



DISABILITY LEAVE

GUIDANCE

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Introduction

The Council is committed to promoting equality of opportunity and the working lives of employees with a disability to meet its responsibilities under the Equality Act 2010. It will make reasonable adjustments in the workplace to support employees with a disability and deploy good employment practice in making reasonable adjustments such as adjusting working hours or providing specialised equipment where possible. The provision of Disability Leave can assist with this, allowing employees with a disability or those who become disabled, to concentrate on managing their disability during employment with the support of the Council.

What is Disability Leave?

It is paid special leave for **planned absences**, agreed in advance, when arrangements, which are directly related to the employee's disability, prevent the employee from attending work. Disability Leave takes account of the employee's particular needs and circumstances and can be taken as individual days or blocks of leave.

Disability Leave is for absences other than sickness, as sickness absences are covered by the Council's Maximising Attendance policy and guidance.

Scope

Disability Leave and this guidance document applies to all employees in the Council.

Who is eligible for Disability Leave?

Disability Leave will only apply to employees who are regarded as having a disability under the definition detailed in the Equality Act 2010 and who follow the process detailed in this guidance. The line manager, with advice from HR if required, will first determine whether it is likely that the disability is covered by the Equality Act 2010 (see Step 1 of the process).

Under the Equality Act 2010, a person is regarded as having a disability if they *"have a physical or mental impairment that has a substantial and long-term negative effect on their ability to do normal daily activities"*. 'Substantial' means that it must be more than minor eg taking much longer than it usually would to complete a daily task such as eating, washing and getting dressed. 'Long-term' means 12 months or more.

The Equality Act 2010 also covers progressive conditions, such as motor neurone disease and muscular dystrophy. For employees with the progressive conditions of cancer, multiple sclerosis and HIV, they are automatically covered from the day of diagnosis.

Employees who have had a condition in the past which was classed as a disability are also covered by the Equality Act 2010.

Not all conditions will be covered by the Equality Act 2010 eg addiction to non-prescription drugs and alcohol, with further information on what is or is not covered by the Act found at www.gov.uk. Employees can also access advice from their Trade Union.

The employee should declare to their line manager that they have a disability. This will facilitate discussion around Disability Leave and any other reasonable adjustments that may be required to support the employee at work.

What types of situation can Disability Leave cover?

The following are examples of situations where Disability Leave may apply. This is not an exhaustive list and requests should be considered on a case by case basis:

- Installation and/or fitting, of equipment
- Planning and implementation of adjustments to the workplace/job
- Planned counselling/therapeutic treatment
- Planned therapy (eg physio, occupational or speech)
- Attending appointments or receiving planned hospital/medical treatment for the disability as an outpatient
- Hearing aid tests
- Dialysis treatment
- Training with guide or hearing dogs

Disability Leave **does not** cover an **unexpected** disability related event that prevents an employee from attending work. In such circumstances the employee should inform their line manager as soon as possible when they can discuss how the lost time can be covered including annual leave, unpaid leave, the use of flexible working options such as homeworking, or use of flexi time (where applicable) for periods of **unplanned absence**.

If the employee is the parent or carer of someone with a disability, Disability Leave does not apply, but there are provisions under the Special Leave Policy that may cover a situation where time off is needed in relation to the caring role, such as time off for dependants, compassionate leave or parental leave.

How much Disability Leave is permitted?

Line managers may grant a **reasonable amount** of paid time off taking the employee's individual requirements and the Service's ability to accommodate this into account. Line managers are encouraged to use their discretion and consider applications for Disability Leave on a case by case basis, adopting a positive, pragmatic approach. Advice on this can be provided by an HR Business Partner/HR Adviser.

Process for Disability Leave

STEP 1 – DETERMINING WHETHER THE EMPLOYEE HAS A DISABILITY AND QUALIFIES FOR DISABILITY LEAVE

Once the employee has declared that they have a disability to their line manager, the line manager, with advice from HR if required, will first determine whether it is likely to be covered by the Equality Act 2010 (refer to 'Who is Eligible for Disability Leave' above).

STEP 2 – CONFIRM AND RECORD DISABILITY

Once it has been established that the condition is likely to meet the disability criteria specified in the Equality Act 2010:

Where the employee has access to YourHR

The employee will log into YourHR and under 'Your Leave', 'Apply for it', 'Special Leave', the employee should select Disability Leave. There will be no option to enter periods of leave at this stage, but the employee will be required to tick a box to confirm they have a disability that is covered by the Equality Act 2010 and also tick a box to consent to sensitive personal data being processed in accordance with the Data Protection Act 1998. As this is sensitive personal information, as defined in section 2 of the Data Protection Act 1998, the information will be held confidentially and used for monitoring, statistical reporting and promoting equality and diversity.

The employee's line manager will receive notification of the above steps and be directed to YourHR, 'YourTeam', 'Team Member Matrix'. The line manager will then be able to tick the Disability Leave box against the employee's name. This brings up another window and the line manager is then required to confirm that they consider the employee has a disability covered by the Equality Act 2010 by ticking a box and then clicking the 'confirm' button. Once this has been completed, the information recorded on YourHR will automatically update the employee's personal record on the HR system.

The above steps only require to be completed once. The employee is now able to apply for Disability Leave.

Where the employee does not have access to YourHR

The line manager will log into YourHR and under 'YourTeam' go to the 'Disability Resources' box and click on **Disability Leave Authorisation**. The line manager will then select the employee, select correct location, click on preview to display the pre-populated Disability Leave Authorisation Form and if they are happy, click on confirm. The form is then added to the list of authorisation's at the top of the page

and the line manager can then click 'view/print unsigned' and print the form out. The employee will then complete the form by signing it to confirm they have a disability that is covered by the Equality Act 2010 and that they consent to sensitive personal data being processed in accordance with the Data Protection Act 1998. As this is sensitive personal information, as defined in section 2 of the Data Protection Act 1998, the information will be held confidentially and used for monitoring, statistical reporting and promoting equality and diversity.

Once the form has been signed and dated by the employee, it should be passed to their line manager. The line manager is then required to sign the form to confirm they consider that the employee has a disability covered by the Equality Act 2010.

The Line Manager will then view on YourHR 'Manage Disability Authorisation' from the 'Disability Resources' box and select the employee and then 'choose file' and then select and upload the completed Authorisation Form. The line manager will then be able to view the uploaded form and then under 'YourTeam', 'Team Member Matrix', 'Employee Details' tick the Disability Leave box against the employee's name. Once this has been completed, the information recorded on YourHR will automatically update the employee's personal record on the HR system.

The above steps only require to be completed once. The employee is now eligible to apply for Disability Leave.

STEP 3 – PLANNING THE REQUIREMENT FOR DISABILITY LEAVE

The line manager will arrange a meeting with the employee to discuss the potential Disability Leave requirements. At this point, the employee may not know exact dates, for example for planned treatment appointments, however, they may have an idea of the amount or timings of the potential leave. This early discussion and planning should assist the Service's ability to accommodate the Disability Leave request(s) and also identify any other reasonable adjustments or support measures.

The employee can proceed to apply for Disability Leave.

STEP 4 – APPLYING FOR AND APPROVAL OF DISABILITY LEAVE

Where the employee has access to YourHR

To apply for Disability Leave the employee should log in to YourHR and click on the 'Your Leave' section. Under 'Apply for it', the employee should then select Special Leave, then Disability Leave and enter the periods of leave required.

The line manager will be notified electronically of the request and if necessary will discuss each request with the employee. The line manager will then make a decision and either approve or decline the request and the employee will then be notified electronically.

Where the employee does not have access to YourHR

If the employee does not have access directly to YourHR then the employee should discuss their request with their Line Manager who will log into YourHR and under 'YourTeam' go to the 'Disability Resources' box and click on **Disability Leave Application**. The line manager will then select the employee, select correct location, click on preview to display the pre-populated Disability Leave Application Form and if they are happy, click on confirm which will then open the form up to print. The employee will complete the form with details of the relevant periods of leave required and sign and return the form to their line manager. The line manager will then make a decision to either approve or decline the request. If the line manager approves the request then they also sign the form.

The Line Manager will then on YourHR, view 'Manage Disability Application' from the 'Disability Resources' box and select the employee and then enter the details and then upload and submit the completed Application Form.

STEP 5 – REVIEW OF DISABILITY LEAVE REQUIREMENTS

The line manager and employee will review Disability Leave requirements appropriately.

When an employee's circumstances or condition changes they should inform their Line Manager and discuss any changes to Disability Leave requirements. The Line Manager may also seek Occupational Health advice on any other reasonable adjustments or potential support measures for the employee.

False Claims

Any employee found making a false claim for Disability Leave by either:

- (i) claiming they have a disability when they are not classified as disabled
- (ii) claiming that an absence was planned when it was unplanned and as such not qualifying for Disability Leave

then the matter will be dealt with under the Council's disciplinary procedure.

These guidance notes aim to provide answers to any queries on managing Disability Leave and hence a manager or employee is expected to refer to these and the accompanying FAQs available via the Ask HR pages on the Zone in the first instance. If the information to answer a query cannot be found within the guidance notes or FAQs, it can then be raised with the HR Service Centre by calling (01224) 523939 or by e-mailing AskHR@aberdeencity.gov.uk

