

# Biddulph Town Council



## ANNUAL LEAVE AND SPECIAL LEAVE POLICY

### WRITTEN BY:

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HR Committee - 19 March 2019

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March 2021

## INTRODUCTION

1.1 This Policy gives an overview of Biddulph Town Council's approach to:

- Annual leave
- Compassionate and emergency leave
- Time off for emergencies
- Maternity leave
- Paternity leave

This document is not exhaustive, but is designed to provide guidance for employees on a day-to-day basis.

Further detail and information will be provided by the Chief Officer, on request.

## OBJECTIVES OF THE POLICY

2.1 Biddulph Town Council aims to ensure that employees are treated fairly and are supported both within work and outside of the workplace.

This policy has been developed to ensure that Biddulph Town Council meets its statutory obligations. Biddulph Town Council is committed to ensuring that

employees have excellent working conditions and that the health and wellbeing of employees is managed effectively.

## PROVISIONS

### 3.1 ANNUAL LEAVE

Annual leave will be agreed when an employee starts work. The details of how much holiday an employee gets will be confirmed when a successful candidate receives a formal job offer. Once an employee starts work, details of holidays and holiday pay entitlement will be found in the employee's written contract, incorporating a written statement of employment particulars.

3.2 The holiday year begins on 1 April and ends on 31 March. If an employee starts part-way through the year, the initial holiday entitlement is based on the period from that date until the leave year ends.

3.3 Public holidays include bank holidays, holidays by Royal Proclamation and 'common law holidays'. When public holidays in the Christmas and New Year period fall on Saturdays and Sundays, alternative week days are declared public holidays.

3.4 Workers are required to give notice to their employer if they wish to take a holiday. The default notice period must be twice as long as the period of leave requested. For example, a worker wanting one week's holiday needs to give two weeks' notice. Emergency leave may be granted at the discretion of the Chief Officer (see below).

Requests for annual leave will not normally be denied. If a request is denied, the Chief Officer will provide reasons for this in writing and will suggest alternative options. If the employee is dissatisfied with this response, they may ask the HR Committee to review the request. This decision will be final.

3.5 Leave may be carried over from one leave year to another, at the discretion of the Chief Officer; the maximum number of days will be five. There will be no remuneration for unused annual leave.

3.6 Biddulph Town Council employees receive fixed salaries. As a result, monthly salaries do not vary if annual leave is taken.

3.7 Part-time workers are entitled to the same holidays as full-time workers, calculated on a pro-rata basis. This will be set out in the employee's contract.

3.8 This policy works hand-in-hand with the **Flexible Working Policy**.

Employees are expected to manage the hours worked effectively to ensure that flexi-time and annual leave are used appropriately.

3.9 If an employee falls ill during a period of annual leave, case law suggests that a worker may be entitled to reclaim this leave. This will be at the discretion of the Chief Officer, who will take appropriate legal advice.

3.10 If an employee has taken more leave than their entitlement on termination of employment, the employer and worker will draw up a ‘relevant agreement’ to provide that a worker will compensate the employer, whether by payment, undertaking additional work or otherwise if leave already taken is in excess of entitlement when employment ends.

This will be agreed by the HR Committee, and will be in writing.

3.11 Employees who are absent through long-term sick leave, who have exhausted their entitlement to sick pay, are not entitled to paid leave during that period. The purpose of this is to ensure minimum health and safety standards in relation to working time, so that employees can expect a minimum period of leave from the pressures of work.

### **3.12 COMPASSIONATE AND EMERGENCY LEAVE**

Compassionate and emergency leave is intended for urgent or serious situations that employees are unable to plan for. Holiday entitlement or other types of leave should be used where employees need time off work for commitments that can be planned ahead.

As emergency leave is in place to cover unplanned events, the absence will begin as soon as the employee needs it. Where compassionate leave has been agreed the absence should begin as soon as the employee needs it.

There is no limit as to how many times an employee can take emergency time off for dependants and an employee is allowed to take a reasonable amount of time off to deal with the emergency. There are no set limits as it depends on the facts of each situation.

3.13 The following definitions apply:

- “Dependants” include partner (including same sex partner), husband, wife, civil partner, child, parent or grandparent, step-parent or parent-in-law, sibling or elderly relative. They can also be another person who lives in the same household or someone who reasonably relies on the employee for assistance in the event of serious illness or injury.

Dependants do not include individuals who live in the same household

but under a commercial arrangement such as a tenant, boarder, lodger or employee.

- “Family” includes the employee’s wider family such as cousins, aunts, uncles or a partner (including same sex partner) who no longer lives in the same household.

### **3.14 COMPASSIONATE LEAVE (PAID)**

Compassionate leave may be granted in certain circumstances of urgent domestic distress.

An employee can request to take up to five days paid absence (pro-rated for part time employees) where a dependant (as defined above) dies, is seriously injured or unexpectedly falls seriously ill.

Such time off includes time to organise and attend funerals.

The entitlement (full or pro-rated days) can be taken as single days as circumstances dictate.

Time off may also be granted for attendance at funerals of people other than dependants (for example – work colleagues).

### **3.15 TIME OFF FOR EMERGENCIES (UNPAID)**

An employee might find that they have to deal with an emergency concerning a dependant for which they need to be absent from work but for which paid leave is not available. The Town Council will grant a reasonable amount of unpaid leave to deal with these emergencies.

In order to ensure that fairness prevails the following circumstances are given as a guide as to when an employee may take time off (this list is not exhaustive and the Chief Officer will need to consider each situation individually):

- an employee is required to make care arrangements when a dependant falls ill, is injured or is assaulted.
- a dependant goes into labour unexpectedly and relies on the employee to take them to hospital.
- an employee is required to deal with an unexpected disruption, termination or breakdown of care arrangements for a dependant.
- an employee’s elderly neighbour becomes critically ill and the employee is closest at hand to ensure the neighbour receives emergency treatment.
- an employee’s child is too ill to attend nursery or school and alternative childcare arrangements cannot be made until the next day.

3.16 In an emergency or compassionate situation, communication with the Chief Officer is an important consideration. It is recognised that, in an

emergency situation, it may not be possible for an employee to speak to the Chief Officer before they leave work. However the employee should make contact as soon as they can. They should explain the circumstances, if possible indicating the length of time they are likely to need to cover the immediate situation. There is no requirement to provide written notification or written proof.

### **3.17 MATERNITY LEAVE**

Pregnant employees are entitled to 52 weeks Statutory Maternity Leave if they give the correct notice to the employer. Employees don't have to take 52 weeks if they don't want to, however, the first 2 weeks following the birth must be taken.

#### **Key points**

- Pregnant employees have the right to 52 weeks maternity leave.
- 39 weeks could be paid which may be Statutory Maternity Pay, Maternity Allowance or contractual maternity pay.
- Pregnant employees are protected against unfair treatment and discrimination.
- During maternity leave an employee and employer can agree to have up to 10 keeping in touch days.
- Employees are entitled to paid reasonable time off for antenatal care.

Women returning to work following Maternity Leave have the right to return to the original job or suitable alternative.

**3.18** To qualify for maternity leave, a woman must tell her employer at least 15 weeks before the baby is due:

- that she is pregnant
- the expected week of childbirth, by means of a medical certificate if requested
- the date she intends to start maternity leave. This can normally be any date which is no earlier than the beginning of the 11th week before the baby is due. It is best to advise the employer as soon as possible.

Once notification has been given to the employer they must write to the employee, within 28 days of receiving her notification, setting out her return date. The employee must give eight weeks' notice to change the return date. Maternity Leave will automatically start 4 weeks before the baby is due if the employee is off work for pregnancy-related illness. If the baby arrives early the leave will start on the day after the birth.

The Chief Officer will discuss leave arrangements with a pregnant employee as soon as possible. Agreed action will be in writing, so that it is clear about the taking of annual leave and maternity leave. For example, if an employee plans to take ten months off, they may decide to use a combination of their annual leave and their maternity leave.

3.19 All pregnant employees are entitled to reasonable time off with pay for antenatal care made on the advice of a registered medical practitioner, which may include relaxation classes and parent-craft classes. Except for the first appointment, employees should show the employer, if they ask for an appointment card or other documents showing that an appointment has been made.

3.20 Statutory maternity pay (SMP) will be payable if an employee has been employed continuously for at least 26 weeks ending with the 15th week before the expected week of childbirth, and has an average weekly earnings at least equal to the lower earnings limit for National Insurance contributions. SMP is payable for 39 weeks; for the first six weeks it is paid at 90 percent of the average weekly earnings. The following 33 weeks will be paid at the SMP rate or 90 per cent of the average weekly earnings whichever is the lower. The SMP rate from April 2016 is £139.58 per week, the standard rate for SMP is reviewed every April.

Arrangements with regard to contractual maternity pay are available on request and will be approved by the HR Committee.

3.21 Women who do not qualify for Statutory Maternity Pay may be entitled to Maternity Allowance, paid by Jobcentre Plus, for up to 39 weeks. To qualify, they must have been employed or self-employed for 26 weeks out of the 66 weeks before the expected week of childbirth. Women can claim maternity allowance once they have reached 26 weeks of pregnancy, and payments can start 11 weeks before the baby is due.

Maternity Allowance may be payable for 39 weeks if a woman does not qualify for Statutory Maternity Pay and she meets the following qualifying conditions.

In the 66 weeks before the baby is due the mother must have:

- been employed or self-employed for at least 26 weeks (these need not be consecutive weeks).
- earned at least £30 a week, on average, in over any 13 of those 26 weeks.

Maternity Allowance may be payable for 14 weeks at a lower rate where the mother is the spouse or partner of a self-employed person and helps in their business.

### **3.22 PATERNITY LEAVE**

Employees may be entitled to Paternity Leave and Pay if their partner is having a baby, adopting a child or having a baby through a surrogacy arrangement.

#### **Key points**

Paternity leave is available to employees who:

- have or expect to have responsibility for the child's upbringing
- are the biological father of the child or the mother's husband or partner (including same sex relationships)
- have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due, or the end of the week in which the child's adopter is notified of being matched with the child (UK adoption), or the date the child enters the UK (overseas adoptions).

3.23 Employees should tell their employer as soon as possible that they wish to take paternity leave, but no later than the end of the 15th week before the expected week of childbirth. They should say when the baby is due, if they're going to take one or two weeks off, and when they expect their paternity leave to start. Those who are eligible can choose to take either one week or two consecutive weeks' paid paternity leave (not odd days).

3.24 Employees will need to take their paternity leave within 56 days of the actual date of birth of the child. Paternity leave can't start until the birth of the baby; employees may be able to take some annual leave before.

A period of Paternity leave when adopting a child can start:

- On the date of placement.
- An agreed number of days after the date of placement.
- On the date the child arrives in the UK or an agreed number of days after (for overseas adoption).

The day the child is born or the day after for surrogate parents.

3.25 Employees may be entitled to Statutory Paternity Pay (from April 2015 the rate is £139.58 per week or 90 per cent of the average weekly earnings, if that is less). Arrangements with regard to contractual paternity pay are available on request and will be approved by the HR Committee.

3.26 Fathers, partners and civil partners of a pregnant woman are entitled to unpaid time off during working hours to accompany her to 2 ante-natal appointments. This includes the intended parents if they're having a baby through a surrogacy arrangement.

Attendance at these sessions can also be managed via the Flexible Working Policy.

### **3.27 ADOPTIONS**

The main adopter will be able to take paid time off for up to 5 adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to 2 appointments.

The right to 2 unpaid antenatal appointments will also extend to those who will become parents through a surrogacy arrangement, if they expect to satisfy the conditions for, and intend to apply for, a Parental Order for the child.

## **RELEVANT LEGISLATION**

4.1 The **Working Time Regulations 1998 (as amended)** highlight the rights as regards annual leave.

4.2 The **Employment Rights Act 1996** also considers statutory leave entitlement and pay.

4.3 The **Equality Act 2010** considers pregnancy and maternity discrimination.