\_\_\_\_ Date \_\_\_\_\_

## APPENDIX A

Address of expectant mother

Date

### **To Whom It May Concern**

I (*name of expectant mother*), certify that my (*husband/partner/other relative/friend - state nature of relationship and name of nominated carer*) will be my prime carer following the birth of my child expected on and will assist me in the care of my child. I confirm that not other person has been nominated as my prime carer (*Add the following sentence if nominated carer is anyone other than the biological father of the child*). The child's father is unable to fulfil this role, as he will be .....

Signed:\_\_\_\_\_

Dated:\_\_\_\_\_