



Transforming Lives



EAST RIDING
OF YORKSHIRE COUNCIL

Time Off For Public Duties Policy

THE HUB SCHOOL

Policy Owner: ERYC

Adopted by Governors: RCM

Date: February 2019

Time Off For Public Duties Policy and Procedure

Lead Directorate and service:	Corporate Resources - Human Resources and Support Services
Effective Date:	April 2018
Contact Officer/Number:	Employment Services/391221
Approved by:	Cabinet – 18.1.11, Min. 4084, CMT: 18.04.18, Min: 18016, DR:20635, 23.04.18

Time Off for Public Duties Policy

1. Scope

1.1 This policy applies to all employees of the Council except school based employees unless this policy has been adopted by the respective governing body.

1.2 Employees whose posts are politically restricted under the Local Government and Housing Act 1989 may not engage in political activity as a party official, hold public elected office (except as a Parish or Community Councillor) or be nominated to office by a political party. Therefore, certain parts of this policy are not available to them.

1.3 This policy does not apply to casual/supply workers.

2. Background

2.1 The Council is required to allow employees who hold certain public positions reasonable time off to perform the duties associated with that position. In addition the Council has discretion to allow time off for other public duties and this policy assists managers in authorising time off on a consistent basis.

3. Policy Statement

3.1 The Council recognises its statutory responsibilities and will consider requests for time off for public duties consistently in accordance with an agreed paid and unpaid framework.

4. Statutory Obligations

4.1 Section 50 of the Employment Rights Act 1996 allows employees who hold certain public positions the right to reasonable unpaid time off work to perform their duties. These positions are:-

- Justices of the Peace (JPs)/Magistrates
- Members of a local authority
- Members of a statutory tribunal
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- Members of an independent monitoring board for a prison or a prison visiting committee
- Members of a relevant health body
- Members of a relevant Education Body
- Scottish Water or Water Customer Consultation Panel.
- Members of the Environment Agency or the Scottish Environment Protection Agency

4.2 The activities for which employers are required to permit reasonable time off include:-

- Attendance at meetings of the public body or any of its committees or sub committees;
- Performance of duties approved by the body for the purposes of discharging its own functions or those of any of its committees or sub committees;
- Performance of any duties of JPs

4.3 There is no right to paid time off for public duties.

4.4 The Local Government and Housing Act 1989 restricts local authority employers from paying more than 208 hours time off in any financial year for the duties of any employee as a member - other than the chairman - of that or any other local authority.

5. Approval and Review of the Policy

5.1 Following consultation with Trade Unions, the Director of Corporate Resources under appropriate delegation of the Council has approved the policy on 2 March 2015.

5.2 The Council will review this policy in line with its programme of policy reviews.

Time Off for Public Duties Procedure

1. Applications for Time off for Public Duties

- 1.1. Before accepting a position with any organisation which would require time off, paid or unpaid, an employee must obtain advance authorisation from their line manager and submit details of all commitments, monthly in advance. An Application for Time off for Public Duties Form is attached at Appendix B.
- 1.2. In considering an application under this policy, a public duty should not take preference over the exigencies of the Council's services, with the exception of jury service and witness subpoenas.

2. Consideration of Requests

- 2.1 Employees are not entitled to unlimited time off to perform public duties but only to that which is reasonable. Managers will consider requests according to the following three factors:-
 - How much time off is required for the performance of the duties of the office or body in question and how much time off is required for the performance of the particular duty on that occasion;
 - How much time off the employee has already been permitted for this purpose or for trade union duties or activities;
 - The circumstances of the employer's business and the effect of the employee's absence on the running of that business.
- 2.2 Where it can be planned, periods of paid/unpaid time off must be taken on a weekly basis and will not normally exceed 8 hours per week in total. Certain public duties will dictate a longer period of absence eg. Jury service.
- 2.3 Time off will be granted on a pro rata basis for employees working less than 37 hours per week.
- 2.4 Managers will approve requests in accordance with the schedule for unpaid/paid time off found at Appendix A.
- 2.5 The employee may request to carry out their employment on a part-time/flexible basis using the normal request procedures. Their line manager may agree to the request subject to the needs of the service not being adversely affected. If agreed, the employee's contract of employment would be amended accordingly in line with the new arrangements.

3. Time off for Members of a Local Authority

- 3.1 Subject to section 2 above and under the Local Government and Housing Act 1989, employees who are Members of a local authority:-
 - (a) will be granted up to a maximum of 208 hours paid time off in any one financial year, to carry out their duties as a member of another local authority.

(b) in addition to the above, may be granted up to a maximum of 208 hours of unpaid time off in any one financial year.

3.2 All time off should be agreed at the beginning of the new financial year and scheduled to enable the employing service to plan the workload and arrange appropriate job cover.

3.3 In exceptional circumstances, the scheduled arrangements can be varied provided that it is with the agreement of the appropriate manager and that reasonable notice is given.

4. Monitoring of Leave

4.1 Managers must ensure accurate records are maintained of paid/unpaid time off for monitoring. Managers are therefore required to obtain the following information:

- (i) Date and time of leaving work and date and time of return to work
- (ii) Total hours absent from work
- (iii) The cumulative total of paid and unpaid time off taken
- (iv) The purpose of the time off

4.2 Managers are responsible for ensuring that the number of hours absent are recorded on the Council's HR/Payroll System.

5 Fees Received for Public Duties

5.1 If any fee or other payment is received, the following will apply:-

- (a) Employees may retain any fees that relate to work that is done in their own time, not during their working hours.
- (b) In the event of a fee being received in respect of public duties related wholly or partly to work done during normal working hours, the Director of Corporate Resources will make a deduction from pay (except for work on elections as detailed in a report submitted to the Policy and Resources Committee in April 1996, minute 63) as follows:
 - (i) For work done wholly within normal working hours - the whole fee will be deducted, irrespective of whether this is in excess of normal pay. Normal payment will be made by the Council/school. The employee will not be entitled to keep the fee on top of their salary.
 - (ii) For work done partly within normal working hours and also outside of normal working hours - normal pay will be deducted for the time spent on approved public duties during normal working time (see Example 1) unless normal pay is in excess of the fee received in which case the total fee only will be deducted (see Example 2). The employee will have been paid by the Council/School for that work, therefore if the fee is greater than their normal pay, they will be entitled to keep the fee but not the proportion of their salary representing the time they spent on it at work. If their normal

pay is greater than the fee for the public duties, the employee cannot keep the fee.

Example 1:

2 hours working time, normal pay £20, fee received £50, deduct £20.

The employee is better off by £30 for undertaking different work in work time and at home.

Example 2:

4 hours working time, normal pay £60, fee received £50, deduct £50.

The fee is less than the employee's normal pay so they would remain on their normal rate of pay and the Council/school will keep the fee. The employee may have undertaken some work at home so it may be deemed that the employee has 'lost out', but the principal is that they can't be paid twice. To allow the employee to keep the fee would breach this.

(c) When no fee or allowance is paid by the outside body concerned and leave with pay is permitted, normal earnings will be paid by the Council.

5.2 The Payroll section must be notified of any adjustments in pay that have to be made. Employees should notify their manager of adjustments in pay which have to be made, who will forward this information to Payroll.

5.3 Where an allowance is claimable for loss of earnings the employee should claim and pay the allowance to the Council as soon as possible.

6. Jury Service

6.1 In the event of an employee being called up for jury service, they must contact their line manager at the earliest opportunity to discuss the matter and provide them with a copy of the court summons. The employee must respond to the summons within seven days of receipt.

6.2 Jury service normally lasts 10 working days (2 weeks) but can last longer. An employee should be allowed to attend court as instructed unless they are excused or have their jury service deferred.

6.3 Managers are expected to take all reasonable steps to accommodate an employee's absence. It is only where this is not possible that the employee should be asked to apply to the court to defer or in extreme cases to be excused from jury service. A reason must be given – mainly where there is a conflict with work commitments and this must be discussed with HR in advance and approved by the Head of Service. The manager must provide a letter to the court to accompany the employees request explaining the reasons for deferral or excusal.

- 6.4 The employee will continue to be paid whilst on jury service at their normal rate of pay, subject to any monies received from the Court in respect of loss of earnings. The employee will receive with their jury summons a Certificate of Loss of Earnings, which the employee must complete and submit to HM Courts and Tribunal Service (HMCTS) to receive reimbursement, up to a limit, for loss of earnings incurred due to being absent from work due to jury service. The employee will be paid as normal until their reimbursement has been processed. The employee must forward their receipt for reimbursement as soon as possible to Payroll, who will make the appropriate deduction from the employees pay.
- 6.5 If the employee's services are not required for the whole of a court day they will be expected to attend work for that day. In circumstances where the employee's services are not required for part of a court day they should agree with their manager whether or not they should return to work for the remainder of the working day. This will be dependent on the time the court session ends, the type of job the employee does and whether cover arrangements have been put in place.
- 6.6 If the employee's jury service ends before the expected period, the employee will be expected to return to work for the remainder of that period.

Appendix A

Time Off for Public Duties		
Type of Leave	Payment	Basis of time off
Members of a Local Authority	With Pay up to 208 hours, up to 208 hours without pay	Not worked back
Volunteer Child Witness Support Worker Duties*	With Pay	Not worked back
Attendance at Court on Behalf of the Council*	With Pay	Not worked back
Jury Service	With pay	Not worked back
Work on Elections (East Riding of Yorkshire Council)	With Pay	Not worked back
Lifeboat Duties	With Pay	Time off to be made up later.
Mountain Rescue Duties	With Pay	Time off to be made up later
Retained Fire Fighters	With Pay	Time off to be made up later
Justice of the Peace/Magistrate Duties	With Pay	Time off to be made up later
Members of a relevant Education Body (including School Governors)	With Pay	Time off to be made up later
Witness Subpoenas	With Pay	Time off to be made up later
Candidates for Election to Local Authorities	Without Pay	Not worked back
Special Constables	Without Pay	Not worked back
Territorial Army/Reserve Forces	Without Pay	Not worked back
Work on Elections (Other Authority)	Without Pay	Not worked back
Members of a Statutory Tribunal	Without Pay	Not worked back
Members of a relevant Health Body	Without Pay	Not worked back
Members of an Independent Monitoring Board for a Prison or a Prison Visitors Committee	Without Pay	Not worked back
Members of Scottish Water or Water Customer Consultation Panel	Without Pay	Not worked back
Members of the Environment Agency or the Scottish Environment Protection Agency	Without Pay	Not worked back

* Other than when as part of normal duties

Notification of leave to be taken must be submitted monthly in advance on Appendix C

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April 2018.....

		TOTAL		

MS

April 2018.....

9 N.B. The leave year is the normal one enjoyed by the employee.

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April 2018.....