

# POLICY AND RESOURCES SCRUTINY COMMITTEE- 8TH JUNE 2010

SUBJECT: REVIEW OF THE COUNCIL'S LEAVE OF ABSENCE SCHEME

REPORT BY: DIRECTOR OF CORPORATE SERVICES

# 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present the revised Leave of Absence Scheme to Policy and Resources Scrutiny Committee for consultation and feedback prior to the Scheme going to Cabinet for approval.

# 2. SUMMARY

- 2.1 The Council currently has a number of procedures dealing with the different types of leave of absence, which quite often overlap and cause confusion amongst both Managers and employees. There has been a lot of criticism of the current schemes from Managers, employees and the trade unions because there has been an inconsistent application of the schemes, policies and procedures across the Council.
- 2.2 The new scheme attempts to remove the discretionary element of some of the leave of absence schemes to ensure consistency across the Directorate.
- 2.3 Many of the Council's leave of absence policies grant more than the Council is required to provide under its statutory obligations. These provisions are also more generous than that provided for by our neighbouring authorities. As part of this review, the Council has taken the opportunity to revisit some of the provisions of the scheme and revert back to the statutory provisions in a number of areas.
- 2.4 This report highlights the changes from the previous Scheme and expresses the views that have been put forward as part of the consultation process.

# 3. LINKS TO STRATEGY

3.1 The new Scheme links to the People Management Strategy and therefore to all other strategies, including all equality strategies, policies and procedures, that relies on employees to deliver the strategy and service provision.

#### 4. THE REPORT

4.1 As Policy and Resources Committee is aware the Council introduced its current Leave of Absence Scheme on 1<sup>st</sup> October 2004. Since that date, Managers and Human Resources employees have dealt with a considerable number of requests under the Leave of Absence Scheme and the other policies that link directly to the Leave of Absence Scheme, such as the Carers Policy, the Parental Leave Scheme, the Paternity Leave Policy, and the Flexible Working Hours Scheme and this has resulted in employees taking a considerable number of working days as special leave/leave of

absence.

- 4.2 Many of the policies and procedures introduced by the Council at this time afforded employees more leave than was required under the Council's statutory obligations. When these policies were introduced it was expected that their introduction would help reduce the number of days sickness absence that employees would experience but unfortunately this has not been the case. With the exception of bereavement leave, all leave provisions for part time employees are pro rat'd to the number of hours that they work.
- 4.3 Another issue that has been identified is that there has been an inconsistent application and interpretation of the policies across the Council, which has lead to a number of claims of unfairness and this has created problems for Managers, employees and Human Resources employees. As a result, the review of the Scheme has sought to give more guidance on employees' entitlements to leave of absence. A number of the definitions within the scheme have been tightened up and additional definitions included to help overcome any areas, which have previously been 'grey', where discretion was allowed.
- 4.4 As a result of the review of the Leave of Absence Scheme, there are a number of associated policies and schemes (namely the Carers Policy, the Flexible Working Hours Scheme and the Parental Leave Scheme) that need to be amended accordingly. If approval is given for the amended Leave of Absence Scheme, these documents will be amended accordingly.
- 4.5 Identified in below are the main changes between the current Leave of Absence Scheme and the proposed scheme, along with any areas of dispute between the Council, the trade unions and the Council's Equality Groups. A further meeting with the trade unions is being held on 7<sup>th</sup> June 2010 to discuss their feedback and a verbal update will be given to the meeting. The Council's Equality Groups feel that the new proposals are discriminatory as women undertake the majority of the childcare and attendance at medical appointments for children and adults for who they have a caring responsibility. However, if the whole Scheme is considered rather just the individual elements there is no disproportionate effect on the Council's female employees.

# **CARER'S LEAVE**

- 4.6 Under the current Carer's Policy, employees are entitled to 5 days paid leave per year if they have a caring responsibility as defined in the policy. The entitlement under the revised Leave of Absence Scheme is to reduce this to 3 days paid leave per year.
- 4.7 Legislation in relation to this type of leave states that an employer must give unpaid leave if there is a caring responsibility but not any paid leave. Therefore 3 days paid leave per year is more than we are legally obliged to provide.
- 4.8 The trade unions are disappointed that the number of days has been reduced and wish to see the status quo maintained.
- 4.9 If agreed, this will require the Carer's Policy to be amended accordingly.

# LEAVE WHEN AN EMPLOYEE HAS TO LEAVE WORK IN AN EMERGENCY SITUATION

- 4.10 Currently the Leave of Absence Scheme allows for an employee to leave work in an emergency situation but the definition of an emergency situation has had an inconsistent approach across the Council. Many employees wish to use this type of leave when they have to pick their child up from school because they are unwell but it is not an emergency situation. The legislation allows for unpaid leave, where as the Council will be granting paid leave for the remainder of the day in which the emergency occurs.
- 4.11 In order to ensure the consistent application of this type of leave, a definition of an emergency is being included in the revised Leave of Absence Scheme. The definition of an emergency is to be

defined as 'the attendance at or admission to hospital of a close relative'. It is hoped that this will make it clearer for both employees and Managers and ensure a more consistent application of the Scheme.

4.12 The trade unions have asked for a clearer definition of an emergency, which has now been accommodated but they also wish to see a link to the Carer's Policy. If the employee's caring responsibility falls within the definition of the Carer's Policy then this will be automatically be he case.

# **MEDICAL APPOINTMENTS**

- 4.13 Under the current Leave of Absence Scheme, employees should make their routine medical appointments outside of working time wherever possible but a recent analysis has shown that this is not the case and employees are attending routine medical appointments within working hours more often than they are being made outside of working hours. Once again the legislation only allows for unpaid time off and the NJC Terms and Conditions for Local Government Employees (the Green Book) does not mention that employees must be given paid time off for routine medical appointments either.
- 4.14 However, the Green Book allows for employees to claim paid time off for certain types of medical appointment, such as cancer screening. Paid time off would be granted for attending these types of appointment. The Council also proposes to grant paid time off for blood doning on Council premises.
- 4.15 Additionally the Green Book states that reasonable time off should be granted for employees undergoing fertility treatment. This is not expressly included in the current Leave of Absence Scheme but in the revised Scheme employees undergoing fertility treatment will be allowed up to a maximum of 5 working days per cycle of IVF treatment.
- 4.16 The trade unions are unhappy about this proposal as they feel that paid time off should be granted for all medical appointments. The trade unions are pleased that time off is being granted for cancer screening but feel that this is the start of the process and employees would need a number of appointments prior to any diagnosis being made and then further appointments for treatment afterwards. If an employee is diagnosed with cancer, they are covered immediately by disability legislation (the Disability Discrimination Act 1995) so would qualify for the reasonable adjustments that the Council has to make under the legislation. The trade union feels that the same argument is valid for employees with chronic illnesses. However, it is likely that they will also be covered by the DDA and would qualify for reasonable adjustments under that legislation.
- 4.17 The Equality Group also feels that this proposal would disadvantage disabled employees, as they may have to attend a greater number of medical appointments because of their disability. The granting of time off to attend these medical appointments would be deemed a reasonable adjustment under the DDA and the Council, as stated above, is legally obliged to make reasonable adjustments for disabled employees.
- 4.18 In terms of time off for blood doning, once again the trade unions feel it is unfair to only grant time to employees giving blood on Council premises, as they may prefer to give blood nearer their home. It is accepted that employees may wish to give blood nearer home but to grant time off for employees to attend a session at their home, may result in a considerable amount of time being granted depending on the where the employee lives and whether they are coming back to work or donating at the beginning or end of the day. The Welsh Blood Transfusion Service attends the main Council buildings on a regular basis and employees who wish to donate blood can do so there and be granted paid time off to do so.
- 4.19 The changes outlined here will require the Flexible Working Hours Scheme to be revised to take account of the revised provisions, if approved.

#### **BERAVEMENT LEAVE**

- 4.20 The current Leave of Absence Scheme allows for bereavement leave to be granted for a range of close relatives, step relations, in laws and partners' equivalents. In order to overcome any inconsistencies in the application of this area of the Scheme, tighter definitions have been included for employee's entitlements in relation to in laws and aunts and uncles. The list of relatives included in this scheme goes further than the legislation but the Council feels that they wish to be supportive to employees at such an emotional time. If there are special circumstances in relation to an employee's family circumstances, there is provision for additional leave to be granted on a case-by-case basis. However, there must still be a consistency across the Council for cases of similar circumstances.
- 4.21 The trade unions requested that additional days were granted to take account of any travelling time that an employee has to do where the deceased relative does not live close by. As up to a maximum of 10 days is available, this should take account of any travelling time issues.

#### **MILITARY TRAINING**

4.22 This has not changed from the current Leave of Absence Scheme, 10 days paid leave is granted to those employees in the Reserved Forces.

#### **PARENTAL LEAVE**

- 4.23 Under the Council's current Parental Leave Scheme employees are entitled to 13 weeks parental leave (1 week paid and 12 weeks unpaid) or 18 weeks if the employee's child is disabled (1 week paid and 17 weeks unpaid). Local government terms and conditions extend the age limit up to which the employee is eligible to take or request parental leave to 8 years of age (18 years of age in the case of a disabled child) as opposed to 5 years of age in the legislation. The Council is also more flexible on the way that employees are allowed to take their leave, allowing the leave to be taken in smaller blocks and with less notice than required under the legislation.
- 4.24 However, under the legislation all parental leave is unpaid and it is proposed under the revised Leave of Absence Scheme that the Council adopts this stance and makes all parental leave unpaid. Very few employers grant paid parental leave so the Council would not be out of step in introducing such a measure.
- 4.25 The trade unions and the Equality Groups feel that there is no need to change from the current position. However, the Council is losing productivity on a considerable number of days due to paid parental leave and in the current economic climate it is unable to sustain this for much longer. In line with the Workforce Strategy, recently agreed by Cabinet, there is a need to make savings wherever possible in order to avoid redundancies and this is one area where savings can be made.
- 4.26 The changes outlined here will require the Parental Leave Scheme to be revised to take account of the revised provisions, if approved.

# **PUBLIC DUTIES AND POLITICAL ACTIVITIES**

4.27 In terms of Public Duties and Political Activities, there has been very little change apart from employees having to take their own time to appear in an Identity Parade and the number of days for attendance at Outside Bodies has been changed from 9 days to 6 days. This would include School Governors. There does not seem to be a consistency of approach to the granting of leave to School Governors but this would help ensure consistency across the Council.

# **PATERNITY LEAVE**

4.28 There are no changes to this policy as new legislation is coming into effect from 1<sup>st</sup> April 2011 and any changes will be picked up at the same time as the legislative changes.

#### ATTENDANCE AT MEETINGS OF PROFESSIONAL BODIES

4.29 This has not changed from the current Leave of Absence Scheme, paid leave can be granted subject to the approval of the Head of Service.

# REPRESENTING COUNTY/COUNTRY AT SPORT

- 4.30 Under the current Leave of Absence Scheme, employees are entitled to paid leave but the proposals under the revised scheme are that representing a county at sport will be unpaid leave and up to 5 days paid leave will be granted for representing a country at sport at the discretion of the relevant Director.
- 4.31 The trade unions feel that employees representing both a county and a country at sport should be entitled to paid leave. As stated above, in line with the Workforce Strategy, recently agreed by Cabinet, there is a need to make savings wherever possible in order to avoid redundancies and this is one area where savings can be made.
- 4.32 The Equalities Group feel that where there is a discretionary element it could potentially give rise to grievances as someone who is or was active in sport themselves could be more inclined to grant the leave than someone who is not interested in sport. Obviously if an employee feels that they have been unfairly treated, they are able to resort to the Grievance Procedure. However, it is hoped that Directors would be reasonable in their approach and allow anyone representing their country the paid time off. Advice will also be available from Human Resources on any precedents in place and where Directors need to be mindful of setting precedents in the future.

#### **UNPAID LEAVE**

- 4.33 Currently the Leave of Absence Scheme allows a Head of Service to grant up to one month's unpaid leave of absence. It is proposed that Heads of Service will be able to grant up to 2 weeks unpaid leave of absence with requests for additional leave of up to 3 months being granted by the relevant Director. Anything over 3 months would need to be dealt with as a Career Break and a Career Break Scheme is currently being developed in line with the Workforce Strategy.
- 4.34 Feedback that has been received from the trade unions states that if the Head of Service is given the discretion to grant this leave there could be inconsistencies across the Council. As this is the current situation, it is not thought that this would be any different and there have been no major areas of inconsistency that have been brought to our attention.
- 4.35 The Equalities Group feels that the two-tier approval is too much bureaucracy and that one level of management should be given the authority to make the decision. Currently, any applications for leave of absence for more than one month are referred to the relevant Director so again this would be no change.

### **SUMMARY**

- 4.36 The current Leave of Absence Scheme and the associated policies and procedures have attracted a large amount of criticism from Managers, trade union representatives and employees because of their inconsistent application. It is intended that the revised Scheme and policies and procedures will clarify the entitlements for everyone involved and allow Officers to apply the entitlements in a more consistent, effective manner which will be to the benefit of everyone involved in these processes.
- 4.37 It is intended that the Leave of Absence Scheme becomes effective on 1<sup>st</sup> September 2010.

# 5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications of introducing this Scheme. However, there are savings to be made from the reduction in the entitlements that employees can claim, which will go towards the savings required as part of the Workforce Strategy.

#### 6. PERSONNEL IMPLICATIONS

6.1 There are no personnel implications on the introduction of the schemes or the associated policies and procedures.

# 7. CONSULTATIONS

7.1 As stated above, the Scheme has undergone the Council's consultation process and the views of the Council's recognised trade unions and the Equalities Group have been considered. There are still a number of areas where agreement has not been reached and these have been highlighted in the report above.

#### 8. **RECOMMENDATIONS**

- 8.1 That Policy and Resources Scrutiny Committee provide feedback on the amended Leave of Absence Scheme and approve the principles to allow the Scheme to go forward to Cabinet for approval.
- 8.2 Based on the above recommendation, if the principles of the Scheme are agreed authorise the Head of Human Resources and Organisation Development to amend the associated policies and procedures as a result of the changes to the Leave of Absence Scheme as defined in the report.

# 9. REASONS FOR THE RECOMMENDATIONS

9.1 There has been an inconsistent application of the current Scheme and the revised Scheme tightens up employee's entitlements. Due to the current economic climate there is a need to ensure that resources are used in the most effective manner and savings need to be made as part of the Workforce Strategy. The Council is fulfilling its statutory obligations and in a number of areas still exceeding what it should provide under these obligations.

# 10. STATUTORY POWER

10.1 Local Government Act 1972 Local Government Act 2000 Employment Act 2008

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Consultees: Corporate Management Team

Head of Human Resources and Organisation Development

Human Resources Personnel Management Team

Head of Legal Services and the Council's Monitoring Officer

Directorate Management Team Council's recognised trade unions

Council's Equality Groups

# Background Papers:

ACAS Advisory Booklet On Flexible Working and Work Life Balance

National Joint Council For Local Government Services – National Agreement On Pay and Conditions Of Service – the 'Green Book'

Caerphilly County Borough Council's Leave of Absence Scheme

Caerphilly County Borough Council's Parental Leave Scheme

Caerphilly County Borough Council's Flexible Working Scheme

Caerphilly County Borough Council's Paternity Leave Scheme

Caerphilly County Borough Council's Policy for Carers

Various law bulletin updates and professional journals

# Appendices:

Appendix 1 Draft Leave of Absence Scheme

# CAERPHILLY COUNTY BOROUGH COUNCIL

# DRAFT LEAVE OF ABSENCE SCHEME

**MAY 2010** 

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### NOTE

This scheme has been developed on a Corporate basis but the operational requirements of schools have been taken into consideration. The Scheme is recommended to Governing Bodies for adoption. Support in managing issues in relation to the subject matter of this scheme can only be offered to schools where LEA recommended policies and procedures have been adopted and in line with any Service Level Agreement with the Education and Leisure Directorate Human Resources Unit in force at the time.

When considering Leave of Absence applications from teaching staff, the Head teacher/Chair of the Governing Body/Nominated Senior Officer should have regard to the relevant sections of the School Teachers Pay and Conditions Document in force at the time.

The year referred to in this scheme is the normal leave year. The leave referred to in this scheme is leave outside of the normal leave arrangements.

# INTRODUCTION

- 1. Caerphilly County Borough Council/Governing Body believes that its employees are its most valuable resource and as a result high attendance at work by its employees plays a key role in providing efficient and effective services.
- 2. It is recognised that there may be times when employees need some time to resolve problems outside of work and the provision of leave to cover certain of these circumstances will contribute to increased morale and ensure maximum performance amongst its employees. Lack of recognition of employees' outside commitments help to contribute to negative effects, which may result in low morale, poor service provision and excessive overhead costs.
- 3. The Council/Governing Body's aim is to ensure that leave of absence is applied in a fair, equitable and consistent way across the whole of the Council/Schools by adopting a positive and proactive approach. This Scheme is designed to help Managers/Head teachers deal fairly, equitably and consistently with all their employees.
- 4. This scheme should be cross-referenced with all the relevant Council polices. In the case of school based employees the relevant polices and procedures must have been adopted by the school Governing Body. Copies of all the Council's policies can be found on the Intranet or obtained from your Manager, Head teacher or Human Resources.

#### SCOPE OF THE SCHEME

- 5. The Leave of Absence Scheme applies to all employees except those school based support/ teaching staff for whom the Governing Body sets the local terms and conditions of employment unless adopted by the Governing Body. This procedure is recommended to school Governing Bodies for adoption. In terms of centrally funded LEA employees, it is expected that a nominated Senior Officer from the appropriate Service Area will consider the application in consultation with the Head teacher of the host school.
- 6. This scheme does not cover teaching staff as a separate Leave of Absence Scheme applies to this group of employees.
- 7. The Council's recognised trade unions have been consulted on the introduction of the scheme.
- 8. The effective date of this scheme is zz or the date of adoption by the school Governing Body. The scheme supersedes all earlier schemes and should be used to deal with all requests for leave of absence that arise.

# **GUIDING PRINCIPLES**

- 9. Where leave of absence has been requested under this scheme the Head of Service/Head teacher/ Nominated Officer will consider requests taking into account the needs of the Service Area/School and the merits of each individual application for leave. No application for leave will be unreasonably refused.
- 10. Apart from the statutory provisions, there is no automatic entitlement to leave of absence and leave will be granted at the discretion of the Head of Service/Head teacher in light of the operational requirements of the Service Area/School.
- 11. Attached at Appendix A is a schedule of the types of, and entitlements to, leave of absence available under this scheme.
- 12. Applications for leave of absence should be made on form LA1, an example of which is attached at Appendix B.

- 13. If the leave of absence is refused, the reasons for refusal should be detailed on the form that is returned to the employee. A copy of the form will be returned to the employee and this will serve as the approval/non approval of the leave and no further letter will be sent.
- 14. Leave of absence may be pensionable. Advice on this should be sought from Corporate Human Resources or the Employee Service Centre.
- 15. With the exception of bereavement leave, all entitlements under this scheme will be granted on a pro rata basis for part time employees.

#### INTERPRETATION OF THE SCHEME

16. In the event of a dispute relating to the interpretation of this scheme, Corporate Human Resources will make the final decision on interpretation.

# **REVIEW OF THE SCHEME**

17. A review of this scheme will take place when appropriate. Any amendments will be consulted on with all the relevant parties. However, in the case of amendments relating to legislative requirements, the scheme will be amended and reissued.

**MAY 2010** 

# LEAVE OF ABSENCE SCHEME

CATEGORY OF LEAVE	ENTITLEMENT
Caring for close relative	3 days paid leave under the Carers' Policy.
Emergency Admission to hospital	Paid leave for the day of the emergency – remainder of the day if emergency is part way through the day.
	The definition of an emergency is the attendance at or admission to hospital of a close relative.
	In this case a close relative will be deemed to be spouse or partner, child (including step children or partners' equivalents), or parent (including in-laws and civil and live in partners' equivalent).
Medical/Dental Appointments	Unpaid leave/Annual Leave/Flexi Leave/Work Time Back.
	In the case of non-teaching school based employees, they must cover appointments with either annual leave or work the time back. In the case of teaching employees, appointments must be made where they have non-contact class teaching time.
	Cancer screening and blood doning on Council sites paid time off will be allowed.
	Employees undergoing fertility treatment will be allowed up to a maximum of 5 working days per cycle of IVF treatment.
Bereavement leave	Day of death to day of funeral up to a maximum of 10 working days paid leave will be granted for parent, spouse, brother, sister, child, and grandchild. In the case of parents in law, civil and live in partners' equivalents and step relationships, 3 days paid leave will be granted to help with making the arrangements. Where there is more than one person to help in the circumstances, each case will be dealt with on its merits and leave granted on a proportional basis.
	Day of funeral will be granted for great grandparent, grandparent, great grandchild, great aunt and uncle, aunt, uncle, brother and sister in law, niece and nephew. Includes in laws and civil and live in partners' equivalents and step relationships. In terms of brother or sister in law, the in law is deemed to be the brother or sister of one's spouse or partner. The spouse or partner of a spouse or partner's sibling is not deemed to an in law under this scheme.
	In circumstances where the employee has not been brought up by their parents, but by another relative, the special circumstances should be looked at and the appropriate leave granted.

CATEGORY OF LEAVE	ENTITLEMENT
Military training	10 working days paid leave.
Parental Leave	See Parental Leave Scheme for details – 13 weeks unpaid leave per child. If the child is disabled, 18 weeks unpaid leave.
Public duties	
Justice of the Peace	Up to 18 working days paid leave per annum.
Witnesses at Court other than on council Business	Unpaid leave/Annual Leave/Flexi Leave/Work Time Back.
Identity parades	Unpaid leave/Annual Leave/Flexi Leave/Work Time Back.
Jury service	Paid leave.
Member of a local authority	Up to 18 working days paid leave per annum.
<ul> <li>Outside Bodies, i.e. member of Police authority, member of local education authority, member of educational governing body, member of health authority or primary care trust, member of any statutory tribunal, environmental agency or board of prison visitors.</li> </ul>	Up to 6 working days paid leave.
Membership of a Community Council.	Up to 6 days paid leave per annum.

<ul> <li>Political activities -</li> <li>Standing for election to Welsh Assembly/ Parliamentary/European Parliamentary elections</li> </ul>	15 days paid leave.
Local Authority elections	5 days paid leave.
Community Council     Elections	1 day's paid leave
Agent in elections	Unpaid leave.
Presiding Officer/Poll     Clerk within the County     Borough	Paid leave for the day of the election.
Paternity Leave	See Paternity Leave Policy for details - 1 or 2 weeks paternity leave paid at the employee's normal basic salary or Statutory Paternity Pay.
Attendance At Meetings Of Professional Bodies	Paid leave subject to approval of Head of Service/Head teacher/ Governing Body.
Representing County/Country at sport	Representing County at sport – unpaid leave.  Representing Country at sport – paid leave up to a maximum of 5 days at the discretion of the relevant Director.
Attendance by partners at ante natal and parent craft classes	Paid Leave.
Unpaid leave	Leave requests of up to 2 weeks Head Of Service/Head teacher/ Governing Body.  Leave requests of up to 3 months Director/Chair of Governing Body.

# **APPENDIX B**

# **APPLICATION FOR LEAVE OF ABSENCE (LA1)**

Employee's Full Name:				Employee Number:	
				11011110	
Designation: Service Area/ School/ Establishment:					
Date(s) On Which The Leave Is Requested:	From:			То:	
Date Commenced with Council:					
Reason The Leave Is Requested – (In the case of leave as a result of the needs of others or in the case of bereavement, please state the relevant relationship)					
Cianatura of				Date:	
Signature of Applicant:				Date.	
To Be Completed By Director/Head of Service/Head teacher/Nominated Officer (Please tick appropriate boxes)					
I support this applic	ation for leave		I do not supp	ort this applica	tion for leave
of absence		of absence Please detail	of absence Please detail the reasons for refusal overleaf.		
Application Approve	ed With Pay				
Application Approve	ed Without Pay				
Line Manager's Signature				Date:	
APPLICATION NOTE	ED.				
Director/Head of Service/ Head teacher/Nominated Officer's signature:				Date:	

When completed a copy of this form must be provided to the applicant and then forwarded to your Directorate Human Resources Unit and the Employee Service Centre.

REASONS FOR THE NON A	PPROVAL OF LEAVE OF ABSENCE
(A) The exigencies of the	
(B) Other	
Director/Head of Service/ Head teacher/Nominated Officer's Name:	
Designation:	
Signature:	
Date:	