



The Scottish Parliament
Pàrlamaid na h-Alba

Special Leave Policy

Poileasaidh air Fòrladh Sònraichte

11 November 2022





Introduction

The SPCB recognises the pressures individuals can face in effectively balancing the responsibilities of work with their personal commitments and is committed to providing appropriate practical responses to support staff. As such, a comprehensive range of measures is available which are designed to provide you with an appropriate degree of flexibility to manage your personal priorities whilst ensuring that the needs of the SPS can continue to be met. These include career breaks, home-working and other flexible working arrangements.

Special Leave is one such measure. Whilst not a contractual entitlement, requests from staff for Special Leave will be considered sympathetically and statutory entitlements will be observed. This policy sets out the framework within which requests for Special Leave should be made and managed as an aid to a fair, supportive and consistent approach.

Special Leave is distinct from annual leave and other forms of leave, namely maternity leave (including ante-natal care); paternity leave; adoption leave; parental leave and study leave which are covered by separate arrangements outlined elsewhere in the Staff Handbook.

What is Special Leave?

Special Leave is a form of authorised absence from work which may be granted to you:

- if you require time off for a purpose which is covered by statutory provisions;
- if you experience a life event outwith your control which necessitates your immediate personal attention and therefore impacts on your ability to fulfil your work responsibilities; or
- in exceptional circumstances, if you require time off to manage longer-term or pre-planned personal commitments and use of other options are not practical.

Other matters

These provisions operate based on a high degree of trust. The Disciplinary Policy and Procedure may be invoked if there are reasonable grounds to suspect that a member of staff is abusing the Special Leave Policy.

If you require support and advice to help you manage personal situations, you should contact the Confidential Counselling and Information Service and/or the Benevolent Fund.



Monitoring and Review

People and Culture will monitor the allocation of Special Leave at a corporate level in order to identify any trends, patterns or inconsistencies in application so that appropriate action can be taken to address these. This statistical analysis will be presented to Leadership Group on a quarterly basis.

The SPCB will continue to examine and review its Special Leave provisions to take account of experience, any relevant legislative changes and identified good practice.

Overview

This Policy encompasses your statutory right to time off for dependants and acknowledges this as the minimum entitlement afforded to all staff. Statute also makes provision for a reasonable period of time off work to be granted in other circumstances. These forms of leave will also be managed under the umbrella term of “Special Leave”. Whilst statute does not provide for time off with pay in all of these circumstances, the SPCB will pay up to a maximum of 5 days per annual leave year for any allocation of Special Leave provided under these circumstances. In exceptional circumstances, you may be allocated more than 5 days’ paid Special Leave in any leave year for statutory purposes at the discretion of your manager, in consultation with the People and Culture office. Special Leave for statutory purposes will not be counted towards the normal maximum allocation of non-statutory Special Leave.

Your manager has a degree of discretion by which they can take account of individual circumstances and agree arrangements with staff to take non-statutory Special Leave. Non-statutory Special Leave may be granted to support staff in managing a range of life events beyond those laid out in the statutory right to time off for dependants and other statutory provisions. In particular circumstances non-statutory Special Leave may be granted with pay.

Non-statutory Special Leave will not normally be granted in circumstances where it is considered reasonable to expect you to fulfil your personal responsibilities in your own time and by making use of other options available to you such as flexible working hours and annual leave. As such, it is not generally intended to cover routine events or requirements which can be reasonably planned in advance such as medical or dental appointments including accompanying dependants to such appointments. In exceptional circumstances, where use of other options such as flexible working hours and annual leave are not feasible, non-statutory Special Leave without pay may be granted to manage pre-planned personal commitments.

Non-statutory Special Leave will normally only be available for the purposes of meeting immediate short-term needs for absence from work to allow you to respond to personal issues outwith your control. For the purposes of this policy, short-term is defined as a period of up to five days. Where you find you have a longer-term personal commitment to fulfil, for example if you are dealing with an ongoing or recurring issue, other measures offered may be more appropriate in allowing you to dedicate time and effort to manage the situation. This includes the right to request flexible working, parental leave, career breaks and non-statutory Special Leave without pay.



Application

This policy applies to all members of staff, regardless of length of service or contractual status. In accordance with the Equality Framework, the SPCB will not discriminate in the application of these procedures in respect of age, disability, gender, race, nationality, ethnic or national origin, religion or belief, sexual orientation, trade union membership or lack thereof. Reasonable adjustments will be put in place, as appropriate, to support staff with a disability.

Statutory Entitlement to Reasonable Time Off Work

This section details your statutory entitlement to reasonable time off work to deal with particular events. In accordance with the Employment Rights Act 1996, you have a statutory right to take a reasonable amount of unpaid time off work to deal with certain unexpected or sudden emergencies involving your dependants and to make longer term arrangements.

The statutory right to time off for dependants does not extend to pre-planned events such as accompanying a dependant on a scheduled hospital visit.

The right to time off for dependants does not include a statutory right to pay. The SPCB will, however, normally grant you time off with pay for these purposes, up to maximum of 5 days in any leave year. You may, in exceptional circumstances, be granted paid Special Leave beyond 5 days in any leave year for statutory purposes. This will be at the discretion of your manager who will take the full circumstances into account and consult with the People and Culture Office. If you find you have a recurring need for time off for dependents and other options for managing this are not feasible, you may be granted Special Leave without pay.

Statute also makes provision for a reasonable period of time off work to be granted in other circumstances and these are: Jury Duty / Attendance at Court as a Witness; Public Duties; Trade Union/Employee Representative Duties and Activities; Safety at Work Duties; and Time off to seek Alternative Employment or Training in a Redundancy Situation. Whilst statute does not provide for time off with pay in all of these circumstances, the SPCB will pay for any allocation of Special Leave provided under these circumstances, up to a maximum of 5 days per annum in any leave year. In exceptional circumstances, you may be allocated more than 5 days' paid Special Leave in any leave year for statutory purposes at the discretion of your manager, in consultation with the People and Culture Office.

Special Leave for statutory purposes will not be counted towards the normal maximum allocation of non-statutory Special Leave.

Non-statutory Special Leave with Pay

In addition to your statutory entitlements to reasonable time off work, non-statutory Special Leave with pay may be granted to cover up to a maximum of five days per annum in line with the normal leave year, 1 September – 31 August.

Circumstances in which non-statutory Special Leave with pay will normally be granted include:

- Personal crises such as a relationship breakdown;
- Attendance at the funeral of a close friend or colleague;
- Personal involvement in an accident;
- Circumstances in which you have been the victim of a crime;
- Severe damage or disruption to property and/or living arrangements;
- Contact with a notifiable infectious disease, for example, malaria, meningitis, scarlet fever, covid- 19.

This list is not exhaustive and is merely intended to be indicative. All individual circumstances will be taken into account. Although the following circumstances can normally be pre-planned, the SPCB will as good practice also normally support staff by granting non-statutory Special Leave with pay for:

- Assessment or treatment relating to fertility;
- Assessment or treatment relating to a disability including attending to matters which are necessary to support disability access;
- Participation in reserve or cadet forces training; and
- Representing your country nationally or internationally at an event (or accompanying a child or a dependant if they are doing so)



Non-statutory Special Leave without Pay

You will normally be expected to make use of annual leave and/or the general flexibility in working hours to manage routine or pre-planned personal commitments. In exceptional circumstances, if neither option is feasible, non-statutory Special Leave without pay may be granted. Circumstances where non-statutory Special Leave without pay may be granted include:

- dealing with circumstances where an allocation of 5 days' paid Special Leave per annum in any leave year has been exhausted. This might include longer-term caring arrangements;
- getting married or entering into a civil partnership;
- participation in religious festivals;
- attendance at an external interview (excepting situations where you are facing redundancy); and
- moving home.

Again, this list is not intended to be exhaustive and non-statutory Special Leave without pay may be granted in other circumstances. Advice is available from the People and Culture Office if required.

Non-statutory Special Leave without pay will not normally be granted for a period exceeding three months, unless there are exceptional circumstances, for example, a longer-term need to provide care to a dependant. A period of leave without pay of three months or more will normally be classified as a career break and the relevant procedure will apply.

The SPCB will treat your period of non-statutory Special Leave without pay as continuous employment as far as employment protection legislation is concerned. Your break will also count as reckonable service for incremental pay progression. However, it will not count as reckonable for annual leave or pension purposes. You are therefore advised to consider the implications of unpaid leave on your pension and seek further information from the Pay and Pensions Office if you require it.

Who can grant special leave?

Requests for Special Leave will be dealt with by your manager who will observe your statutory entitlements to a reasonable amount of time off work. Beyond these, they will use their discretion to determine if a reasonable amount of non-statutory Special Leave should be granted in the circumstances, the amount of leave which is appropriate and whether or not this will be supported with pay. In reaching a decision, your manager will:

- take account of any statutory entitlements relevant to your request;
- take full account of your individual circumstances;
- consider the degree of personal responsibility you have for managing the situation and the availability of alternative arrangements to support you;
- consider the impact of your request on service delivery;
- consider any previous allocation of non-statutory Special Leave you have been afforded in the relevant leave year; and
- if necessary, speak with People and Culture office.

All requests for Special Leave will be treated in confidence and a sensitive and prompt response will be provided. In considering the request, the balance of your annual leave and/or flexible working hours will not normally be taken into account. Each request will be considered on its own particular merits.

Requests for Special Leave from Heads of Office will be dealt with by the Head of Group or the Assistant Clerk/Chief Executive if he or she is a direct report. Requests from a Head of Group will be dealt with by the Assistant Clerk/Chief Executive with line responsibility for the relevant area while requests for Special Leave from Assistant Clerk/Chief Executives will be dealt with by the Chief Executive.



Request and Appeals Procedure

The very nature of the life events which may qualify for time off under this policy means that non-statutory Special Leave and statutory time off for dependants will normally be requested and granted at short notice. To request Special Leave, you are required to contact your manager as soon as is reasonably practicable to explain your circumstances and advise them how long you expect to be absent from work. Every effort should be made to ensure that your request is made as early as possible in order that the impact of your absence on service delivery can be minimised. If your manager is unavailable, you should normally contact the next most senior manager in the office. Your manager will decide on their return, if your Special Leave will be supported with pay.

The SPCB recognises that in certain circumstances, it may be necessary for some other person acting on your behalf to make initial contact with your manager to notify of the situation. In such an event, your manager will normally reserve a decision on pay until you are able to make personal contact with them and fully explain your circumstances.

If the circumstances concerned are of a particularly sensitive nature and you do not feel comfortable discussing these with your manager, you should contact the [People and Culture office](#) for advice. You should bear in mind, however, that responsibility for making a decision in relation to your request remains with your manager.

Should your manager refuse your request in part or in full, then you will be provided with a full explanation at the earliest opportunity. This will normally be communicated verbally in the first instance and will be confirmed in writing.

For all TRS users: all requests for Special Leave, regardless of the outcome, must be recorded in the TRS (Time Recording System).

For those not using TRS: please contact the [People and Culture office](#).

Leave taken without seeking and gaining the approval of your manager will be considered unauthorised absence and unless there are exceptional mitigating circumstances, disciplinary action may result.



Appeal Procedure

You have the right to appeal against any decision not to grant you Special Leave or a decision to grant you Special Leave without pay. If you wish to exercise this right, you should set out your grounds for appeal in writing to your Head of Office/Group normally within 7 working days of the date of the written confirmation of your manager's decision.

The Appeal Manager will arrange to meet with you to consider the grounds for your appeal, normally within seven working days of receiving your submission. Following the appeal meeting, the Appeal Manager will notify you verbally of the decision. The decision of the Appeal Manager will be final. The Appeal Manager will confirm the decision in writing normally within 7 working days of the meeting.

Enquiries

If you have any enquiries about this policy, please contact the [People and Culture office](#).

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For further information contact:

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