

Time Off for Public Duties, Jury Service and Employing Reservists Policy

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DRAFT



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1. Objectives and scope

- 1.1. The Council recognises the value to the local communities and the organisation of employees undertaking public duties outside work.
- 1.2. The Council recognises that many of the skills gained while carrying out public duties, such as leadership and team working, are transferable to the workplace.
- 1.3. This policy applies to all those employed by the Council, including those on permanent, temporary or part-time contracts, job sharers, and employees on non-standard terms of employment.
- 1.4. This policy does not apply to:
 - agency workers or interim staff
 - schools based staff who may be covered by separate procedures
- 1.5. The policy sets out when employees can request time off work to perform these duties and the process for doing so.

2. Definitions

- 2.1. Public duties are when employees are Justices of the Peace (also known as magistrates) and officials or members of certain public bodies. Public bodies include local authorities, statutory tribunals, health and education bodies. There is a legal right to reasonable time off work to carry out these functions.
- 2.2. Jury service is when an employee is called up (by court summons) to sit on a jury.
- 2.3. Reservists can be:
 - Volunteer reservists - recruited into the Reserve forces
 - Regular reservists – ex-military who may retain a statutory liability to be mobilised
 - The Reserve Forces Act 1996 also provides for other categories, such as:
 - **Full Time Reserve Service** -Reservists who wish to serve full time with regulars for a predetermined period in a specific posting
 - **Additional Duties Commitment** - part-time service for a specified period in a particular post
 - **Sponsored Reserves** - These are personnel employed by a contractor to provide a service to the Ministry of Defence (MoD).
 - **High Readiness Reserves** – These are Reserves, usually

with a particular skill set, that are available at short notice (with written agreement from their employer)

- 2.4. Reservist Mobilisation is when a reservist is called out for military operations and can last up to 12 months.
- 2.5. Reservist Demobilisation is when the reservist's deployment or task finishes.
- 2.6. Reservist Training is typically 19 to 27 days each year, or 24 to 40 days for specialist skills. Training is one evening a week, several weekends training and one 15 day continuous training course (may also be called annual camp).
- 2.7. The leave year is 1 April to 31 March.

3. Informing the Council

- 3.1. Employees should inform their manager when they are considering undertaking public duties or becoming a reservist.
- 3.2. Employees who are already performing these activities should inform their manager when they start in their post.
- 3.3. Employees should inform their manager as soon as they receive the court summons for jury service.

4. Pay during the time off

a) Public Duties

Employees will continue to be paid at their normal rate of pay while performing their duties, subject to the deduction of any payments received from the public body.

Employees are required to declare all such earnings on completion of the public duty.

b) Jury Service

Employees will continue to be paid at their normal rate of pay during jury service. If an employee is paid an allowance by the court, Payroll should be informed so that it can be retrospectively offset against salary.

c) Reservists

During mobilisation there is no requirement for the Council to pay the reservist. The reservist receives service pay from the Ministry of Defence and a standard award to make up any difference (up to the statutory limit) between their service pay and normal average earnings. The reservist is responsible for applying for the award.

The Ministry of Defence will pay the Council's contributions towards the reservist's occupational pension scheme as long as the reservist agrees to continue paying their own contributions to the scheme.

If the employee decides to join the Reserve Forces Pension Scheme, they will not accrue reckonable service for the Local Government Pension Scheme during the period of mobilisation.

5. Time off and requesting and recording leave

5.1 Employees should provide their manager with evidence of appointments for public duties, a copy of the court summons and any other documentation for jury service and evidence (such as a letter from the commanding officer) for reservists.

5.2 Public Duties

Justices of the Peace (magistrates) can use time off for public duties to perform any of the duties of their office. 13 working days will be given in each leave year. Any additional working days needed to fulfil the duties of the office must be taken from annual leave, flexidays, compressed days or time off in lieu (TOIL).

Officials or members of the prescribed public bodies (see [2.1 above](#)) can take time off to attend meetings of the body or any of its committees or sub-committees, and to do anything to carry out the functions of the body or any of its committees or sub-committees.

5.3 Jury Service

The employee should provide their manager with a copy of the court summons and any other relevant documentation as soon as possible after they receive the summons.

Jury service normally lasts 10 working days but can sometimes be longer. If an employee's services are not required for any part of or a whole court day they will be expected to return to work for the remainder of the day, if it is practical to do so.

If the jury service ends before the 10 days, the employee must inform their manager as soon as possible and return to work the day after the jury service ends.

Where the manager considers that an employee's absence on jury service could cause substantial impact on service delivery, the employee will be asked to make an application to be excused (courts will only allow it in

exceptional circumstances or if the employee has been on jury service in the last 12 months) or deferred, as appropriate. When this applies, the employee should only submit the application when they have a letter (and any other relevant evidence) from the manager to support the application. Employees can also ask to have the date changed to another one in the next 12 months if, for example, they are sitting an exam or having an operation.

5.4 Reservists

Employees should provide their manager with evidence that they need to take time off.

The Council is committed to granting additional paid leave of 15 days each year to Reservists specifically to enable them to attend the 15 day continuous training course.

Additional unpaid leave or annual leave from the Council's normal annual allocation of up to 3 days will be granted for short periods of training provided adequate notice is given and where such training cannot be undertaken in off-duty time. Attendance at weekend camps which cannot be undertaken during off-duty will be subject to the same arrangements.

Employees who need time off for activities as reservists are expected to use annual leave and the additional leave. The Council will do its best to accommodate these requests but cannot guarantee that they will be given priority.

Leave must be requested using Employee Self Service (iTrent). The application for leave should be made as soon as possible after the reservist has been informed that they need time off for activities. The manager will review the leave to ensure that it is not impacting on the needs of the service and not having an adverse effect on colleagues. The request and decision will be recorded, with the reason for declining the leave being recorded.

If the Council believes that, under the Reserve Forces (Safeguard of Employment) Act 1985, the employee's absence on military service could cause considerable impact on service delivery, it may apply for an exemption, deferral or revocation of mobilisation. This would be in exceptional circumstances. This must be done within 7 days of receipt of the employee's notice of mobilisation.

If there is untaken annual leave at the end of the leave year, iTrent automatically carries over a maximum of 1 week's contractual working week. All employees can request [carry over annual leave](#) and [buy additional annual leave](#) in accordance with the Council's [Annual Leave Policy](#).

All employees can request to work flexibly as outlined in the Council's [Flexible Working Policy](#).

Unauthorised absence may be treated as a disciplinary matter as outlined in the Council's [Disciplinary Policy](#).

5.5 Reservist Mobilisation

Mobilisation is when reservists receive a 'call out' notice for full-time service. The maximum period of mobilisation is typically no longer than 12 months.

When the call out notice is issued, the reservist and their manager will receive the call out pack. There will usually be a minimum of 28 days' notice. A call out notice can be appealed if it is considered to cause serious harm to the Council. Details of how to appeal will be in the call out pack.

The reservist's manager will record leave in iTrent using Manager Self Service (MSS) and meet with the reservist to discuss handover of work and return of equipment, ensure any necessary paperwork has been completed, make a claim for financial assistance as appropriate and how they will keep in touch.

Reservists should be encouraged to take any accrued annual leave before mobilisation. Annual leave is **not** accrued while mobilised because the reservist accrues annual leave with the Ministry of Defence while they are in full time service and it is factored into the mobilisation period and taken before the last day of mobilisation. However, during mobilisation, the reservist continues to accrue sick pay entitlement. If the Reservist become sick or injured during mobilisation, they will be covered by MoD's healthcare arrangements (including pay) until they are demobilised. If the sickness or injury continues and this results early demobilisation, they will remain covered by MoD arrangements until the last day of paid military leave. After the last date of mobilisation, the reservist will be covered by the Council's sickness policy.

If there is a restructure during the mobilisation time, the reservist should be included in consultation in the same way as any other employee who is not in work. They will be treated equally throughout the process, using the Employment Stability Agreement, in the same way as their colleagues.

The reservist continues to have access to the Council's Employee Assistance Programme (EAP) which provides free, confidential telephone counselling and support and is available 24/7. The number to call is 0800 028 0199. Support is also available online at: <https://healthassuredeap.co.uk/> (Username: Wellbeing; password: MindTestWorm20).

They will also have access to other staff benefits.

There is financial assistance for the employer to cover costs such as overtime, temporary replacement, clothing and training. Details are available in the Ministry of Defence Handbook.

5.6 Reservist Demobilisation (end of period of active service)

After service, the reservist has checks and briefings including medical and welfare.

Reservists are entitled to a period of post-operational leave. During this period, they will continue to be paid by the MoD.

A reservist cannot be forced to return to work before their leave finishes.

Both the Reservist and the Council have obligations under The Reserve Forces (Safeguarding of Employment Act) 1985 regarding the return to work process.

a) Reservist

The reservist has the right to return to work within 6 months of demobilisation. This is to their former post or a post on terms and conditions that are no less favourable. If they fail to return within the 26 weeks, they forfeit the right to return.

The reservist must write to their manager no later than the third Monday after the last day of full military service (demobilisation) requesting to return to work and suggesting a date which should be within 13 weeks of their last day of service.

Once reinstated the reservist will continue to be employed for:

- At least 13 weeks, if employed for up to 13 weeks before mobilisation
- At least 26 weeks, if employed between 13 weeks and 51 weeks before mobilisation
- At least 52 weeks, if employed 52 weeks or more before mobilisation

b) Council

The Council has an obligation under Reserve Forces (Safeguarding of Employment) Act 1985 to reinstate the reservist, where possible to their former role, and if not, to a mutually acceptable role on the same terms and conditions prior to mobilisation.

On returning to work the manager will make sure the reservist is updated on any changes, offer training and support, as appropriate, and discuss any health concerns. The following should be considered as part of the process of reintegration into the team:

- The need to update on changes and developments in the Council.
- The need to offer specific refresher training where it

is sought/considered necessary.

- Where the job duties have changed since mobilisation a period of skills training may be required to assist with new aspects of the job.
- Whether the reservist can meet up with colleagues informally or socially before or after return to work to prevent any feeling of dislocation, if this is sought.
- Reasonable time off to seek therapeutic treatment if required.

Appraisals

Managers who carry out Annual Reviews and 1-1 meetings with a reservist should be aware that Reserve Forces activities undertaken by an individual (either through training or mobilisation) bring essential skills into the workplace such as leadership, communication, team working and organisational ability, which can ultimately lead to improved performance in the workplace.

Continuity of Service

Continuity of service is not broken by a period of mobilisation provided the reservist is reinstated within 6 months.

Reservists and Unfair Dismissal

Reservists have access, without a statutory qualifying period, to an Employment Tribunal for unfair dismissal if the dismissal is for the reason of, or is connected with, the employee's membership of the Reserve Forces.

Under the Reserve Forces (Safeguarding of Employment) Act 1985, it is a criminal offence for an employer to terminate a reservist's job without their consent solely or mainly because they have a liability to be mobilised.

6. Data protection and retention of employee records

- 6.1 The Council processes personal data collected in connection with this policy in accordance with its data protection policy. Such data is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to requests to work flexibly. It will be held on an individual's personal record file which is retained for seven years after their date of leaving the Council. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Council's [Disciplinary Policy](#).