

Cabinet
29.04.24

POLISI ABSENOLDEB GOFALWYR

Y Pwrpas:

Mae'r polisi Absenoldeb Gofalwyr yn nodi ein hymrwymiad i gefnogi gofalwyr a'r weithdrefn ar gyfer rheoli cais gan weithiwr am absenoldeb gofalwyr yn unol â Deddf Absenoldeb Gofalwyr 2023 a ddaw i rym ar 6 Ebrill 2024.

Yr argymhellion / penderfyniadau allweddol sydd eu hangen:

Cymeradwyo'r Polisi Absenoldeb Gofalwyr ac argymell ei fabwysiadu.

Y rhesymau:

Sicrhau bod yr Awdurdod yn cydymffurfio â Deddf Absenoldeb Gofalwyr 2023 ac yn cyflawni ei rwymedigaethau statudol.

Angen i'r Cabinet wneud penderfyniad

OES

Angen i'r Cyngor wneud penderfyniad

NAC OES

YR AELOD CABINET SY'N GYFRIFOL AM Y PORTFFOLIO:

Y Cyng. Philip Hughes

Trefniadaeth a'r Gweithlu.

Y Gyfarwyddiaeth:

Enw Pennaeth y Gwasanaeth:

Awdur yr Adroddiad:

Swyddi:

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EXECUTIVE SUMMARY

Carer's Leave

Carer's Leave

From 6 April 2024, employees will have a statutory right to a week's unpaid leave to care for a dependant.

Whilst the Carer's Leave Act 2023 became law on 24 May 2023, it required regulations to set out how the entitlement would work. These have now been enacted by parliament and come into force on 6th April 2024.

Who can take carer's leave?

Carer's leave will apply to employees and is intended to allow the individual to provide or arrange care for a dependant with a long-term care need.

The definition of "dependant" mirrors the definition used for the right to time off for dependants. This includes a spouse, civil partner, child, parent, a person who lives in the same household as the employee (other than by reason of them being their employee, tenant, lodger or boarder), or the wider catch-all provision, of a person who reasonably relies on the employee for care.

The leave is a "day one" right, meaning there is no minimum service requirement to take advantage of it. As with other statutory leave entitlements, employers cannot penalise any employee choosing to take advantage of carer's leave once it is brought into force. Dismissal of an employee for a reason connected with their taking carer's leave will be automatically unfair. Employees are also entitled to return to the same job they were doing immediately before they took carer's leave.

What will carer's leave be used for?

A "long-term care need" is defined as an illness or injury (either physical or mental) that requires or is likely to require care for more than three months, a disability under the Equality Act 2010, or issues related to old age. The focus on a long-term care need is deliberate as the government stated in its consultation response that it believed that other types of leave should be used for dealing with "short-term care needs", such as time off for dependants or annual leave.

The regulations make clear that the entitlement to one week's leave is the maximum any employee could be entitled to, irrespective of how many dependants an employee has.

Employers are not able to require an employee to evidence their entitlement to the leave.

How can carer's leave be taken?

Flexibly. The key procedural requirements are:

- Employees using the leave must take a minimum of half a working day at a time; a working day meaning the employee's usual working pattern. There is no need for the leave to be used on consecutive days either. Employees could therefore take five separate days over a 12-month rolling period.
- Employees are required to provide notice, although this does not need to be in writing. The notice must include the fact that the employee is entitled to take carer's leave and the day(s) or part of a day that will be taken.
- Employees will be required to give notice which is either twice the length of time being requested, or three days, whichever is the longest. It is open to employers to waive the notice requirement provided the employee is otherwise eligible to take carer's leave.

Does an employer have to agree?

Employers are not able to deny an employee's request for carer's leave but can postpone it if they reasonably consider that the operation of the business would be unduly disrupted if the leave was approved. If the employer does postpone the leave, they must provide a written counter notice within seven days of the request, explaining the reason for the postponement and the revised dates the leave can be taken on. The employee must be allowed to take the requested leave within a month of their original request.

What remedies does an employee have if these rights are not upheld?

An employee will be able to bring an employment tribunal claim if their employer has unreasonably postponed, prevented or attempted to prevent them from taking carer's leave. A tribunal can make a declaration and award compensation. Compensation is subject to what the tribunal considers "just and equitable", taking into account the employer's behaviour and any consequential loss sustained by the employee.

Decision required: Recommendation that Carer's Leave policy is adopted.

DETAILED REPORT ATTACHED?	YES
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: **Paul Thomas, Assistant Chief Executive (People Management)**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets	Bio-diversity & Climate Change
YES	YES	YES	NONE	NONE	YES	NONE	NONE

1. Policy, Crime & Disorder and Equalities

The Carer's Leave Policy supports the Authority's Corporate Strategy and our Well-being Objective 2: Enabling our residents to live and age well (Live & Age Well) and Well-being Objective 4: To further modernise and develop as a resilient and efficient Council (Our Council).

2. Legal

The Carer's Leave policy enables the Authority to meet its statutory requirements as laid out in the Carer's Leave Act 2023. Dismissal of an employee for a reason connected with their taking carer's leave will be automatically unfair.

3. Finance

Whilst the new statutory right is for up to one week's unpaid leave per employee who is defined as a carer in a rolling 12-month period, for some frontline services this leave will require back fill and therefore additional staffing costs from within existing delegated budgets.

4. Staffing implications

The People Management team has a role to play in educating managers on these new responsibilities, managing and advising on applications, to ensure the statutory obligations are complied with and risks of claims minimised.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below:

Signed: Paul Thomas, Assistant Chief Executive (People Management)

1. Scrutiny Committee request for pre-determination	NO
Scrutiny Committee	
Date the report was considered:-	
Scrutiny Committee Outcome/Recommendations:-	

2. Local Member(s)

N/A

3. Community / Town Council

N/A

4. Relevant Partners

N/A

5. Staff Side Representatives and other Organisations

Recognised trades unions have been consulted via CERF.

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE	
YES	

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THERE ARE NONE

Title of Document	File Ref No.	Locations that the papers are available for public inspection

