



## ANNUAL LEAVE AND SPECIAL LEAVE POLICY

### WRITTEN BY:

Mrs Sarah Haydon, Chief Officer

### REVIEWED:

March 2025

### APPROVAL DATE:

Finance Strategy and Management Committee – 25 March 2025

Town Council – 8 April 2025

### REVIEW DATE:

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### INTRODUCTION

1.1 Biddulph Town Council recognises the importance of annual leave in improving individuals' quality of working life in balancing their personal and working life; providing a chance to relax and recuperate.

1.2 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.

1.3 Reference should also be made to the Town Council's 'Carers Policy', if applicable.

## 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. It's important that employee's take their statutory annual leave in order to ensure the council complies with working time legislation. It is the employee's responsibility to manage their leave in such a way that it is all taken during the leave year. 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. Your annual leave entitlement will be pro-rated in your last year of employment with the council.

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 Finance Strategy and Management 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, of both annual leave and bank holidays, according to their hours of work. 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. The employee must comply with the requirements of the council's sickness reporting and certification procedure to have the sickness period discounted from the period of paid leave taken. It's important that the employee informs the Chief Officer on the first day of sickness and keeps the council up to date during the period of sickness. Reclaiming the period of annual leave 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 Finance Strategy and Management Committee, and will be in writing.

3.11 Employees who are absent through long-term sick leave may have paid leave during that period. This will be considered on a case-by-case basis.

### 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:

- “Close Family” include 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. Close family does 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 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 dependent falls ill, is injured or is assaulted.
- a dependent 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 dependent.
- 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 If the employee needs to stay and care for a dependant on an ongoing basis they can agree with the Chief Officer to take annual leave; or where they have insufficient annual leave to take a period of unpaid leave. Alternatively, they may be able to take Parental Leave where the care is for a child.

### **3.17 MATERNITY LEAVE**

Pregnant employees are entitled to 52 weeks Statutory Maternity Leave if they give the correct notice to the employer. This is made up of 26 weeks of Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML). 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 a suitable alternative.

Mum's returning from Maternity Leave accrued new rights to be protected from being made redundant, from April 2024.

Once an expecting Mother informs the Council that they are pregnant they automatically get first choice of any vacancies, should their post be at risk of redundancy.

Similarly new Mothers returning from Maternity Leave are entitled to first choice of any posts for up to 18 months after their child's birth or adoption date, if their post is at risk of redundancy.

Pregnancy	Protected from the date the employee informs the Council of her pregnancy for the full period of pregnancy, where the Council is informed of the pregnancy on or after 6 April 2024.
Maternity Leave	Protected for 18 months from the first day of the estimated week of childbirth. The 18 month period can be altered to start from the child's actual date of birth where the employee informs the Council in writing of the actual date during their maternity leave period, where the maternity leave ends on or after 6 April 2024.
Adoption Leave	Protected for the period of 18 months from the date of placement for adoption, where the adoption leave ends on or after 6 April 2024. See 3.27
Shared Parental Leave	Protected for 18 months from birth/placement for adoption provided that the employee has taken a period of at least 6 continuous weeks of shared parental leave. This protection will not apply if the employee otherwise has protection under either the maternity or adoption provisions above. Protected during period of absence on shared parental leave only if fewer than 6 consecutive

	weeks of leave are taken. Where the period of six continuous weeks of shared parental leave starts on or after 6 April 2024. See 3.28
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Where an employee suffers a miscarriage before 24 weeks of pregnancy, they will have protection during their pregnancy and for a 2 week period following miscarriage. If they miscarry after 24 weeks of pregnancy this is classed as a still birth and they are entitled to maternity leave and will have the same protection as any other employee taking maternity leave.

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.

Statutory Maternity Pay 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 Statutory Maternity Pay rate or 90 per cent of the average weekly earnings whichever is the lower. The standard rate for Statutory Maternity Pay is reviewed every April. This will be paid at the applicable rate.

Arrangements with regard to contractual maternity pay are available on request and will be approved by the Finance Strategy and Management 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



- 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, and when they expect their paternity leave to start. The Paternity Leave (Amendment) Regulations 2024 and the Statutory Paternity Pay (Amendment Regulations 2024) came into force on 8 March 2024. Despite the March enforcement date, the changes practically apply to babies born or placed for adoption on or after 6 April 2024. Previously paternity leave was taken as either one single week only or as two consecutive weeks, but could not be taken as two separate one week periods of leave, nor as individual days. Fathers and partners now have the option to take the two weeks leave as either two separate one week periods of leave (non-consecutive) or as one continuous period.

3.24 The amended regulations state leave can be taken at any point in the 52 weeks after the birth/adoption of the child, (previously it had to be taken within 56 days of the date of birth/placement). 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 Ordinary Statutory Paternity Pay. Paternity leave will be paid at the prevailing rate of Statutory Paternity Pay or 90% of average weekly earnings (whichever is lower). Arrangements with regard to contractual paternity pay are available on request and will be approved by the Finance Strategy and Management 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.

### **3.28 SHARED PARENTAL LEAVE**

Employees and their partner may be eligible for Shared Parental Leave to give them more flexibility in how to share the care of their child in the first year after birth, than simply taking maternity or paternity leave. If both are eligible, they will be able to choose how to split the available leave between them, and can decide to be off work at the same time or at different times. They may be able to take leave in more than one block.

3.29 Employees are entitled to Shared Parental Leave in relation to the birth of a child if:

- They are the child's mother, and share the main responsibility for the care of the child with the child's father or with their partner;
- They are the child's father and share the main responsibility for the care of the child with the child's mother; or
- They are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).

3.30 The following conditions must also be fulfilled:

- The employee must have at least 26 weeks continuous employment with their employer by the end of the 15th week before the baby is due, and still be employed by their employer in the week before the leave is to be taken;
- The other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the expected week of

childbirth and had average weekly earnings of at least £30 during 13 of those weeks; and

- They and the other parent must give the necessary statutory notices and declarations, including notice to end any maternity leave, statutory maternity pay or maternity allowance periods.

3.31 The total amount of Shared Parental Leave available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of Statutory Maternity Pay or Maternity Allowance if she is not entitled to maternity leave). Statutory Shared Parental Pay is paid at the prevailing statutory rate or 90% of average weekly earnings, whichever is lower.

3.32 The mother cannot start Shared Parental Leave until after the compulsory maternity leave period, which lasts until two weeks after birth. Further details can be obtained from the Chief Officer.

### **3.33 PARENTAL BEREAVEMENT LEAVE**

Employees are entitled to parental bereavement leave if their child or a child in their care has died or been stillborn after 24 weeks of pregnancy.

3.34 Parental bereavement leave can be one week, two consecutive weeks, or two separate weeks. It can be taken at any time during the first 56 weeks after the child's death.

3.35 Employees may qualify for statutory parental bereavement pay during parental bereavement leave if:

- They have at least 26 weeks' continuous employment ending on the Saturday before the child died; and
- They earn at least the lower earnings limit for class 1 national insurance contributions.

Statutory parental bereavement pay is only payable in respect of whole weeks of leave, at the same rate as statutory paternity pay. The rate is set by the government each tax year.

Further details can be obtained from the Chief Officer.

### **3.36 NEONATAL CARE LEAVE**

Following the passing of the Neonatal Care (Leave and Pay) Act 2023, the government has confirmed that the new rights for parents whose babies

require neonatal care will come into force on 6 April 2025, subject to final Parliamentary approval of the regulations.

Neonatal Care is defined as care of a medical or palliative kind within the first 28 days of the child's birth. Neonatal care leave is intended to support employees who have a parental or other personal relationship to a baby that is receiving neonatal care.

From day one of employment, parents of newborn babies (ie within the first 28 days after birth) who are admitted into hospital will have the right to neonatal care leave if the baby is in hospital for a continuous period of 7 days or more. The maximum amount of leave available is 12 weeks and must be used within 68 weeks of the birth. The minimum amount of leave that can be taken is 1 week.

Statutory neonatal care pay will also be available to those employees that have 26 weeks continuous service and earnings above the lower earnings limit.

Draft regulations contain details of these notice requirements. This policy will be updated as more details about the regulations and how they'll work in practice become available.

## RELEVANT LEGISLATION

4.1 The **Working Time Regulations 1998 (Amended 2003 & 2007)** highlight the entitlement of workers to request annual leave in accordance with the regulations.

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

4.3 The **Part-time Workers (Prevention of Less Favourable Treatment) Regulations (2000)** legislates that part-time staff should not be treated less favourably than full-time staff, preventing discrimination or less favourable treatment in the provision of annual leave.

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

4.5 The **Protection from Redundancy (Pregnancy and Family Leave) Act 2023** protect employees on maternity leave, adoption leave or on shared parental leave from redundancy.

4.6 The **Maternity Leave, Adoption Leave and Shared Parental Leave Regulations 1999 (Amended 2024)** provides that parents on maternity leave,

adoption leave or shared parental leave should be offered 'first refusal' of any suitable alternative employment which may be available in a redundancy situation. The 2024 amendment extended the redundancy protection.

4.7 The **Paternity Leave (Amendment) Regulations 2024** and the **Statutory Paternity Pay (Amendment) Regulations 2024** made changes to paternity leave entitlement.

4.8 The **Neonatal Care (Leave and Pay) Act 2023** gave new rights for parents whose babies require neonatal care.