

To: Finance, Resources and Customer Services Policy Board

On: 5 September 2018

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Report by: Director of Finance and Resources

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Heading: HR & OD Policies (Flexible Working, Parenting Leave and Pay and Trade Union Facility Time Policies)

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## 1. Summary

1.1 The purpose of this report is to provide Elected Members with the revised HR & OD policies that are attached in Appendices 1-3.

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|------------------------------------|-------------------|
| • Flexible Working Policy          | <b>Appendix 1</b> |
| • Parenting Leave and Pay Policy   | <b>Appendix 2</b> |
| • Trade Union Facility Time Policy | <b>Appendix 3</b> |

1.2 The review of these policies is a key priority of the Council's Organisational Development Strategy 2016-2019, which is progressing well with the last update report approved by Members in June 2018.

1.3 **Appendix 1** (Flexible Working Policy) is applicable to all including Teachers. **Appendix 2** (Parenting Leave and Pay Policy) and **Appendix 3** (Trade Union Facility Time Policy) are applicable to Local Government Employees, Craft Operatives and Chief Officers (excluding Teachers) who have their own arrangements and provisions in place. Supporting guidance has been developed to assist with the implementation of these policies.

1.4 Consultation on these policies has taken place with the Trade Unions and Services and feedback where applicable has informed the development of these policies. All policies have been modernised and are updated in line with best practice and legislation.

- 1.5 Following approval from Members, these policies will be communicated to all managers and employees within the Council via the normal channels.
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## **2. Recommendations**

- 2.1 To approve the revised HR & OD Policies attached at **Appendices 1-3**.
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## **3. Background**

- 3.1 The Council strives to create a healthy and inclusive working environment which supports all employees to better balance their work and home commitments.
- 3.2 The Council recognises that employees today have an increased need for greater flexibility around sharing parenting and family responsibilities. Accommodating changes to working arrangements and supporting personal commitments will assist employees to reach their full potential and achieve greater flexibility, whilst continuing to provide a modern and efficient service to the residents of Renfrewshire.
- 3.3 Through the implementation of these policies, the Council will promote and encourage employees to fully utilise the provisions available.

### **3.4 Flexible Working Policy**

- 3.5 The Council is committed to adopting new, flexible and alternative ways of working which supports modernised service delivery and provides opportunities for all employees to enjoy an improved work-life balance. This revised policy replaces the Council's current Flexible Working Policy and supports the Council's culture of continuous improvement, being flexible and responsive to customer needs whilst improving working lives.
- 3.6 This policy has been revised following feedback from the recognised Trade Unions and Services and is compliant with legislation and the ACAS Flexible Working Guidance.
- 3.7 The key changes in the policy are:
- Requests for Flexible Working will be considered for any purpose, not limited to caring and/or family responsibilities;
  - Flexible Working will be promoted and encouraged across all levels of the Council to help reduce the Council's gender pay gap;
  - A clearer process has been developed for requesting, approving and recording flexible working and clearer responsibilities for everyone involved in the process has been introduced;

- To support ongoing transformational change, all approved flexible working requests will be implemented on a temporary basis, with regular reviews to ensure arrangements continue to meet employer and employee needs.

### **3.8 Parenting Leave and Pay Policy**

3.9 The Council recognises that its workforce is diverse with female employees accounting for approximately three quarters of the workforce, with most being working parents.

3.10 The Parenting Leave and Pay Policy is designed to offer flexibility to employees at particular stages of their lives, encouraging the sharing of parenting responsibilities between parents.

3.11 The policy provides leave and associated pay relating to:

- Ante-natal, Maternity and Adoption;
- Paternity;
- Shared Parental Leave;
- Parental Leave.

3.12 Key changes in the policy are:

- The introduction of paid time off for fathers/partners to attend ante-natal appointments with their spouse/partner;
- The extension of paternity leave from 2 weeks to 4 weeks for employees with 26 weeks continuous service. The first week will be paid at 100% of a weeks' pay, followed by 3 weeks paid at 90% of a weeks' pay (including statutory paternity pay). 90% of a week's pay is in line with the Council's current maternity pay provisions. Paternity Leave must be taken within the first 56 day period after the child's birth/placement for adoption;
- Shared Parental Pay is now based on the Council's Maternity Pay provisions.
- Parental Leave is now available to request through this policy (previously available through the Special Leave Policy).

### **3.13 Trade Union Facility Time Policy**

3.14 The Council is committed to working in partnership with the Trade Unions and recognises the important and crucial role the Trade Unions play in promoting and developing good employee relations, robust health and safety practices and learning and development opportunities.

3.15 This policy has been revised following feedback from the recognised Trade Unions and Services and is compliant with legislative requirements and the ACAS Code of Practice 'Time off for Trade Union Duties and Activities'.

3.16 The key changes in the policy are:

- Clearer definitions of specific Trade Union representative roles;
- Updated Trade Union representative duties and activities;
- A process for requesting, approving and recording of facility time;
- Requirements under the Trade Union Act 2016 for annual reporting and publishing of facility time and associated costs.

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## Implications of the Report

### 1. Financial

#### Parenting Leave and Pay

Paid time off to attend ante-natal appointments for spouse/partner of a pregnant women has been introduced.

Subject to meeting criteria, employees will receive up to a maximum of 4 weeks paid paternity leave per year to support their parenting responsibilities. Forecasted annual costs of extending paternity leave to 4 weeks are £67K per year.

Shared Parental Pay will be based on the Council's Maternity Pay provisions.

#### Flexible Working Policy

The Flexible Working Policy may have a positive impact on attendance levels.

2. **HR & Organisational Development** - HR & OD will provide advice and guidance to managers and employees on the interpretation and application of this policy.
3. **Community Planning** - None
4. **Legal** - The Council will meet its legislative and best practice requirements.
5. **Property/Assets** - None
6. **Information Technology** – None

7. **Equality & Human Rights**

- (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** - None

9. **Procurement** – None

10. **Risk** - None

11. **Privacy Impact** – None

12. **Cosla Policy Position** - not applicable.

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**List of Background Papers**

Not applicable

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**Author:** Raymond Cree, Organisational Development & Workforce Planning Manager, 0141 618 7295, [raymond.cree@renfrewshire.gov.uk](mailto:raymond.cree@renfrewshire.gov.uk)





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**Finance and Resources**  
HR and Organisational  
Development

# Flexible Working Policy

Supporting modernised service delivery  
and improved work-life balance for all

For all Renfrewshire Council employees

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## **1. Introduction**

- 1.1 The Council is committed to adopting new, flexible, alternative ways of working which support modernised service delivery and provide opportunities for all employees to enjoy an improved work-life balance.
- 1.2 The Council of the future requires a highly skilled, flexible, adaptive and motivated workforce committed to driving continuous improvement to achieve the Council's vision and values and meet the needs of Renfrewshire's communities.
- 1.3 It is recognised that employees may have personal commitments, circumstances, responsibilities and interests which impact on their time and availability. The implementation of flexible working arrangements may assist employees to achieve an enhanced work-life balance, while continuing to meet the needs of the service.
- 1.4 The Council's Flexible Working Policy goes beyond current statutory eligibility requirements. It has been developed to complement the Council's existing family friendly policies, core values and support the Council's Workforce Planning and Gender Pay Gap priorities. This policy has been agreed and developed in partnership with the recognised Trade Unions and complies with relevant employment legislation.
- 1.5 This policy and the supporting Flexible Working Guidance provides managers and employees with information about flexible working and a clear, fair and consistent process for managing flexible working requests.

## **2. Purpose and Aims**

- 2.1 The purpose of this policy is to promote and support the Council's culture of continuous service improvement, being flexible and responsive to customer needs and improving working lives.
- 2.2 This policy aims to:
  - Demonstrate the Council's commitment to encourage employees to embrace new ways of working which can support improved work-life balance;
  - Promote and support a culture across the Council where flexible working is seen by managers and employees as a benefit for all with positive outcomes;
  - Support and encourage a culture where both employees and managers are confident to initiate discussions about work-life balance and well-being issues;
  - Provide a process for managing flexible working requests which supports managers to deal with requests equally, fairly, reasonably and without undue delay in accordance with legislation;
  - Promote the consideration being given to suitable alternatives, when flexible working applications cannot be supported for a clear business reason;

- Ensure all approved requests for flexible working support service and business needs and are subject to future review;
- Support the recording and monitoring of flexible working requests and outcomes in line with legislative and organisational requirements.

### **3. Scope**

- 3.1 This policy enables all employees to request flexible working from day one of their employment with the Council. Certain types of flexible working arrangements may not be suitable for Teachers based on their nationally agreed terms and conditions of employment. Further advice and guidance on flexible working for Teachers is available from HR & OD.

### **4. Flexible Working**

- 4.1 Flexible working is any type of working arrangement that gives some degree of flexibility on where, when and how employees work.
- 4.2 Employees through a flexible working request can request changes to:
- Hours of work (requesting a change in working hours);
  - Times of work (requesting a change to start or finish times);
  - Place of work (requesting a change to work at a different location);
  - May include requests for different patterns of work.
- 4.3 Types of flexible working may include; voluntary reduced hours, term-time hours, annualised hours, compressed hours, home working, part time / job share etc. Further information on flexible working options is outlined in the Flexible Working Guidance. The Council will continue to explore additional forms of flexible working as the working environment of the future develops.
- 4.4 Flexible working practices can provide many benefits to employees, services, the Council and Renfrewshire's Communities. These benefits include:
- Flexibility for employees to better balance personal commitments, circumstances, responsibilities and interests with work arrangements;
  - Increased employee engagement, motivation, morale, productivity levels and commitment;
  - An improved ability to attract and retain a skilled and diverse workforce;
  - Greater cost-effectiveness and efficiency across both the workforce and the organisation;
  - Improved employee attendance and well-being;
  - Supporting the Council's equality and diversity agenda, gender pay outcomes and Public Sector Equality Duty;
  - Promoting cultural change leading to modernised and improved service delivery;
  - The Council and its workforce reacting and responding more effectively to change and customer requirements;
  - Improved customer service and satisfaction.

## **5. Responsibilities**

- 5.1 Managers, Elected Members, HR & OD, Customer and Business Services, Trade Union and Employee Representatives all have a part to play in ensuring the principles of this policy are applied effectively. Responsibilities are outlined in the Flexible Working Guidance.

## **6. Managing Flexible Working Applications**

- 6.1 Applications for flexible working can be made for any reason and are not limited to caring and/or family responsibilities. The Flexible Working application request process and form are provided in the Flexible Working Guidance.
- 6.2 There is no automatic right for employees to have their flexible working application approved. A key consideration when reviewing an application will be trying to balance employee requirements and associated benefits, along with any potential service delivery risk factors. However, managers should always approach flexible working requests equally and fairly, and from the presumption that they will approve applications unless there is a clear business reason for not doing so.
- 6.3 Normally only one flexible working application can be made by employees in any 12 month period. However, in exceptional circumstances more than one application may be considered at a manager's discretion in consultation with HR & OD, such as requests linked to a major life event or related to reasonable adjustments or a protected characteristic under the Equality Act 2010.
- 6.4 When submitting a flexible working application, employees should be aware that, if approved, there may be a variation of current terms and conditions of employment. This may become a permanent variation and employees must normally wait 12 months before another application can be made. Depending on the nature of the flexible working application the impact on terms and conditions of employment can include pro rata adjustments to salary and entitlements such as annual leave and public holidays. Pension contributions may also be affected.
- 6.5 If an employee only requires a short-term change, for example to help with temporary family responsibilities, there may be more appropriate alternative forms of flexibility which the manager can support and suggest. This may include use of the Council's Flexitime and Supportive Leave provisions or temporary, short-term changes to hours, days and time of work.

## **6.6 Process Duration**

- 6.6.1 The flexible working application, outcome and any appeal must be considered and decided upon within an overall 3 month period from first receipt of application. This 3 month time limit is a statutory requirement. Timescales for each part of the process are also outlined in the Flexible Working Guidance. Where possible, all decisions should be taken as quickly as is reasonably possible without any undue delay.

- 6.6.2 In the unlikely event that a decision and appeal cannot be reached within the 3 month period, an extension of the decision period may be agreed between the manager, the employee and their representative (see Section 7), as appropriate.

## **6.7 Stage 1 – Considering an Application**

- 6.7.1 Managers must manage all flexible working applications in a reasonable manner and within the timescales set out in the supporting guidance. It is good practice for managers to meet with employees as soon as possible to discuss the flexible working request.
- 6.7.2 Employees should be informed in writing of the decision to approve or decline their request within 28 calendar days of their manager receiving the flexible working application. If a meeting has taken place to discuss the application, employees should be notified in writing of the decision within 14 calendar days of the meeting date.
- 6.7.3 Managers will consider each application, in consultation with HR & OD if relevant, taking into account the reasons for the request and the impact this will have on the needs of the service. It may also be necessary to explore and discuss suitable alternatives to the flexible working arrangement requested, such as an adjusted proposal which does not have an adverse impact on service delivery or an informal, short-term adjustment to work arrangements if more appropriate.

## **6.8 Flexible Working Application Approved**

- 6.8.1 Due to the Council's significant transformational change programmes and to assess impact on employee work-life balance, all approved flexible working applications should be agreed and implemented on a temporary basis initially. Managers and employees should agree the time frame for the temporary period, between a minimum of 3 months and maximum of 6 months in duration.
- 6.8.2 Informal review and monitoring of the temporary flexible working arrangement should be carried out regularly, to ensure that the needs of the employee and the service continue to be met. There should also be a manager review of the arrangements 4 weeks prior to the end of the temporary period.
- 6.8.3 Only in exceptional circumstances should managers agree to a series of temporary flexible working arrangements. Where circumstances allow, flexible working changes should be made permanent as soon after the temporary period as possible or employees should revert to their previous working arrangements.

## **6.9 Flexible Working Application Refused**

- 6.9.1 Flexible working applications may be refused based on evidence for the following business reasons:

- The burden of additional costs which will be incurred should the request be agreed;
- An inability to reorganise work amongst existing employees;
- An inability to recruit additional employees;
- A detrimental impact on quality or performance or to meet customer demand;
- Insufficient work for the periods the employee proposes to work;
- A planned structural change to the business.

## **6.10 Stage 2 – Appealing a Decision**

6.10.1 Where a flexible working application has been refused on the basis of a clear business reason (see Section 6.9.1), employees have the right to appeal the decision. If appealing, employees must do so by notifying their Head of Service (or nominated Senior Officer) within 14 calendar days of the original decision being received. The appeal must be in writing stating the reasons for the appeal. An appeal form is provided in the Flexible Working Guidance.

6.10.2 The reasons for the appeal may include:

- The policy and guidance has not been applied fairly;
- The business reason for rejecting the request has not been sufficiently explained;
- The reason for refusal was not related to a business reason;
- The manager/service did not fully consider the request;
- A fact in the explanation of the business reason is incorrect.

6.10.3 Appeals must be heard by the Head of Service (or nominated Senior Officer) within 14 calendar days of the employee giving notice of the appeal. During the appeal process the Head of Service (or nominated Senior Officer) must ensure that the reason for the appeal is considered fully and, where relevant, suitable alternatives are explored.

6.10.4 The Head of Service (or nominated Senior Officer) must also advise the employee of the outcome of the appeal in writing within 14 calendar days of the appeal hearing.

6.10.5 Where the employee has been unsuccessful at the appeal stage, they will not be able to submit a new flexible working request for 12 months, unless exceptional circumstances apply (see Section 6.3). This will conclude the appeal process and there is no further right of appeal.

6.10.6 Please refer to the Flexible Working Guidance for more information on the flexible working application process and outcomes.

## **7. Right to be Accompanied**

7.1 Employees have the right to be accompanied at the Flexible Working Appeal if they so wish. Representation may be by Trade Union Representative or work colleague and employees must be informed of this right. It is the responsibility of employees to arrange to be accompanied.

## **8. Confidentiality**

- 8.1 Information processed may include paper or electronic records and will be done so in line with the General Data Protection Regulation (Regulation EU 2016/679) ("GDPR"), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications) and any legislation that, in respect of the United Kingdom, replaces, or enacts into domestic law, GDPR or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

## **9. Equality and Human Rights Impact Assessment**

- 9.1 This policy has been impact assessed in line with the Council's obligation to comply with the Equality Act 2010 and the Public Sector Equality Duty.

## **10. Monitoring and Review**

- 10.1 This policy will be reviewed regularly and in line with any legislative and organisational changes. The recognised Trade Unions will be consulted on any future changes to this policy.

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**Finance and Resources**  
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# Parenting Leave and Pay Policy

## Supporting parents to get the balance right

For Local Government, Craft Operatives and Chief Officers, excluding Teachers

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## **1. Introduction**

- 1.1 The Council strives to create a working environment that support employees with parenting responsibilities to achieve a better balance between their lives inside and outside of work. The Council workforce is diverse and many employees are working parents.
- 1.2 The Parenting Leave and Pay Policy is designed to offer flexibility to employees at particular stages of their lives, encouraging the sharing of parenting responsibilities between both parents and supporting the Council to address its gender pay gap priorities.
- 1.3 This policy covers leave and pay provisions relating to:
  - Ante-natal, Maternity and Adoption;
  - Paternity;
  - Shared Parental Leave;
  - Parental Leave.
- 1.4 Depending on the type of leave and pay entitlements, requests approved will be pro-rated in line with an employee's hours/work pattern.
- 1.5 Supporting guidance for managers and employees to enable the fair, inclusive and consistent implementation of this policy, including eligibility criteria, pay rates and requesting and approval processes will be available on the Council's intranet and from HR & OD.

## **2. Purpose and Aims**

- 2.1 The purpose of this policy is to promote the Council's parenting leave and pay provisions which support and encourage employees to share parenting responsibilities.

The policy aims to:

- Provide information and raise awareness of the different types of parenting leave available in the Council, eligibility criteria and the associated pay rates;
  - Support employees who have parenting responsibilities and help them achieve a better balance between working and parenting commitments;
  - Meet all legislative employment requirements;
  - Implement fair, inclusive and consistent requesting and approval processes;
  - Support the achievement of the Council's workforce planning, equality, diversity and gender pay gap outcomes.
- 2.2 This policy complements other Council policies such as Flexible Working, Special Leave/Supportive Leave, Respect at Work, and Equality and Diversity.

### **3. Scope**

- 3.1 This policy applies to all Council employees, excluding Teachers. Teaching staff have their own arrangements in place.

### **4. Responsibilities**

- 4.1 Managers, Elected Members, HR & OD, Customer and Business Services and the Trade Unions all have a part to play in ensuring the principles of this policy are applied effectively. Responsibilities are outlined in the Parenting Leave and Pay Supporting Guidance.

### **5. Ante-natal, Maternity and Adoption Leave and Pay**

- 5.1 An employee who is pregnant or is a father/partner of a pregnant women can request reasonable paid time off to attend ante-natal care appointments and should produce evidence of appointments to their line manager when requesting ante-natal leave.

- 5.2 All employees regardless of length of service are entitled to up to 52 weeks statutory maternity leave or adoption leave. In the case of maternity leave, the employee is required by law to take a period of 2 weeks compulsory maternity leave immediately after the birth of their child. Maternity and Adoption leave is made up of:

- 26 weeks Ordinary Maternity Leave or Ordinary Adoption Leave (OML/OAL) and;
- 26 weeks Additional Maternity Leave or Additional Adoption Leave (AML/AAL).

- 5.3 Employees with less than 26 weeks continuous service at the 15th week before the Expected Week of Childbirth/Expected Week of Adoption (EWC/EWA) will not be eligible for either Occupational Maternity Pay or Ordinary Adoption Pay (OMP/OAP), or Statutory Maternity Pay or Statutory Adoption Pay (SMP/SAP). However, such employees may be entitled to receive up to 39 weeks of Maternity Allowance or Adoption Allowance payable by the government.

- 5.4 Employees with 26 weeks or more continuous service at the 15th week before EWC/EWA will be eligible to receive OMP/OAP and SMP/SAP at the following rates:

- |              |  |
|--------------|--|
| • Week 1-6   | 6 weeks at 90% of a week's pay, including SMP where eligible.  |
| • Week 7-18  | 12 weeks at 50% of a week's pay plus the lower rate of SMP provided earnings do not exceed normal pay. |
| • Week 19-39 | 21 weeks at the SMP rate.  |
| • Week 40-52 | Unpaid   |

- 5.5 Payments made by the Council during Maternity Leave or Adoption Leave which are over and above an employee's statutory entitlement are made on the understanding that the employee will return to employment with the Council for a period of at least 3 months. This may be varied by the Council in exceptional circumstances. SMP/SAP payments made to an employee cannot be recovered.
- 5.6 Maternity Support Leave or Adoption Support Leave of up to a maximum of 1 weeks' paid leave (pro-rated) can be requested by fathers/partners who have less than 26 weeks continuous service with the Council or around the time of the birth or adoption placement/match. In addition, Maternity Support Leave or Adoption Support Leave of up to a maximum of 1 weeks' paid leave will also be available to request for a nominated carer of an expectant mother/adopter at or around the time of the birth or adoption placement/match. This will enable nominated carers to assist in the care of the child and provide support to the mother/primary adopter.
- 5.7 This leave should be taken during the period from one week prior to the EWC/EWA up to 3 weeks following the birth/match/placement for adoption. In addition, employees can request unpaid leave through the Special/Supportive Leave Policy or take annual leave to support any of the above paid provisions.
- 5.8 When requesting Maternity Support Leave or Adoption Support Leave employees will be required to provide evidence that they are a nominated carer for the child to their line manager. Evidence must be provided as either GP confirmation, a birth certificate confirming the child's date of birth and a declaration from the person the employee is providing support too. Leave will not be approved unless this evidence is provided. Employees who breach these requirements may be subject to disciplinary action.
- 5.9 Maternity Support Leave or Adoption Support Leave will not be available to fathers or partners who access paid Paternity Leave provisions outlined in Section 6.

## **6. Paternity Leave and Pay**

- 6.1 Paternity Leave up to a maximum of 4 weeks will be available to request for employees who have 26 weeks continuous service with the Council at the start of the 15th week before the EWC/EWA and are either:
- A biological father;
  - A partner or husband who is not the baby's biological father;
  - A mother's female partner or civil partner in a same sex couple;
  - A partner/husband/wife of a person adopting a child;
  - A partner/civil partner of a person adopting a child.
- 6.2 Paternity Leave will be paid at 100% of a weeks' pay for the first week, followed by 3 weeks paid at 90% of a weeks' pay (including SPP) and must be taken consecutively within the first 56 days following the birth of the child or after placement for adoption. 90% of a week's pay is in line with current Maternity and Adoption Pay provisions.
- 6.3 Employees must be responsible for the child's upbringing and are taking the time off to care for the child or to support the primary adopter of the child.

## **7. Shared Parental Leave and Pay**

- 7.1 Shared Parental Leave allows eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or when placed with them for adoption. Shared Parental Leave enables parents to share 50 weeks of leave and provides parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents can decide to be off work at the same time and/or take it in turns to have periods of leave to look after their child.
- 7.2 For employees to be eligible for Shared Parental Leave, both parents must meet the eligibility requirements set out in the Supporting Guidance. Employees requesting Shared Parental Leave will be paid in line with the Council's current Maternity and Adoption Pay provisions outlined in Section 5, less any period taken as maternity or adoption leave by the employee's spouse or partner.

## **8. Parental Leave and Pay**

- 8.1 In addition to other leave provided in this policy, Parental Leave is a separate entitlement and allows employees who are parents to request up to 18 weeks' unpaid leave, per child up to their 18<sup>th</sup> birthday, to look after their child's welfare. Up to a maximum of 4 weeks of unpaid parental leave can be requested per child in a 12 month period. Parental leave must be taken as whole weeks, for example, 1 week or 2 weeks blocks.

## **9. Supportive Leave**

- 9.1 Employees can request a period of unpaid supportive leave, up to a maximum of 1 year to support any of the above leave and pay provisions.
- 9.2 Approval of unpaid supportive leave requests will depend on the needs of the service and whether the service will be able to cover the duties of the post without serious disruption or significant financial cost. Final decisions on unpaid supportive leave requests will rest with the line manager.

## **10. Confidentiality**

- 10.1 Information relating to Parenting Leave and Pay provisions should be recorded, maintained and processed confidentially and securely by the relevant Service, HR & OD and Customer and Business Services will be used only to monitor the effectiveness of this policy.
- 10.2 Information processed may include paper or electronic records and will be done so in line with the General Data Protection Regulation (Regulation EU 2016/679) ("GDPR"), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications) and any legislation that, in respect of the United Kingdom, replaces, or enacts into domestic law, GDPR or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

## **11. Equality and Human Rights Impact Assessment**

- 11.1 This policy has been impact assessed in line with the Council's obligation to comply with the Equality Act 2010.

## **12. Monitoring and review**

- 12.1 This policy will be reviewed regularly and in line with any legislative and organisational changes. The recognised trade unions will be consulted on any future changes to this policy.



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**Finance and Resources**

HR and Organisational  
Development

# Trade Union Facility Time Policy

Working in partnership with our Trade Unions to  
achieve a modern, inclusive and healthy workplace

This policy applies to managers, the recognised Trade Unions  
and other representatives excluding Teaching Trade Unions



**Renfrewshire**  
Council

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## **1. Introduction**

- 1.1 The Council is committed to working in partnership with the recognised Trade Unions and believes in the principle of collective bargaining at both national and local level. The Council is committed to ensuring that its' workforce feels valued and are involved and consulted on decisions that affect them.
- 1.2 The Council recognises the important and crucial role the Trade Unions have in promoting and developing good employee relations, robust health and safety practices and learning and development opportunities across its diverse workforce.
- 1.3 To ensure continued support for the Trade Unions and their representatives in performing their duties and to enable them to communicate and carry out their roles, duties and activities more efficiently, the Council will provide suitable and appropriate facility time arrangements and accommodation.
- 1.4 This policy has been developed in partnership with the recognised Trade Unions and in line with the Trade Union and Labour Relations (Consolidation) Act 1992 and the ACAS Code of Practice 'Time off for Trade Union Duties and Activities' which provides guidance on supporting time off, training and facilities.

## **2. Purpose and Aims**

- 2.1 The purpose of this policy is to provide a clear and fair facility time request process for Trade Union representatives within the Council, and to enable managers to support Trade Union representatives within their service areas to carry out their Trade Union duties and activities effectively.
- 2.2 The policy aims to:
  - Demonstrate the Council's commitment to supporting and working in partnership with Trade Unions representatives;
  - Recognise the duties and activities Trade Union representatives carry out;
  - Ensure managers are provided with reasonable notice from the Trade Unions for any request for facility time;
  - Provide managers with a consistent process for considering requests from Trade Union representatives for facility time to carry out Trade Union duties and activities;
  - Ensure all requests for facility time are recorded, monitored and published in accordance with the requirements of the Trade Union (Facility Time Publication Requirements) Regulations 2017.

### **3. Scope**

- 3.1 This policy applies to all Trade Union representatives recognised by the Council, excluding Teaching Trade Unions and their Trade Union representatives. Separate arrangements are in place for Teaching Trade Unions and their representatives.

### **4. Notification of Appointments**

- 4.1 The Council and Trade Unions agree that the numbers of Trade Union representatives, including safety representatives and learning representatives, elected across service areas should broadly reflect levels of Trade Union membership. Representation levels may be subject to joint review in the event that either the Council or a recognised Trade Union considers there to be an imbalance in representation. Any such review will be conducted through discussion between the relevant Service Director and the Trade Union(s). An accepted ratio of 1:25 is recommended (this does not include branch officers with specific defined roles).
- 4.2 It is the responsibility of each Trade Union to notify the Head of Transformation and Organisational Development in writing of:
- The names and work locations of Trade Union representatives, including Safety Representatives and Learning Representatives elected in a service area;
  - The section/workplace represented in each case, as soon as possible after election or appointment.
- 4.3 An employee will not be granted facility time to undertake the functions of a Trade Union representative until the Head of Transformation and Organisational Development receives a written notification by the Trade Union. Any issues arising should be discussed with the lead lay/paid official.
- 4.4 Following their election or appointment, Trade Union representatives shall meet with an appropriate officer to discuss anticipated time off requirements and the operational needs of the service. The purpose of these discussions shall be to consider how reasonable time off can be granted whilst ensuring service requirements are met.

### **5. Roles and Responsibilities**

- 5.1 There are a number of Trade Union roles where facility time will be relevant. Definitions of these roles are provided.
- A **Trade Union Representative** is defined as an employee who has been elected or appointed in accordance with the rules of a Trade Union recognised by the Council to be a representative of all or some of the union's members in a particular workplace and has been duly notified as such to the Council in writing.
  - A **Health and Safety Representative** is defined as an employee who has been appointed by a Trade Union recognised by the Council to represent a group or groups of employees in accordance with the

Safety Representatives and Safety Committee Regulations 1977 and has been duly notified as such to the Council in writing.

- A **Trade Union Learning Representative** is a Trade Union representative who promotes learning opportunities and will give advice and guidance to members and answer queries about courses or learning opportunities in the Council and has been duly notified as such to the Council in writing.
- An **Equality Representative** is a Trade Union representative who is concerned with a wide range of diversity issues and raises awareness of issues related to equality and diversity and provides advice and guidance to members in the Council and has been duly notified as such to the Council in writing.
- **Branch Officers** are required for the day to day running of the branch, co-ordinating training, representation, researching and conducting negotiations. Some officers will have specific duties associated with their role as defined in the union's rules and procedures.

## **6. Trade Union Duties and Activities**

- 6.1 Trade Union representatives may be expected to carry out a range of duties and activities as part of their role. Examples of duties and activities that Trade Union representatives may be involved in are detailed in **Appendix 1**.

## **7. Requesting Facility Time**

- 7.1 Trade Union representatives may request facility time for the following:
- To carry out union duties and activities;
  - To carry out union learning representative duties;
  - To carry out health and safety representative duties;
  - To attend training and conferences.
  - To attend meetings with the lead lay officials/full time paid officials;
  - To attend matters relating to service conditions;
  - To participate in matters relating to self-organisation (i.e., LGBT, Disability, Race, Gender and other Equality Matters);
  - To participate in regional/national Trade Union organisation.
- 7.2 Trade Union representatives should meet with their managers to discuss anticipated facility time requirements and the impact that this will have against the operational needs of the service. All requests should be made on the request form at Appendix 2 and forwarded to the relevant manager for approval. All completed forms should then be sent to HR & OD.
- 7.3 Where possible Trade Union representatives should submit a list of scheduled Trade Union meetings, activities and training arranged for the forthcoming year including internal meetings, committees, Trade Union conferences and branch meetings. Requests to attend training courses should be submitted as early as possible before the course start date.

- 7.3 It may not be appropriate for the Trade Union representative to provide detailed information or the circumstances/nature of the request for facility time. These situations will arise where an individual's rights to privacy may be breached.
- 7.4 Trade Union representatives requesting facility time should on each occasion:
- Give as much notice as is reasonably possible;
  - Provide the reasons for facility time, where necessary (see para 7.3);
  - Indicate the timing and expected duration of facility time required;
  - Provide details of training course nominations.
- 7.5 Where a request involves a group of Trade Union representatives, a request may be submitted by a full-time Trade Union representative on behalf of the representatives concerned. Trade Unions must consider the most suitable and relevant representatives to attend union duties and activities.

## **8. Considering Requests for Facility Time**

- 8.1 All requests for facility time will be considered in line with service requirements. Managers must make every effort to support requests for facility time, however there may be some instances when a request cannot be approved. In deciding if a request can be accommodated, the manager must consider:
- The notice provided for the request;
  - The location (including any travelling to and from);
  - Whether the request relates to any statutory duties or requirements;
  - The amount of facility time already provided for Trade Union duties and activities;
  - Providing appropriate cover to enable Trade Union representatives to attend necessary duties and activities;
  - Alternative arrangements to support Trade Union representatives required to attend duties and activities on a scheduled day off, for example, changing shift rotas/pattern or giving time back;
  - The number of Trade Union representatives involved in carrying out the same duties and activities;
  - Whether there are clear business reasons for refusing a request for facility time.
- 8.2 Managers should ensure that where necessary, work cover and/or work load reductions are provided when facility time is required. This can include the allocation of duties to other employees rearranging work to a different time or reduction in workloads.
- 8.3 Managers must endeavour to provide Trade Union representatives with sufficient notice and preparation time to enable them to fully represent their members, for example if there is a requirement to meet their member before a hearing or read through relevant papers for a meeting/hearing. In addition, to enable Trade Union representatives to gain appropriate experience and

development for their role, a request may be for a Trade Union representative to observe at a meeting, forum or hearing. Managers should treat such requests in the same way as they would any other request and remain supportive.

- 8.4 Trade Union representatives within the Council may be required to attend learning and development related to their role and provided by their Trade Union. Facility time to attend should be granted subject to service requirements.
- 8.5 Facility time approved for the purposes of carrying out Trade Union duties and activities, including attending training during normal working hours will be paid. Where facility time is requested and it is not clear whether this would be paid or unpaid, further discussion should take place between the Service, the Head of Transformation and Organisational Development and the relevant Trade Union Branch.
- 8.6 Where Trade Union representatives who work part-time, job share or are shift workers are required to carry out Trade Union duties and activities or training on a day or time where they are not scheduled to work, every effort will be made to rearrange working times/patterns to accommodate their obligations.

## **9. Access to Accommodation/Equipment**

- 9.1 To support the Trade Unions in fully representing their members, the Council will provide the Trade Unions with suitable and appropriate accommodation/equipment to assist them in carrying out their duties and activities. These facilities include:
- Accommodation for meetings;
  - Access to telephone and other communication media used and permitted within the Council such as email, intranet and internet and mail facilities to correspond with Council employees. A service level agreement is in place for correspondence with employees of associated bodies, with costs being met by Trade Union;
  - The use of notice boards;
  - Use of dedicated and confidential office space where required;
  - Access to members who work at different locations;
  - Access to learning and development.
- 9.2 Sufficient preparation time should also be provided to Trade Union representatives to enable them to fully represent their members, for example, if there is a requirement to meet their member before a hearing or read through relevant papers for a meeting/hearing.
- 9.3 Where appropriate the Council will review and consider requests for additional resources from the recognised Trade Unions.

## **10. Industrial Action**

- 10.1 The Council and Trade Unions have a responsibility to use agreed procedures to settle disputes and avoid industrial action. There is no right to facility time for Trade Union activities which themselves consist of industrial action.

However, where a representative is not taking part in industrial action but represents members involved, normal arrangements for time off with pay for the representative will apply.

## **11. Facility Time Recording and Reporting**

11.1 Under the Trade Union (Facility Time Publication Requirements) Regulations 2017 the Council is required to report and publish information annually on facility time taken by Trade Unions and their representatives. The information to be published is:

- How many of the Council's employees are relevant union officials;
- How many of the relevant union officials spent 0%, 1%-50%, 51%-99% or 100% of their working hours on facility time;
- The percentage of the Council's total pay bill spent on paying relevant union officials for facility time;
- The percentage of the aggregate amount of facility time taken by the Council's relevant union officials that was attributable to paid Trade Union activities.

11.2 Information relating to facility time will be input and monitored through the Council's appropriate recording system.

## **12. Confidentiality**

12.1 Information relating to the Trade Union Facility Time Policy should be recorded, maintained and processed confidentially and securely by the relevant Service, HR & OD and Customer and Business Services and will be used only to monitor the effectiveness of this policy.

12.2 Information processed may include paper or electronic records and will be done so in line with the General Data Protection Regulation (Regulation EU 2016/679) ("GDPR"), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications) and any legislation that, in respect of the United Kingdom, replaces, or enacts into domestic law, GDPR or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

## **13. Equality and Human Rights Impact Assessment**

13.1 This policy has been impact assessed in line with the Council's obligation to comply with the Equality Act 2010 and the Public Sector Equality Duty.

## **14. Monitoring and Review**

14.1 This policy will be reviewed regularly and in line with any legislative and organisational changes. The recognised Trade Unions will be consulted on any future changes to this policy.

**Examples of Trade Union Duties**

- Terms & conditions of employment or the physical conditions in which employees are required to work (for example: pay, hours of work, holidays, holiday pay, pensions, equality and diversity, learning and development, the working environment);
- Engagement or non-engagement, termination or suspension of employment or the duties of employment, of one or more employee (for example: redundancy and dismissal arrangements; recruitment and selection);
- Allocation of work or the duties of employment between employees or groups of employees (for example job evaluation, flexible working practices);
- Matters of discipline, grievance and accompanying employees to hearings and employment tribunals;
- Representing their members at supporting attendance meetings;
- Health and Safety responsibilities;
- Trade Union membership or non-membership (for example involvement in induction of new employees);
- Procedures for negotiations or consultation and other procedures (for example, joint consultation, collective bargaining at employer level, communication with members);
- Receipt of information from the employer and consultation related to redundancy or TUPE;
- Arranging workplace meetings and ballots to discuss the outcome of negotiations with the employer;
- Trade Union member health and welfare meetings.

**Examples of Trade Union Activities**

- Attendance at meetings of the JCBs including pre-meeting of staff side;
- Acting on behalf of members in disciplinary or grievance hearings/appeals and Employment Tribunals;
- Meeting with management relating to collective bargaining or employee relations matters affecting members;
- Meetings with full time or lay officials to discuss employee relations between the Council and Trade Union members;
- Attendance at health and safety meetings and committees and highlighting general matters affecting the health, safety and welfare at work of

employees, carrying out safety inspections and investigating potential hazards and complaints relating to health and safety;

- Representing Trade Union members at job evaluations and appeals;
- Attendance at workplace meetings to discuss and vote on the outcome of negotiations with the employer;
- Voting on properly conducted ballots on industrial action;
- Branch/District or Regional meetings of the Trade Union convened during Normal working hours where issues relevant to the Council or associated organisations are under discussion in addition to Trade Union business;
- Recruitment of members who are Council employees or employees of associated organisations;
- Internal Trade Union work where work undertaken has an impact on Council Employees or employees of associated organisations;
- Meetings of the executive committee or annual conference where issues being discussed are relevant to the Council or employees of associated organisations;
- Attendance at National Meetings of the Trade Unions where the business relates to national conditions of service issues and organising;
- Involvement in employee relations duties affecting other Local Authorities requiring attendance at meetings outside the Council;
- Attendance at approved Trade Union training courses that relate to carrying out the role of a Trade Union representative and employee relations matters.
- Undergoing relevant learning and development;
- Promoting the value of learning and development and providing information and advice about learning and development matters;
- Attendance at meetings/seminars/conferences under COSLA/APSE/similar public service organisations.



<b>HR/TU/F1</b>			
<b>Renfrewshire Council</b> <b>Request for Trade Union Facility Time</b>			
<b>SECTION 1 – To be completed by the Trade Union Representative</b>			
<b>PERSONAL DETAILS</b>			
Name:		Service:	
Section:		Trade Union:	
Date/Time of Facility Time Requested			
Please indicate if the time is for trade union duties or activities			
<b>SECTION 2 – To be completed by the Manager</b>			
<b>REQUEST APPROVAL</b>			
Request Approved:	Yes/No (Delete as appropriate)	Request Declined:	Yes/No (Delete as appropriate)
If declined please provide a reason(s) why:			
<b>DETAILS OF FACILITY TIME TAKEN</b>			
Total Facility Time	Hours:		Mins: <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></span>
Trade Union Representative's Signature			
Manager's Signature:			

**When completed please send to HR & OD, Renfrewshire House, HR & OD Annexe.**