

# Covid-19: paid special leave arrangements

29 October 2020

## Reference: SPCB(2020)Paper 059

1. This paper updates the SPCB on the current and proposed measures in place to support the health, safety and wellbeing of MSPs' staff in line with SPCB policy and Scottish Government guidance. It outlines the continued provision for support to MSPs' staff with caring responsibilities affected by Covid-19.
2. SPCB is asked to agree to the recommendations outlined in this paper.

## Background

3. As part of our immediate response to the Covid-19 pandemic, paid special leave arrangements were introduced to support colleagues to make sure that no one was adversely impacted from having to work from home.
4. The SPCB agreed that the Parliament temporarily amend its paid Special Leave Policy to include MSP staff and to cover Covid-19 absences related to time off to care for dependents, self-isolation and illness.
5. This arrangement provides flexibility for MSPs to access the temporary staff provision to cover periods of paid special leave. The 10-day qualifying period was also amended to allow MSPs to access the provision from the first day of absence.
6. In June, a high-level programme plan was developed, including a commitment under Work Package 5 to review the paid special leave arrangements to ensure they continue to meet individual and organisational needs and requirements. The scope of this work also includes reviewing the Scottish Government's route map and the implications for our wellbeing framework to ensure it continues to adapt to changes as they emerge.
7. In line with this commitment, the current special leave arrangements have been reviewed.

## Discussion

8. As part of this review, we used the Welsh Parliament, Northern Ireland Assembly and other public organisations as a benchmark to see how our existing arrangements compare with theirs and to inform future policy decisions. In summary, our existing paid special arrangements are more favourable in comparison.
9. See full details of the benchmarking exercise at [Annex A](#).
10. The existing arrangements to support staff who are self-isolating or who have a suspected or confirmed Covid-19 diagnosis will remain in place. This is to ensure there is no impact on sickness absence or pay.
11. To support staff during this challenging time, a 'Wellbeing Week' is taking place week beginning 9 November. All elements of the programme will be

available to MSPs' staff. Remote 'drop-in' sessions specifically for MSPs' staff around wellbeing and the challenges they face will be available to book. The full programme will be communicated to MSPs and their staff and HR will raise awareness through the staff forum and its networks to make sure that everyone is able to attend the events remotely.

## Recommendation

12. We recommend that the paid special leave arrangements come to an end on 31 October as planned and be replaced with new arrangements set out in the attached [Annex B](#). Notably, MSPs' staff with caring responsibilities will receive up to 10 days paid special leave, pro-rated for part time staff, if there is a change to their caring arrangements due to Covid-19. The facility to access temporary staff cover from day one will remain.

## Publication Scheme

13. This paper can be published in line with the SPCB's Publication Scheme.

## Decision

14. SPCB is invited to agree to the following:

- 14.1 end the existing paid special leave arrangements for MSPs' staff on 31 October as planned; and
- 14.2 sign off the attached guidance at annex B.

## Next Steps

- produce communications and raise awareness through the staff forum to make sure MSPs and their staff are aware of the support available to them under the paid special leave arrangements and the temporary staff cover provision; and
- run the Wellbeing Week in November, including sessions specifically for MSPs' staff and the challenges they face.

**HR Office**

October 2020

## Benchmarking Analysis – Paid Special Leave and Covid-19

Issue	Our policy	Comparator policies	Recommended approach
<p><b>Sickness absence related to COVID-19</b></p> <p>What do we mean by COVID-19 related absence. You will have to selfisolate if you have symptoms and</p> <ul style="list-style-type: none"> <li>• Medical advice has confirmed that symptoms are consistent with COVID-19</li> <li>• The employee has been tested and confirmed as having COVID-19.</li> </ul> <p>You may also have to selfisolate if:</p> <ul style="list-style-type: none"> <li>• You have been informed by an NHS contact tracer that you have been in close contact with someone who has tested positive</li> </ul>	<p><b>Our current policy:</b> your absence will not be treated as sick leave. We have put in place a new special leave category which will apply to Scottish Parliamentary Service staff who are affected by coronavirus.</p>	<p><b>Northern Ireland Assembly:</b> COVID-19 related absence is recorded as <b>sickness absence</b> but will not affect absence review points under the Managing Attendance Policy or contractual sick pay. No fit note is required from GP during the full period of absence</p> <p><b>NHS Scotland:</b> record COVID-19 related absence under Special Leave. If the employee has been tested and confirmed as having COVID-19, the absence must be recorded as <b>Special Leave under Coronavirus – COVID-19 Positive</b>. Absence for symptoms consistent with COVID-19 and confirmed cases of COVID-19 will be recorded as Special Leave as they will not count towards sickness absence triggers. Self-isolation will be required for 14 days for individuals with symptoms of COVID-19 and for 7 days for individuals with mild symptoms. The absence is recorded as <b>Special Leave SP/32 Coronavirus – self isolating</b>.</p>	<p>Policy remains that any absence related to COVID-19 will be recorded as paid special leave and will not affect absence under the Attendance Management policy. However, guidance to be reviewed with more detailed information on the types of COVID-19 related absence and testing for example, you are showing symptoms consistent with COVID-19 or you are self-isolating because a) you have been informed by an NHS contact tracer that you have been in close contact with someone who has tested positive or b) live with someone who has symptoms or who has tested positive.</p> <p>Testing for key essential on site workers will determine whether someone can get back to work or not, as long as they are well enough to work: <a href="https://www.gov.scot/publications/coronavirusCOVID-19-getting-tested/pages/who-can-betested/">https://www.gov.scot/publications/coronavirusCOVID-19-getting-tested/pages/who-can-betested/</a></p>

Issue	Our policy	Comparator policies	Recommended approach
<ul style="list-style-type: none"> <li>live with someone who has symptoms or has tested positive.</li> </ul>		<p><b>West Lothian</b> – COVID-19 will be recorded as <b>special sick leave</b>. Any absence will not be used for absence triggers, it will be recorded separately. Unless tested positive for COVID-19, normal sickness absence arrangements will apply for absences continuing beyond the 10 calendar days required self-isolation period. Discussion must take place with manager whether it is possible to put in arrangements to work from home or not. If not paid leave will be granted for the duration of the required self-isolation period.</p> <p>Once tested, the employee can return to work immediately, providing they are well enough, and have not had a fever for 48 hours. If they have tested negative and do not feel well enough to return to work, then the normal sickness absence arrangements will apply.</p> <p><b>Edinburgh University:</b> Any COVID-19 absence will be treated as <b>special sick leave</b>. Employees will receive full pay for the period of absence related to the virus. Absence will have no effect on absence record and entitlement to sick pay</p>	

Issue	Our policy	Comparator policies	Recommended approach
		<p><b>NHS Leeds:</b> COVID-19 absence is recorded as <b>sickness</b> and paid sick pay as though they are working. Sickness absence related to COVID-19 will not count towards sickness absence triggers.</p>	
<p><b>Quarantine</b></p> <p>You may have to self-isolate for 14 days if you travel abroad and return to Scotland from the list of countries and territories identified in the SG guidance.  <a href="https://www.gov.scot/publications/coronavirusCOVID-19-public-healthchecks-at-borders/pages/exemptions/">https://www.gov.scot/publications/coronavirusCOVID-19-public-healthchecks-at-borders/pages/exemptions/</a></p>	<p><b>Our current policy:</b> individual circumstances dealt with informally by agreement with line manager</p>	<p><b>Leeds NHS:</b> if you cannot work from home you have a range of options to consider for how the 14-day quarantine period could be treated. This includes: annual leave; unpaid leave; work from home; making up some or all of the 14 days' leave over a period of time through working additional hours over their normal contracted hours.</p> <p><b>University of Edinburgh:</b> if you cannot work from home you will need to take additional annual leave, or unpaid leave, to cover the mandatory 14-day period.</p>	<p>Quarantine requirements are continually changing and are likely to continue to do so over the coming weeks/months. Policy to refer to the latest government guidance regarding travel to all destinations  <a href="https://www.gov.uk/foreign-travel-advice">https://www.gov.uk/foreign-travel-advice</a>.</p> <p>Authorisation from manager should be required in advance of making travel plans travel if it is likely to impact on their ability to fulfil their duties, i.e. where they are unable to work from home. Options can include taking annual leave, unpaid leave to cover the mandatory period.</p>
<p><b>Caring responsibilities</b></p>	<p><b>Our current policy:</b> the 'no detriment' Policy is in place until the end of October 2020. If your caring responsibilities have been affected by</p>	<p><b>Welsh Assembly:</b> re-instigated the arrangements put in place from April to July 2020 that if you cannot work your usual full day due to caring responsibilities, you can apply for notional special leave to top up any partial working days to full days (which mirrors our 'no detriment' arrangements).</p>	<p>As we gradually move out of lockdown, it is evident from the first phase of wellbeing plans to be returned that the majority of caring responsibilities are back to normal. For many colleagues the reopening of schools and caring facilities has greatly reduced the challenges associated with simultaneously working from home and caring for children or other vulnerable or elderly dependants.</p>

Issue	Our policy	Comparator policies	Recommended approach
	<p>COVID-19 and in circumstances where it is not practical for you to work your normal hours, your manager or employer will authorise paid special leave for the hours you were scheduled to work. Where homeworking is not an option at all, you will also receive paid special leave.</p>	<p>While all educational and childcare settings are open, they appreciate that there will be temporary, local closures of either classes, year groups and potentially whole school or caring settings where groups are asked to self-isolate due to a confirmed case or where a larger outbreak occurs. This means employees with caring responsibilities are not expected to use flexi/annual leave to make up time when they can't work due to those caring responsibilities. They describe different scenarios where special leave would likely be the case.</p> <p><b>NI Assembly:</b> recognises a degree of flexibility is required to manage caring responsibilities if schools are directly impacted by COVID-19. That flexibility might include continuing to carry out your contracted hours across different times of the week or a blended approach to working some of your hours at home and some in the Building. If it is not possible to put arrangements in place or work your hours in such a way as to meet your caring responsibilities, you may still apply for paid special leave. This will normally be limited to 5 working days (pro rata for parttime staff) and you should consider whether you might supplement this by</p>	<p>However, there will be temporary local closures etc and we recognise this will affect colleagues from time to time. On this basis we recommend offering an additional 10 days paid special leave for anyone with caring or childcare responsibilities that have been affected by Covid-19. If they require a longer period of time to manage their circumstances at home other options can be considered including annual leave, unpaid leave, flexibly working their hours, and a reduction in working hours on a temporary or permanent basis.</p> <p>Employees should discuss this with their manager and agree how and when their duties will be carried out. Where an employee cannot fulfil their duties, the additional special leave can be applied.</p>

Issue	Our policy	Comparator policies	Recommended approach
		<p>using some annual leave or flexi/credit time/TOIL.</p> <p><b>Birmingham University:</b> at the time of lockdown Birmingham Uni had a similar policy to us which recognised that people may not have been able to fulfil all their contractual obligations due to caring responsibilities. Their policy changed on 14 September whereby all staff will be expected to fulfil their contractual hours/duties as required (whether that is on campus, working remotely, or a blend of the two). Where a member of staff cannot fulfil their duties, other options may include annual leave, unpaid leave, flexibly working their hours, and a reduction in working hours on a temporary or permanent basis. With exception, they have made the decision to enhance the Dependants' leave during the Autumn term (unpaid leave to deal with an emergency) by allowing staff to take up to up to a total of two paid days leave only to deal with an emergency related to their dependants. This will be reviewed later in the year.</p> <p><b>Glasgow Council:</b> like us the council made a temporary enhancement to their Conditions of Service - Leave and</p>	

Issue	Our policy	Comparator policies	Recommended approach
		<p>provided employees up-to 5 days paid special leave, if required, to make suitable arrangements for their dependents. As the restrictions have now eased they have returned to their normal practices as detailed in Conditions of Service - Leave and would expect that employees will have or will be able to make suitable arrangement to assist their return to work if required. If they are experiencing any challenges in this regard they can consider other options such as annual leave, unpaid leave, TOIL etc.</p> <p><b>Edinburgh university:</b> recognises that if staff are encountering challenges associated with working from home, due to caring responsibilities then, they should discuss these with their manager to explore what adjustments are possible using the existing policies including Emergency Time off For Dependants Leave, Parental Leave or Extended Unpaid Leave. If, however, there continues to be a change to their usual caring arrangements and this is due to a direct impact of COVID19, then they should remain on paid temporary leave.</p>	

## **Covid-19 Paid Special Leave Arrangements: Colleagues with Caring Responsibilities**

1. As part of our ongoing response to Covid-19, we are committed to supporting colleagues to ensure they can balance their personal and work commitments and adapt to changes as they emerge. This guidance sets out the continued provision for support to staff with caring responsibilities. It will be updated in line with any change to Scottish Government route map for moving out of lockdown.

### **Who is this guidance for?**

2. It is for all colleagues, SPS staff and MSPs' staff, with caring responsibilities.

### **Why is this guidance important?**

3. We appreciate that the reopening of schools and caring facilities has greatly reduced the challenges associated with simultaneously working from home and caring for children or other vulnerable or elderly dependants. However, we know that as infections rates fluctuate, local restrictions will be put in place to help control the spread of the infection.
4. We recognise the impact this can have on colleagues and we are committed to supporting them to balance their personal and work commitments. If a school or caring facility is directly impacted by Covid19, for example, a school requires to close for a deep clean, or your child or dependant is required to self-isolate, this may present ongoing concerns for colleagues with managing their caring responsibilities.

### **How will this be achieved?**

5. We understand there is no one size that fits all. That is why we have taken the appropriate steps to support you to have a conversation with your manager or employing MSP should you be affected by Covid-19.
6. If you are unable to carry out your normal contracted hours because your caring responsibilities have been affected by Covid-19, you should discuss this with your manager or employing MSP and agree how and when your duties will be carried out. This could mean spreading your hours over different times or days of the week or adapting your workload to fit around your caring responsibilities.
7. [Wellbeing guidance](#) is in place to help facilitate these ongoing conversations.

### **What should I do?**

8. Where it is not possible for you to fulfil your contracted hours/duties, you can request up to 10 days paid special leave to your manager or employing MSP. This is broken down into hours and is pro-rated for part time staff. If you require a longer period to help you manage your caring responsibilities, you should raise this with your Group Head or employing

MSP so that all reasonable steps can be taken to manage your circumstances.

9. It's important that you continue to keep your manager or employing MSP informed of any changes so that the appropriate support can be provided. We are aware that the situation can change rapidly, and this reflects the need to have ongoing conversations through your wellbeing plan. Managers and MSPs are encouraged to adopt a flexible approach towards supporting your needs if your circumstances change.
10. During this time, you should also continue to exercise judgement, and balance this with personal wellbeing by using your annual leave and flexi leave as normal.

### **How will the policy be applied?**

11. To ensure consistency of application of the support available to colleagues with caring responsibilities, details of the arrangements that are available are captured below:

#### **Scenario 1 – you can maintain the same working arrangements.**

This would likely be the case where:

- No dependents require any more care than they would ordinarily need.
- Child/ren is likely to require less direct care and supervision due to age and needs.
- There is a partner/co parent/other with whom to share the caring responsibility.

Action - no action required

#### **Scenario 2 – you can undertake work and same number of hours with some working pattern adjustments**

This would likely be the case where:

- Dependent(s) need additional care, but it is minimal and can be managed using an adjusted working pattern.
- Child/ren may require some direct care and supervision for some of the day, however it is possible to undertake work at key intervals or periods throughout the day, that are different to the existing working pattern.

Action - you should discuss the situation with your manager or employing MSP to see if there are any changes you might need to make to your existing arrangements to enable you to work, such as working at times of the day, week, evening, or in short blocks of time.

#### **Scenario 3 – you can undertake work but over fewer hours than your normal contracted hours.**

This would likely be the case where:

- Dependent(s) need significant additional care.
- Child/ren may require direct supervision or care.
- There is a partner/co-parent/other who can share responsibilities but is also working from home.

Action – you should discuss the situation with your manager or employing MSP to identify if there are any changes you might need to make to your existing arrangements to enable you to work, such as working at times of the day, week, evening, or in short blocks of time. You should also apply for hours not worked.

#### **Scenario 4 – you are unable to undertake any work due to full time caring responsibilities**

This would likely be the case where:

- Dependent needs constant care.
- Child/ren needs constant supervision.
- There are no alternatives for care provision available.

Action – you should discuss the situation with your manager or employing MSP and apply for days not worked up to a maximum of 10 days, pro rata. If you require a longer period to help you manage your caring responsibilities, you should raise this with your Group Head or employing MSP so that all reasonable steps can be taken to manage your circumstances.

#### **How will paid special leave be recorded (for SPS only)?**

12. To support this flexible working approach, we have made it simple for you to record hours outwith your standard working pattern within TRS. This means you will not receive any exception notifications through TRS.

Any paid special absence under this policy will be noted as 'Covid-19 Paid Special Leave' within TRS by your manager

#### **What support is available?**

13. Your Group Head or employing MSP will seek advice from the HR to ensure the policy is being applied fairly and consistently and that decisions made comply with legal requirements. HR can also provide advice to you and your manager or employing MSP in relation to paid special leave on a case by case basis.

#### **What further information and support is available?**

14. You may find the following policies helpful:

- [Paid Special Leave Policy \(for SPS staff\)](#)
- [Family Care Leave Policy](#)
- [Remote Working: Guidance for Staff](#)