

POLICY ON EMPLOYMENT BREAKS

(Covering all Staff)

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4 August 2015

1 POLICY STATEMENT

- 1.1 An employment break is an opportunity for you to take longer periods of unpaid leave without it affecting your continuity of service. While the Council is under no obligation to offer staff employment breaks, we know that there may be times when an unpaid period away from work may be beneficial to you and to the organisation.
- 1.2 You can take employment breaks for a variety of reasons, for example:
- to care for dependents;
 - as an extra period of unpaid leave following maternity, adoption or paternity leave;
 - as a period of recuperation following an extended period of sickness absence;
 - to undertake some form of further education;
 - to undertake some sort of public service or voluntary work;
 - to gain knowledge and/or experience that could benefit the employee and the Council.
- 1.3 The aim of this policy, therefore, is to give you the opportunity to request an employment break and return to work without it affecting your continuity of employment, subject to operational requirements.

2 SCOPE

- 2.1 To be eligible for an employment break, you must have at least 2 years continuous service with the City of Edinburgh Council at the time you apply. Directors may waive the length of service required on occasion, provided there is a saving for the service.
- 2.2 The minimum period for an employment break is three months. The maximum period is two years. All employment breaks are continuous. A break will not normally be approved or extended beyond the 2-year limit. Occasionally, directors may approve a longer break, if there is a saving for the service.
- 2.3 If you initially ask for an employment break of less than 2 years, you can make another application for a further period up to the maximum 2-year limit. It is up to your line manager to decide if they can approve the extension, based on the needs of the service. Any requests for extensions must be made at least 2 months before you are due to return to work.
- 2.4 On return to work following an employment break, you will have to complete a further two years' continuous service before you are eligible to apply for another employment break, subject to paragraph 2.1.

- 2.5 If you are a teacher, you may apply for an employment break under this policy or under the provisions of the National Conditions of Service for Teachers. Applying for an employment break under one scheme will not exclude you from applying under the other scheme at another time.

3 DEFINITIONS

Continuous Service

- 3.1 The Council treats employment breaks as extended periods of unpaid leave. There is therefore no break in employment or service. Your contract of employment will continue to apply during the employment break.
- 3.2 Time spent on an employment break will count towards accruing service in relation to entitlements such as:
- redundancy;
 - occupational maternity entitlements;
 - sickness allowance;
 - annual leave entitlement (see 2.4 below).
- 3.3 Time spent on an employment break will not count towards:
- incremental progression: you will return to the salary point you were on when you started your employment break. Where there is sufficient time on return from an employment break, Contribution Based Pay will apply in terms of eligible service in any one assessment year
 - pensionable service (see 4.10 below).

Employment Status

- 3.4 During the employment break, you will still be a Council employee and subject to any relevant Council Codes of conduct. Where it is identified that you are engaging in activities inconsistent with the terms on which the employment break was originally approved, your Head of Service will determine appropriate action to be taken. This may include terminating the employment break and disciplinary action.
- 3.5 You must agree a communications plan with your line manager to ensure you are kept up to date while you are on your employment break. The plan will set out the level of contact and the preferred methods of communication to be used. Your line manager will be the main contact. You should give your contact details to your line manager and tell them if they change.
- 3.6 If your substantive post becomes part of an organisational review while you are on your employment break, your manager will keep you informed of developments and ensure that you are fully involved in the process.

- 3.7 If your substantive post is at risk of redundancy during the employment break, then you will be informed and the terms of the Council's redeployment and redundancy policies will apply.
- 3.8 You can still apply for Council vacancies while you are on an employment break. However, if you are successful in your application, there is no right for the employment break to continue in a different position. This would have to be agreed with your new line manager.

4 POLICY CONTENT

Application

- 4.1 You can apply by completing an Employment Break Application Form (available online) and sending it to your line manager for approval. The application should be submitted at least three months before the date you would like to start your employment break. This period may be varied or waived at the discretion of your line manager or Head of Service.
- 4.2 The application should include:
- the reason(s) for the request;
 - the length of break required;
 - the proposed start date;
 - whether the break is to follow a period of extended absence (e.g. maternity leave, sickness absence etc.);
 - details of any paid employment or self-employed activity planned to be undertaken during the break;
 - any likely benefits for the you and/or the service area;
 - proposals to maintain contact; and
 - how skills and knowledge will be maintained or updated (where relevant).

Approval Process

- 4.3 You must submit your application to your line manager for consideration in the first instance. They will discuss your application with your Head of Service, who has the final decision on whether an application is approved. There is no right of appeal.
- 4.4 You should get a decision in writing from your line manager within 6 weeks of submitting an application. This period may be varied by mutual agreement. Your line manager may want to meet you to discuss the employment break.
- 4.5 Where either your line manager or your Head of Service decides not to support your application, then you will be told the reasons for refusal.

- 4.6 If your application is agreed, the terms and conditions of the employment break will be confirmed in writing before the break starts. The communications plan will be agreed at the same time.

Annual Leave and Employment Breaks

- 4.7 You do not accrue either statutory or contractual annual leave during your employment break. However, the length of time spent on an employment break will count towards service in relation to entitlement to contractual annual leave, once you return to work.
- 4.8 If your employment break begins part way through an annual leave year, your annual leave entitlement will be recalculated pro-rata to the actual time worked before you start your break. This leave should be taken before the employment break starts. Entitlement to public holidays will only be for those that occur during the part of the annual leave year you have worked. When you return mid year, your annual leave entitlement will be calculated pro-rata to the remainder of the annual leave year.
- 4.9 You cannot take annual leave during an employment break, as this would, in effect, be a return to work, which would bring your employment break to an end.

Pension and National Insurance Considerations

- 4.10 You need to consider the potential effect an employment break may have on your pension contributions and be aware of the repayment options available. Advice is available from Lothian Pension Fund (website: www.lpf.org.uk; telephone: 0131 529 4638).
- 4.11 Time spent on employment breaks does not count as pensionable service. However, you will be able to make a payment to cover the time you were on an employment break when they return to work, if you wish.¹
- 4.12 If you are a teacher and a member of the Scottish Teachers Superannuation Scheme, should contact the Scottish Public Pensions Agency regarding the implications of extended unpaid leave on your pension provision (website: <http://www.sppa.gov.uk/>; telephone 01896 893000).
- 4.13 You will not make National Insurance contributions while you are on an employment break. You should be aware, therefore, of the implications an employment break may have on your entitlement to state benefits. Further guidance is available from the Department for Work and Pensions (website: www.dwp.gov.uk).

¹ As part of the changes to the Local Government Pension Scheme, which came into effect on 1 April 2015, the Council, as employer, may have to make employer contributions towards employees' pensions, when they return to work after a long period of absence. This will depend on whether the employee wants to make a payment to cover their absence and if they make that decision within 30 days of returning to work.

Maternity, Adoption and Shared Parental Leave

- 4.14 If you are going on maternity, adoption or shared parental leave, and have the required length of service, you may apply for an employment break to follow your period of leave. You may also apply during your period of maternity or adoption leave. If agreed, the break can follow on directly from your period of maternity or adoption leave, provided you take any annual leave accrued during the period of maternity or adoption leave before the employment break begins.
- 4.15 However, periods of maternity, adoption and shared parental leave and leave cannot coincide with an employment break. If you take maternity, adoption and shared parental leave before the end of an employment break, this will, in effect, end your employment break. The employment break will not re-start when the period of maternity, adoption and shared parental leave ends. If you want another employment break at the end of your period of maternity, adoption or shared parental leave, you must apply again. You will also have to use the leave accrued during your period of maternity, adoption and shared parental leave before you start your new employment break. In these circumstances, your manager can choose to waive the length of service normally required between employment breaks.
- 4.16 If you are on maternity, adoption and shared parental leave, you will continue to accrue entitlement to contractual annual leave and public holidays throughout the period of your maternity, adoption and shared parental leave (irrespective of whether the leave covers two leave years). You must take any outstanding annual leave immediately prior to commencing the employment break. You should therefore arrange for your employment break to start on the day after your last day of accrued annual leave.
- 4.17 If you do not return to work for at least three months at the end of the maternity, adoption and shared parental leave, or at the end of the employment break where this follows maternity, adoption and shared parental leave, you will be required to refund some maternity/adoption/shared parental pay to the Council. The Council's Parental Leave Policy on the Birth or Adoption of a Child provides further details of this.
- 4.18 If you become pregnant or are to adopt a child during your employment break, you must follow the normal statutory notification procedure, as outlined in the Council's Family Care Policy. You may not be eligible for contractual paid maternity, adoption and shared parental leave (depending on when your employment break commenced) but you may qualify for statutory benefits. The normal statutory notification procedure must be followed as outlined within the Council's Family Care Policy.

Return to Work

- 4.23 If you want to return early from an employment break, you should give your line manager at least two months' notice in writing, saying when you would like to return to work. Managers should look on such requests sympathetically and try to accommodate where possible.
- 4.24 If you want to extend your employment break, you need to give your line manager two months' notice in writing in order that the request can be considered. Extensions can only be agreed up to the two-year maximum.
- 4.25 Line managers should aim to respond to requests for extensions and early returns in writing within 14 days of receiving the request. There will be no right of appeal against the decision.
- 4.26 When you give the required two months' notice of your return, you should then agree on the level of contact required before the return to work date, in order to establish the return to work arrangements.
- 4.27 You must return to work on the agreed date. Failure to do so may result in disciplinary action being taken, up to and including dismissal. If you are prevented from returning due to ill-health or for some other reason, you should follow normal Council reporting procedures.
- 4.28 At the end of an employment break, you will normally return to the post you held, and at the same pay level that you received before you took your employment break, unless:
- it was agreed that it would not be possible for you to return to your substantive post and you were formally offered and accepted a similar job elsewhere in the Council before you started your employment break; or
 - an organisational review, redundancy situation or other exceptional circumstance occurs during your employment break. In this case, you will be informed and treated in the same way as any other Council employee affected by the change and in accordance with the relevant Council policies and procedures; or
 - you were acting up to a higher post when you started your employment break and that opportunity is no longer available to you.
- 4.29 Where a change in circumstances occurs, an employment break may be brought to an end early. This may be a change in your circumstances or a change of circumstances for the Council. Either party may end an employment break early by giving at least 2 months' notice in writing. In such cases, the return to work arrangements will take account of both your personal circumstances and the needs of the service area. Both sides must appreciate that a request to return to work early may not be able to be accommodated but both sides should look on such requests sympathetically.

6 ROLES AND RESPONSIBILITIES

- 6.1 Heads of Service are responsible for the implementation of the policy and for managing any operational or financial impact arising from its application.
- 6.2 Line managers are responsible for considering and responding to requests within the timescales in 4.4 above.
- 6.3 Staff are responsible for contacting the relevant agencies to seek advice on the potential impact of taking an employment break on their pay and pension. They should do so by contacting the HR & Payroll Service Centre and the appropriate pension fund e.g. Lothian Pension Fund (website: www.lpf.org.uk; telephone: 0131 529 4638) or Scottish Public Pensions Agency (website: <http://www.sppa.gov.uk/>; telephone 01896 893000).
- 6.4 Staff are responsible for submitting their applications to their line manager for consideration in within the timescales set out in 4.1 above.
- 6.5 Staff who have loans for travel cards or participate in any scheme that relies on salary deductions should contact the HR & Payroll Service Centre to discuss how payments will be made during the employment break.

7 LOCAL AGREEMENT

- 7.1 This document is a local collective agreement between the Council and the recognised Trade Unions and replaces all pre-existing arrangements. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future staff.