



# **Family Leave**

## **POLICY AND PROCEDURE**

**Parental Leave**  
**Compassionate Leave**  
**Urgent Family Leave**

**June 2018**

### Policy Statement

The Disabilities Trust acknowledges the various ways in which we can assist those who have responsibilities outside the workplace.

The Family Leave Policy and Procedure covers the following:

- Parental Leave
- Compassionate Leave
- Urgent Family Leave
- Appendix 1 – Form to request Parental Leave

### Scope

This policy applies only to employees and not to bank workers. It does not apply to agency workers or self employed contractors. It is for guidance only and may be amended from time to time. The Trust may also vary this procedure, including any time limits, as appropriate in any case. All employees have a duty to follow any code of conduct and/or any disciplinary rules contained; non-compliance with the disciplinary rules is likely to result in disciplinary action being taken in accordance with this Disciplinary policy and procedure.

### 1. Principles

#### Parental Leave

The Maternity and Parental Leave etc Regulations 1999 (part of the EU Parental Leave Directive 96/34) give employees the right to take time off work to look after a child or make arrangements for the child's welfare.

Parental leave operates independently of the right to maternity leave and applies to mothers and fathers (natural or adoptive) or anyone who has acquired formal parental responsibility for a child.

#### What is Formal Parental Responsibility

A person has parental responsibility for a child if he/she is the natural parent of the child (although where the father is not married to the mother, he must be registered as the child's father). Adoptive parents are also deemed to have parental responsibility as from the date of placement of the child with them for adoption. Step-parents may acquire parental responsibility for their spouse or civil partner's child by means of an agreement with the child's natural parents. An individual who is a child's guardian will also have parental responsibility.

Foster parents are not eligible for parental leave unless they adopt the child whom they are fostering.

A parent does not have to live with the child to take parental leave, as long as he/she has parental responsibility.

### **Parents and Guardians**

Employees who have at least one year's continuous service will be entitled to **18 weeks' unpaid parental leave** upon the birth of their child born after 15 December 1999. This leave may be taken at any time up to the child's **18<sup>th</sup> birthday**. This right also applies to employees who have acquired formal parental responsibility for a child who is under 18 years of age, for example guardians.

### **Parents of Adopted Children**

Employees who have at least 1 years' continuous service who adopt a child after 15 December 1999 will also be entitled to **18 weeks' unpaid leave**. The child must be under the age of 18.

### **Multiple Births or Adoptions**

In the case of multiple births or the adoption of more than one child as part of the same placement, the employee has the right to take parental leave in respect of each child. Therefore, in the event of twins being born, each parent would be entitled to take a total of **36 weeks' unpaid parental leave** during the period up to the twins' 18<sup>th</sup> birthday.

### **Part Time Employees**

The amount of leave part-time employees receive will be on a pro-rata basis.

### **How much leave can be taken per year?**

An employee may not take parental leave in periods of less than one week (although parents of children with disabilities are allowed greater flexibility).

An employee may not take more than four weeks' leave per year per child. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

### **What can Parental Leave be used for?**

The aim of parental leave is to allow employees the opportunity to take time off work to care for a child. For example, to:

- Spend more time with their child,
- Be with the child while he/she settles into new childcare arrangements, and/or,
- Accompany the child during a hospital stay.

If an employee requests parental leave to spend time with his/her child but it is later discovered that the time off was used for a different purpose, the Trust will be entitled to invoke the Trust's Disciplinary Policy and Procedure on the basis that the application for parental leave constituted an act of deception. Dishonesty is considered by the Trust to be an act of gross misconduct.

## Procedure

### Applying for Parental Leave

The form contained in **appendix 1** should be completed, as a written application for parental leave. The employee must give the form to the Manager/Service Manager or Executive Head Teacher (or Regional Manager or Director where the individual is line managed by him/her) and they may be required to provide evidence of their responsibility for the child and the child's age (see section on 'documentary evidence of eligibility').

Employees must give at least 21 days' notice of an intention to take parental leave and should specify the dates. If insufficient notice is provided, the Trust retains the right to postpone the start of the parental leave to allow for 21 days notice to be given.

Fathers may take time off immediately after a child's birth provided that they give 21 days' notice of the expected week of the child's birth. As such, when the form in appendix 1 is completed, the estimated week of childbirth should be specified, together with the duration of the period of leave.

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to the Trust at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. As such, when the form in appendix 1 is completed, the estimated placement date should be specified, together with the duration of the period of leave.

### Documentary Evidence of Eligibility

A manager may, at their discretion, request documentary evidence from an employee to support a request for parental leave. This might take the form of:

- Sight of the child's birth certificate, in order to ascertain that the child is under eighteen years old,
- Sight of a certificate of adoption,
- Where the employee is exercising a right in relation to a disabled child, evidence of the child's entitlement to Disability Living Allowance or Personal Independence Payment (for children over the age of 16), or,
- A signed declaration from the employee that the purpose of the requested period of leave is to care for the child.

A manager may also wish to check whether an employee requesting parental leave has previously taken any periods of parental leave while working for a previous employer and, if so, how many weeks' leave were taken. There is however, no legal obligation on previous employers to provide this information

### Refusing Parental Leave

Should an employee make a parental leave request and they are not eligible to do so, the Trust will refuse the request in writing

### **Postponement of Parental Leave**

It may be necessary to postpone parental leave for up to six months (unless it is being taken immediately after a child is born or adopted) where the business needs demonstrate that the service would be harmed and/or there would be a detrimental impact by an employee's absence.

Postponement will be initially discussed with the employee where possible and subsequently confirmed in writing, no later than 7 days after the employee's notice to take leave. This will state the reason for the postponement and set out the new suggested dates of parental leave.

### **Employee Contractual Rights**

Employees will remain employed during the parental leave period, although pay and most contractual benefits will be suspended.

Certain contractual terms continue to apply, for example the right to accrue statutory annual leave entitlement will remain in place. In particular, the employer's obligation of trust and confidence, terms concerning notice, redundancy compensation and disciplinary and grievance procedures. Also the employee's obligation of good faith and any express term prohibiting disclosure of confidential information or participation in a competing business

### **Payment of Salary**

Payment will not be made for any parental leave taken.

### **Both Parents working together**

Where both parents are employed by the Trust, each will be entitled to leave but both employees may **not** take parental leave at the same time.

### **Returning to Work after Parental Leave**

Employees returning from parental leave of four weeks or less (and this did not follow on immediately from a period of additional maternity or adoption leave) will be reinstated in their previous job role.

Employees returning from parental leave of more than four weeks (or if the leave followed on immediately from a period of additional maternity or adoption leave) will be reinstated in their previous job role wherever possible or, if not, offered a similar job which has the same status, terms and conditions as the previous job.

If there has been a pay increase during the employee's period of parental leave, the employee will be entitled to be granted the increase upon his/her return to work.

### **Failure to return from a period of Parental Leave**

If an employee is not able to do return to work following a period of agreed parental leave, they should make contact with their manager as soon as they are aware that this is the case, in order that relevant discussions can be held regarding the reasons and a suitable agreement reached. The needs of the service will, in all cases, be considered a priority. Failure to return from a period of agreed parental leave, without submission of a self certificate, GP Fit Note, annual leave request or contact with a manager, will result in the absence being unauthorised and the Trust's Disciplinary Policy and Procedure will be invoked.

### **Change of Employer**

An employee's total entitlement to parental leave is limited to 18 weeks, irrespective of whether he/she changes employer. If, for example, an employee has taken four weeks' parental leave (out of a total entitlement of 18 weeks) during his or her previous employment, the employee will have fourteen weeks' parental leave outstanding.

### **Record Keeping**

The manager must ensure that the Trust's Payroll Department is informed of the parental leave being taken, in order that appropriate arrangements are made regarding pay. This should be achieved by sending a copy of the employee's parental leave request form to the Payroll Department and ensuring that the timesheet is completed correctly.

The manager must also ensure that the employee's parental leave request form is placed on the employee's personnel file. This will enable the manager to properly manage and administer future requests for leave.

In addition, a proper record will enable the manager to show, if necessary, that it has granted employees the full periods of parental leave to which they are entitled. It will also enable the Trust to co-operate with other employers in providing information, on request, about how much parental leave an ex-employee has already taken, although there is no legal duty to provide such information.

A manager must not unreasonably postpone parental leave or prevent an employee from taking parental leave, and clear record keeping will provide evidence should any disputes arise.

### **Disputes**

Should an employee believe that their manager has unreasonably postponed their request, or has prevented them from taking parental leave, they should initially raise this with their manager. If the situation cannot be resolved informally, the employee has the right to raise a grievance using the Trust's Grievance Policy and Procedure.

## 2. Principles

### Compassionate Leave

All employees have the right, under section 57(A) of the Employment Relations Act 1996, to take a **reasonable** period of unpaid time off work to deal with an emergency such as a bereavement involving a dependant. A dependant is the partner, child or parent of the employee, or someone who lives with the employee as part of their family. For compassionate leave purposes only, the Trust has extended this provision to include members of the employee's immediate family, and so, for example, would include siblings.

Employees may apply for compassionate leave where a member of their immediate family dies, is seriously ill or in severe distress.

#### Time Allowed

Employees will be entitled to a maximum of 3 working days subject to authorisation from their Manager. Additional days' leave, to a maximum of 1 working week may be granted at the discretion of the relevant Director.

#### Payment of Salary

There is no statutory right to pay however the Trust may allow up to the first 3 days of compassionate leave to be paid at the employee's basic contractual pay. Please note however that this payment will only apply if the Trust deems that 3 days compassionate leave is reasonable and necessary in the circumstances. In addition, if only 1 day compassionate leave is taken, only 1 days pay will be provided.

Payment for any additional compassionate leave granted thereafter, is at the discretion of the authorising Director

#### Procedure

Employees should contact their Manager as soon as possible if they need to make use of this provision. The Urgent Family or Compassionate Leave request form will need to be completed as soon as possible and submitted to their manager.

#### Extended Family Members

The Trust recognises that the nature of a relationship between a person and an extended family member may impact on the individual's reaction to their death, illness or distress. As such, should an employee request compassionate leave due to the death, illness or distress of an extended family member, the Trust reserves the right to make enquiries regarding the nature of the relationship in order to enable a reasonable decision to be taken.

The Trust may also discuss with the employee whether utilising a period of annual leave may be appropriate in addition to, or instead of, taking a period of compassionate leave.

### Compassionate Leave for Family Members Abroad

The Trust recognises that it has a diverse workforce and as such, some employees may have family members living abroad. The Trust acknowledges that in situations such as these, the periods of compassionate leave noted above may not be sufficient.

In such cases, the Trust will endeavour to agree with the employee a period of annual leave or a period of unpaid leave (or a combination of both) to enable the employee to fulfil their family obligations. However, the needs of the service will be taken into account and will be a priority when agreeing such periods of leave.

### Failure to return from a period of Compassionate Leave

. If an employee is not sufficiently fit to return to work following a period of agreed compassionate leave, they should follow the Trust's Attendance Management Policy and Procedure. Alternatively, if the employee is well, but would like additional time to attend to matters or to spend time with their family, they should speak with their manager regarding taking annual leave. However, the needs of the service will be taken into account and will be a priority when agreeing such periods of leave at short notice.

Failure to return from a period of agreed compassionate leave, without submission of a self certificate, GP Fit Note or annual leave request, will result in the absence being unauthorised and the Trust's Disciplinary Policy and Procedure will be invoked.

## 3. Principles

### Urgent Family Leave

All employees have the right, under section 57(A) of the Employment Relations Act 1996, to take a **reasonable period** of unpaid time off work to deal with an emergency involving a dependant.

A dependant is the partner, child or parent of the employee, or someone who lives with the employee as part of their family. A dependant may also be someone who relies on the employee for assistance as a primary carer or the only person who can help in an emergency. Circumstances where an employee can take time off include:

- A dependant falling ill or becoming injured,
- A partner having a baby (please also refer to the Trust's Paternity Rights Policy and Procedure),
- A breakdown in a dependant's care arrangements, and,
- An incident involving the employee's child during school hours.

### Time Allowed

There is no set limit to the amount of time off which can be taken and this will depend on individual circumstances. It is envisaged that in the vast majority of cases, up to 1 day should be enough time to deal with an immediate problem and make any longer term

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arrangements. Additional days' leave may be granted at the discretion of the relevant Director.

### **Payment of Salary**

There is no statutory right to pay and the Trust do not pay for this type of leave. The Trust will allow a part day or up to 1 full day of unpaid urgent family leave to be taken.

### **Procedure**

Requests for urgent family leave must be made to the Manager. Employees need to advise the reason for their absence and how long they expect to be away from work. The Urgent Family or Compassionate Leave request form will need to be completed as soon as possible and submitted to their manager. Where the reason for the request is family illness, a GP's Fit Note may be required.

The right is intended to cover unforeseen matters that are unexpected and occur suddenly. Where employees know in advance that they are going to need time off, they may be able to take annual leave or be entitled to parental leave but should not take it as urgent family leave

### **Urgent Family Leave for family Members Abroad**

The Trust recognises that it has a diverse workforce and as such, some employees may have family members living abroad. The Trust acknowledges that in situations such as these, the periods of urgent family leave noted above may not be sufficient.

In such cases, the Trust will endeavour to agree with the employee a period of annual leave or a period of unpaid leave (or a combination of both) to enable the employee to fulfil their family obligations. However, the needs of the service will be taken into account and will be a priority when agreeing such periods of leave.

### **Failure to return from a period of Urgent Family Leave**

If an employee has not been able to resolve their situation in the time agreed, they should speak with their Manager as soon as they are aware of this, in order that alternative arrangements can be discussed, for example granting annual leave. However, the needs of the service will be taken into account and will be a priority when agreeing such periods of leave at short notice.

Failure to return from a period of agreed urgent family leave, without discussions with their Manager will result in the employee's absence being unauthorised and the Trust's Disciplinary Policy and Procedure will be invoked.

### **Supporting Documents and Templates**

Supporting documentation and appropriate templates including a Line Manager's Guide are available to accompany this policy and procedure and can be located on The Hub.

**Other Policies and Procedures to be operated in succession with;**

- Paternity Rights Policy and Procedure,
- Maternity Rights Policy and Procedure,
- Adoption Rights Policy and Procedure, and,
- Flexible Working Policy and Procedure List

Date: **June 2018**

Review Date: **June 2020**

Signed and approved by:

**Naomi Carey**



# The Disabilities Trust

## PARENTAL LEAVE REQUEST (PL)

*Please complete 1 form per child that you are requesting leave for*

### Employee Details

<b>Employee No.</b>	Click here to enter text.	<b>Service / Department</b>	Click here to enter text.
<b>Name</b>	Click here to enter text.	Click here to enter text.	Click here to enter text.
	<b>Surname</b>	<b>First Name</b>	<b>Title</b>
<b>Job Title</b>	Click here to enter text.	<b>Date employment commenced</b>	Click here to enter text.

### Parental Leave

<b>Amount of parental leave taken previously in respect of relevant child (including periods taken in previous employments)</b>	Click here to enter text.
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*I am making this request in order to take parental leave for; (tick 1 option):*

<b>My child, who has yet to be placed (if adopted)/ born.</b>	<input type="checkbox"/>
<b>Date of estimated week of childbirth or placement:</b>	Click here to enter text.
<b>My child, who is under the age of 18.</b>	<input type="checkbox"/>
<b>Date of birth of child:</b>	Click here to enter text.
<b>My adopted child, who is under the age of 18.</b>	<input type="checkbox"/>
<b>Date of birth of child:</b>	Click here to enter text.
<b>Date your child was adopted:</b>	Click here to enter text.
<b>My child, who is disabled and under the age of 18</b>	<input type="checkbox"/>
<b>Date of birth of child:</b>	Click here to enter text.
<b>Will you have formal parental responsibility for the child at the time of taking the parental leave?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>

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<i>I hereby give notice of my intention to take unpaid parental leave.</i>				
<b>How long do you intend to take?</b>	<b>No. of Weeks</b>	Click to enter text.	<b>No. of days</b>	Click to enter text.
<b>I attach a copy of my child's: (If requested by your Manager)</b>	<b>Birth Certificate</b>			<input type="checkbox"/>
	<b>Adoption Certificate</b>			<input type="checkbox"/>
	<b>Disability Living Allowance or Personal Independent Payment Entitlement</b>			<input type="checkbox"/>
<b>Declaration</b>				
<b>I recognise that the Trust is entitled to make enquiries of all or any of my previous employers in relation to any previous periods of parental leave taken. I also recognise that the Trust may postpone the period of leave requested by up to six months where the leave requested does not coincide with the expected week of my child's birth or adoption and the service would otherwise be unduly disrupted by my absence.</b>				
<b>Employer Signature</b>	Click here to enter text.		<b>Date</b>	Click here to enter text.
<b>Verification Details</b>				
<b>Please return this form to your line manager at least 21 days prior to the date on which your requested period of parental leave is due to commence.</b>				
<b>Manager Signature</b>	Click here to enter text.		<b>Date</b>	Click here to enter text.
<b>Please return the completed form to the Payroll Department: <a href="mailto:csspay@thedtgroup.org">csspay@thedtgroup.org</a></b>				