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Leave

Introduction

The following topic looks at annual leave, special leave and the statutory right to request leave for training purposes.

Details on time off for trade union duties are held within the section on "Employee Relations". Information on ante natal care and parental support leave can be found within the section headed "Parental Leave".

What will be done for you

- Annual leave entitlements are set under National Conditions of Service and meet legislative requirements relating to the statutory paid holiday entitlement.
- Provisions for special leave will be regularly reviewed by corporate HR, taking account of any statutory changes.

What you must do

- All staff should be advised of their annual leave entitlement at the beginning of the financial year. Leave details should be recorded on the SAP system and maintained throughout the year using the Employee Self-service function. If the employee does not have access to the SAP system they should maintain an annual leave card, which records the dates taken and the line management authorisation of the leave.
- Manage the leave taken by staff so that their absence does not adversely affect the delivery of services.
- All staff must be advised:
 - of any restrictions to taking annual leave within their area of service
 - to seek agreement for annual leave in advance (apart from exceptional circumstances) and that holiday commitments cannot necessarily be honoured if this is not done.
- Managers are required to award special paid leave in specific circumstances; e.g. jury service, witness at Court under subpoena, magisterial duties.
- People have a statutory entitlement to unpaid leave, which involves a dependant of the employee, to deal with certain unexpected or sudden emergencies and to make necessary long term arrangements.
- People have the statutory right to request time off for training. Employers do not have to give paid leave or pay for the cost of the training, although employers may agree to do so, recognising the value of the investment.

What you must not do

- Agree to requests to carry over annual leave from one financial year to the next apart from exceptional circumstances (please refer to 1.3 below).
- Special paid leave in excess of 5 working days, over a rolling 12 month period, should only be granted subject to the approval of the Chief Officer or nominee, in consultation with the appropriate Human Resources practitioner.

What you can do

- It is the manager's responsibility to consider requests for special leave and make decisions on any awards, within the constraints of the Council's guidelines.

Key Information

- The annual leave entitlement is set out in an employee's contract of employment.

Reference Section

- Guidelines follow.

Management Guidelines on Leave

1. Management of Annual Leave

- 1.1 The annual leave year for all employees runs from the 1st April to 31st March the following year.
- 1.2 While every endeavour should be made to enable employees to take their annual leave at the time of their choice, leave must be granted subject to the exigencies of the service. Employees must be advised to gain approval for leave in advance, and before they confirm any personal arrangements / holiday bookings.
- 1.3 The entitlement of annual leave for any leave year shall be taken during that year or forfeited. In exceptional circumstances, with the agreement of the Business Manager concerned, a balance of outstanding leave (up to a maximum of 20% of entitlement) in one year may be taken in the following leave year, provided this balance is taken in the first quarter of the next leave year.

Leave will not be automatically transferred when the entitlement has not been used due to long term, or frequent, sickness absence. In these instances a decision should be made based on the circumstances presented by the individual.

- 1.4 An employee on maternity leave will continue to accrue annual leave throughout her leave period, including any unpaid maternity leave.

In all other circumstance employees on unpaid leave, including unpaid sickness absence cease to accrue occupational annual leave.

- 1.5 An employee who falls sick during a period of annual leave will be considered to be on sick leave, if a medical certificate is provided to cover the full period of sickness absence.

2. Paid Holiday Entitlements

- 2.1 The annual leave entitlements for employees engaged under the Council's standard contract of employment are as follows: -

	Chief Executive & Chief Officers	Other JNC	Grade 9 to 12	Up to and inc. grade 8*
	Days	Days	Days	Days
BASIC	36	33	28	26
After 5 yrs continuous service	36	33	33	31
Not less than 7 yrs continuous service (inc 2 yrs with LBS)	37	34	34	32
Not less than 10 yrs continuous service (inc 5 yrs with LBS)	38	35	35	33
Not less than 15 yrs continuous service (inc 10 yrs with LBS)	39	36	36	34

- in addition to the above leave entitlements employees are entitled to public or bank holidays that fall on their normal working days.

- From 1 April 2009 all employees have a statutory annual leave entitlement of at least 28 days, which may be made up of basic annual leave and public / bank holidays. The statutory entitlement of 28 days annual holiday entitlement will be pro-rata for those working less than full time hours.

- the additional leave for continuous service is based on the anniversary of the start date with Southwark.

- 2.2 Since April 2007 annual leave entitlements have been calculated and recorded on the SAP system in hours rather than days. An increasing number of employees have more flexible working patterns, including job sharing, compressed hours, extended flexi-time, and weekend working. As a consequence many staff do not work the same number of hours each day. Converting the annual leave entitlement from days to hours enables different working arrangements to be calculated and recorded consistently across the council. The table below shows the annual leave entitlements converted from days into hours.

	Chief Executive & Chief Officers	Other JNC	Grade 9 to 12	Up to and inc. grade 8*
	Hours	Hours	Hours	Hours
BASIC	259.2	237.6	201.6	187.2
After 5 yrs continuous service	259.2	237.6	237.6	223.2
Not less than 7 yrs continuous service (inc 2 yrs with LBS)	266.4	244.8	244.8	230.4
Not less than 10 yrs continuous service (inc 5 yrs with LBS)	273.6	252	252	237.6
Not less than 15 yrs continuous service (inc 10 yrs with LBS)	280.8	259.2	259.2	244.8

- these figures quoted for annual leave in hours are based upon a standard 36 hour week, where 1 day equates to 7.2 hours. The annual leave entitlement is calculated as a percentage of the whole time equivalent for anybody working less than 36 hours per week.

2.3 Should any employees paid holiday entitlement (26 days annual leave plus bank / public holidays which fall on a normal working day) fail to reach the statutory entitlement of 28 days (pro-rata for those working less than full time hours), the Council will award additional leave to reach this level.

3. Entitlements for starters and leavers.

- 3.1 New entrants will accrue annual leave from their first day of service and their annual leave entitlement should be calculated as a proportion of the leave year that they work (from start date until the 31st March, unless they leave before this date).
- 3.2 On leaving employment (except where the employee moves to another local authority without a break in continuity of service and where annual leave entitlement is transferred), annual leave entitlement will be calculated up to the date of termination. Any annual leave taken in excess of the entitlement will be deducted from the final salary payment. No payment will be made for any annual leave (non-statutory) accrued but not taken where the employee is summarily dismissed from the Council for gross misconduct.
- 3.3 Employees transferring from one authority to another, (without a break in service), may take their remaining leave entitlement with them.

4. Bank Holidays and Public Holidays

- 4.1 Except where otherwise shown on individual contracts of employment, employees are entitled to public holidays or bank holidays that fall on their normal working days. The employee is paid at their normal rate on bank holidays and public holidays.
- 4.2 If, due to the exigencies of the service employees are required to work on a bank holiday or public holiday within their normal working hours then in addition to their normal pay the employee will be entitled to time off as follows: -

Additional payment at plain time rates for all time worked within their normal working hours PLUS time off at a later date (subject to the exigencies of the service) in accordance with the following formula:-

Where time worked is less than four hours* = Half Working Day Off

Where time worked is more than four hours* = Full Working Day Off

(*Or half/ more than half normal shift)

- 4.3 Where an employee works to a rota covering 5 from 7 days of the week and a bank holiday or public holiday coincides with a rest day, the day shall be treated as a public holiday and in addition a substitute rest day given.
- 4.4 Work on a bank holiday or public holiday outside of normal working hours shall be paid for, as overtime, at double time in complete recompense.
- 4.5 An employee on unpaid leave for a period exceeding two weeks shall not be entitled to payment in respect of any bank holiday or public holiday occurring during the period of such leave.
- 4.6 Part-time employees and job sharers are entitled to paid leave at their normal rate on any bank holidays and public holidays which fall on their normal working days.
- 4.7 Employees who work a compressed week (e.g. working longer hours each day so that contractual hours are completed in 4 or 4.5 days rather than the usual 5 days) are entitled to paid leave for any bank holidays and public holidays which fall on a normal working day for the employee concerned.

5. Pay During Leave

- 5.1 Regular overtime payments made to employees whose terms of employment provide that they must each month work hours in excess of the usual hours (and for which overtime payment is made as a regular addition to salary/wage), should be included when determining the normal pay of an employee during annual leave. Any other additions and regular payments made under the contract of employment should also be included.

6. Sickness & Leave

- 6.1 Employees are required to provide a medical certificate to cover sickness absence immediately before or after annual leave, flexi leave, a bank holiday or public holiday - also see topic on Sickness Management

Where an employee is receiving sick pay, this continues if a bank holiday or public holiday occurs during sick leave, providing that a medical certificate covering the period is supplied and the sick pay entitlement has not been exhausted.

- 6.2 The Council's sickness management procedure allows employees to return to work on a partial or staggered basis (e.g. two or three days per week or mornings only, etc, for an interim period). Where this is recommended by the Occupational Health Physician to enable an earlier return to work than otherwise would be the case, the balance of the week where the employee is absent may be on a paid basis, especially if the alternative would be for the employee to remain absent from work due to sickness. Any such absence would be recorded on SAP as special paid leave and though time limited will not fall into the constraints of special paid leave as described in the Special Leave section that follows.

It is acknowledged that in some business units there may be proper and pressing budgetary reasons why a staggered or partial return to work cannot be arranged on the basis of pay for the balance of the week, even where this is recommended by the Occupational Health Service. Each such case must be carefully considered on its merits by the Business Manager concerned and a proper case made and recorded to justify any such decision.

Where a planned staggered or partial return to work is at the employees' request as a matter of convenience or personal preference (i.e. not recommended or supported as medically required by the Occupational Health Physician), the "non-attendance" part of the week should be covered by annual leave or unpaid leave.

7. Special Leave

- 7.1 The section is divided into two; statutory rights for time off for dependants and the Council's arrangements for special leave.

7.2 Time off for Dependants

- 7.2.1 The statutory right to take **unpaid** time off for dependants was introduced as part of the Employment Relations Act 1999. Other statutory rights for time off (paid or unpaid dependent on the source of the entitlement) include time off for trade union duties, ante natal care or Parental Support leave. Advice on leave in these circumstances can be found in topics on -

Parental Leave

Time Off for trade Union Duties in Employee Relations

- 7.2.2 Employees do not have to complete a qualifying period to take time off in an emergency as described in 7.2.3 and 7.2.4 below. They are entitled to this right from day one of their employment.

- 7.2.3 The right enables an employee to take action that is necessary to deal with unexpected or sudden emergency concerning a dependent and make any necessary long term arrangements. Examples include the following, these are not inclusive-

If a dependent falls ill, or has been injured or assaulted

To deal with a death of a dependant.

When a dependent is having a baby

This does not include time off for parents after the birth when Parental leave may apply.

To deal with unexpected disruption or breakdown of care arrangements for a dependent.

To deal with an unexpected incident during school hours

To deal with an unexpected incident involving the employee's child during school hours.

- 7.2.4 A dependent is a husband, wife, child or parent of the employee. It also includes someone who lives in the same household as the employee. For example this could be a partner (including a same sex partner) or an elderly relative who lives in the household.

In cases of illness or injury, or where care arrangements break down, a dependent may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency.

A dependent is not considered to be a tenant or boarder living in the family home or someone who lives in the household as an employee - such as a housekeeper.

- 7.2.5 The employee is entitled to take a reasonable amount of time off in the above circumstances. The legislation does not set out the amount of time that is reasonable since it will vary on the nature of the emergency. As a rule of thumb, for most cases, one or two days should be sufficient to deal with the immediate problem and/or make longer term arrangements. Generally, where people need longer term leave they should request annual or special leave that the employer provides, (the Council's arrangements for special leave follow this section). The entitlement to time off for dependants is intended to cover genuine emergencies. No limit on the number of times an employee can be absent from work under this right has been set.
- 7.2.6 Employees must tell their employer as soon as practical the reason for their absence and how long they expect to be away from work. There may be exceptional circumstances where an employee returns to work before it was possible to contact the employer, but s/he must still tell the employer the reason for absence on returning. It is not necessary to give notice in writing.

7.3 Special Leave

- 7.3.1 These notes are intended to provide guidance to managers concerning the treatment of requests for special leave with pay. Such requests need to be treated fairly and consistently, and the needs of the employee should be balanced with the requirements of the service. Whilst decisions on special leave should reflect the Council's role as a caring and reasonable employer, it needs to be emphasised that special leave is at all times subject to the exigencies of the service and is entirely at the discretion of management.
- 7.3.2 As a general guideline, special leave should relate to emergency situations, that is serious events of a sudden and unforeseen personal or domestic nature which are beyond the control of the employee and which require prompt attention.
- 7.3.3 Authorised managers (within Chief Officer scheme of delegation) are permitted to approve special paid leave up to a maximum of 5 working days per individual over a 12 month rolling period within prescribed limits for circumstances as set out in the table at the close of this Section. Requests from part time employees should be considered on a pro rata basis.
- 7.3.4 Special leave approved beyond the prescribed limits will need to be matched by a corresponding amount of annual leave, flexi-leave or unpaid leave (see the table at the close of this Section for an example of this).
- 7.3.5 In exceptional circumstances special paid leave in excess 5 working days per individual over a rolling 12 month period may be granted, subject to the authorised manager obtaining the approval of the Chief Officer or nominee in consultation with the appropriate Human Resource Practitioner. It would be expected that any such additional special paid leave would be met by a corresponding amount of annual leave, flexi- leave or unpaid leave.

7.3.6 The guidelines recognise that by virtue of the nature of special leave hard-and-fast rules cannot always be followed rigidly. Managers may sometimes need to apply an element of discretion in individual cases depending on the circumstances.

7.3.7 In determining special leave managers should take into consideration all relevant factors:

- nature of the emergency;
- the relationship of the person to the employee;
- the employee's length of service;
- the employee's work record;
- amount of outstanding and uncommitted annual leave;
- accumulated or potential flexi-leave;
- service requirements;
- the possibility of unpaid leave;
- the possibility of temporary variation in working times.

7.3.8 It should be noted that for an extended period of unpaid leave (i.e. exceeding one month) there are implications for pension and accrual of holiday entitlement. If need be, advice should be sought from your Human Resources Team.

7.3.9 It is not considered appropriate for special leave to be granted for the purposes of:

- household removal;
- attending job interviews outside the Authority;
- attending weddings (own or someone else's);
- investiture with an honour or decoration, or presentation of a degree or diploma.

In these circumstances annual leave or flexi-leave is considered a more appropriate means of covering absence from work.

7.3.10 Visits to the doctor, dentist and hospital clinics shall normally be regarded as outside the provisions of special leave. Staff are entitled to paid time off for the purpose of attending ante-natal care as detailed in the Parental Leave arrangements.

7.3.11 It should be noted that the provision for 'up to 10 working days special paid leave', contained within the revised parental leave policy, is maintained (for a person on maternity leave with less than 26 weeks service, or at time of adoption irrespective of length of service).

7.3.12 Jury Service/Court Attendance

In addition to 'emergency situations of a personal or domestic nature' special leave must be granted for the following reasons:-

a) for the duration of attendance at court or industrial tribunal until such time they are freed by the court or tribunal providing:

- the employee's attendance must be as a witness on subpoena, witness order or other directions through the court or tribunal or at the request of the police.
- documentary evidence of required attendance is provided.

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b) jury service

Employees must be reminded that they will need to complete a loss of wages form available through the courts that must be signed by their manager. They will then receive reimbursement from the Courts for the amount stated and the relevant sum will be deducted from their next available salary.

7.3.13 Other

In addition to 'emergency situations of a personal or domestic nature' special leave may be granted for the following reasons:-

- a) sitting sponsored exams and final revision (equivalent number of days to the length of the exam)
- b) acting as an examiner or lecturer to outside authorities (not exceeding an aggregate of one week in any 12 month period)
- c) attendance at appeal hearings before any Whitley body at provincial or national level
- d) magisterial duties or meetings of Whitley or public bodies or attendance at national conferences (not exceeding the equivalent of 12 days a year)
- e) attendance on approved trade union courses (not exceeding 5 days a year)
- f) serving as a member of another local authority (up to 208 hours a year)
- g) duties undertaken as a school governor, whether within the borough or not (not exceeding 5 days a year)
- h) disability leave
- i) Attendance at summer camp as a volunteer member of the non-regular forces (up to two weeks a year).

7.3.14 Election Duties

In addition to 'emergency situations of a personal or domestic nature' special leave and appropriate release from duty may be granted to employees who volunteer to support the delivery of the Council's duties on elections. This would include the following tasks for Southwark Council-

- a) A day's special paid leave to cover absence when undertaking polling station duties.
- b) Paid release from duty where undertaking postal vote duties. This would normally be of up to a half day's duration on each occasion, with the need for attendance on more than one occasion.
- c) Paid release from duty for undertaking the count where this occurs during the working day.
- d) Where volunteers undertake the count outside the working day, the Strategic Director of Legal & Democratic Services may give direction that the relevant employees be given specified paid release from duty on the day after the election where the duration of their attendance at the count is judged to be excessive.
- e) Paid release from duty to undertake training on the above.

Applications for special leave should be made to the authorised manager in advance of the requested absence or on the first day of absence in the event of emergency situations.

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At all times managers may require confirmation or proof of the need for special leave to be approved. Managers must be aware of the requirement to avoid discriminatory treatment or victimisation.

7.3.13 Disability Leave

Disability leave will relate to non sickness absences, explicitly related to that person's disability. Circumstances may include:-

- time off to attend annual check-ups
- medical appointments that occur unavoidably during working hours
- time off for treatment
- time off for specific rehabilitation activities such as assistance dog training or sign language training.
- time off to move home where an accommodation move is required in response to the employee's specific disability or the worsening impact of a disability.

Matters related to workplace/ occupational training will generally not fall under disability leave. For example, if a person needs more time to prepare for a course because of their disability this should be discussed with the manager when considering training needs and how these can be met. In the same way that managers/ employees may discuss how the approach and delivery of other aspects of work may need to be adjusted.

It will be a matter for the manager and the employee to discuss the employee's potential need for disability leave as part of a regular review of reasonable adjustments. It is suggested that such a discussion should be held at least annually but may occur more frequently if an employee is recently disabled or the impact of their disability changes.

In line with the Council's special leave arrangements, described above, managers of appropriate seniority will have the authority to award up to 5 days* special paid leave in any rolling 12 months. The guidelines of up to 5 days special paid leave in these circumstances is not a an allowance but will be purpose specific and could be taken as full or part days.

In accordance with existing special leave arrangements, in exceptional circumstances special paid leave in excess 5 days per individual over a rolling 12 month period may be granted, pro rata for part time staff. This will be subject to the authorised manager obtaining the approval of the Chief Officer or nominee in consultation with HR. It would be expected that any such additional special paid leave would be met by a corresponding amount of annual leave, flexi - leave or unpaid leave. However, each case must be considered on its merits, (including service needs) and where the leave is for a time limited and specific programme, e.g. rehabilitation, some flexibility in the need to match leave for this purpose may be considered

7.3.14 Applications for special leave should be made to the authorised manager in advance of the requested absence or on the first day of absence in the event of emergency situations.

7.3.15 At all times managers may require confirmation or proof of the need for special leave to be approved. Managers must be aware of the requirement to avoid discriminatory treatment or victimisation.

Table 1

**MANAGEMENT GUIDELINES FOR CONSIDERING
SPECIAL LEAVE REQUESTS FROM STAFF**

All references to 'days' below are to be read as 'working days in a 12 month period'. 7

PURPOSE	RECOMMENDATION
a) Serious illness of a close dependent family member (e.g. partner, parent, child or a person for whom the employee has care responsibility), requiring the presence of the employee. This is not intended to cover illnesses of a minor nature (e.g. colds, infections, minor ailments etc.)	Period reasonably necessary, normally not more than 3 days with pay.
b) Death of persons specified in a), where the employee has responsibility for making funeral arrangements.	Period reasonably necessary, but not more than 3 days with pay.
c) Funeral attendance of persons specified in a).	Period reasonably necessary and allowing for journey time as in accordance with point b above.
d) Serious domestic difficulties caused by the sudden and unforeseen breakdown of childminding/nursery arrangements without the employee being able to make alternative arrangements.	Period reasonably necessary but not more than 3 days with pay.
e) Unforeseen domestic emergency (e.g. burglary, fire, flood) which is beyond the control of the employee.	Not more than 1 day with pay (may be applied retrospectively upon receipt of supporting information which may be required by the manager).
f) Bone marrow donations.	Period reasonably necessary but not more than 5 days with pay.

Note:

Authorised managers (within Chief Officer scheme of delegation) are permitted to approve special leave up to a maximum of 5 days per individual over a 12 month rolling period.

This is on the basis that special leave beyond the prescribed limits is matched by a corresponding amount of annual leave, flexi-leave or unpaid leave.

For example, an employee requests 5 days special leave for serious domestic difficulty. 5 days leave is approved as follows:-

- 3 days special leave, as prescribed.
- 1 day 'additional' special leave.
- 1 day annual leave.

Right to Request Time Off for Training

8.1 From 6th April 2010 employees have a statutory right to request time off for training. Employers do not have to give paid leave or pay for the cost of the training, although employers may agree to do so, recognising the value of the investment.

8.2 Eligibility

8.2.1 The employee must have worked for the employer continuously for 26 weeks on the date that they make the request, either on a full or part time contract.

8.2.2. Some people are excluded from the statutory right to make a request.

- Young people who already have a statutory right to paid time off to undertake study or training (under section 63A of the Employment Rights Act 1996), 16 or 17 year olds who are already under a duty to participate in education or training as a result of Part 1 of the Education and Skills Act 2008, 18 year olds who are treated as if Part 1 of the Education and Skills Act 2008 applies.
- People who have made a similar request within the previous 12 months, albeit there are some exclusions to this rule as explained below.

8.3 Scope & Frequency of Requests

8.3.1 Employees can make requests to undertake any training which they believe will improve their effectiveness in the Council and the performance of the Council. This can include accredited programmes - leading to the award of a recognised qualification - or shorter unaccredited training to help them develop specific skills relevant to their job, workplace or the organisation

8.3.2 Employees can request training that is delivered in whichever way they believe is most appropriate and effective.

8.3.3 There is no limit on the amount of time - or the amount of study or training - that an employee can request. Employees can ask to undertake more than one piece of training in a single request, e.g. where they would like to improve their literacy and numeracy skills in addition to another piece of training.

8.3.4 Employers are only required to consider one request from an employee in any 12 month period unless the employee has requested that you ignore an earlier request. If the employee submits more than one request in a given 12 month period the manager must advise the employee in writing if this is not to be considered within 28 days of receiving the request. This automatic extension cannot last longer than 28 days.

8.3.5 An employee may decide to withdraw a request at any point before their manager notifies them of the decision. If an employee withdraws a request, (either orally or in writing), it will still count as a request that the employer has received for the purposes of the legislation. But, there are three circumstances where the employer must ignore the fact that the employee has submitted an earlier application in any 12 month period. These are:

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- Where the employee notifies that they mistakenly submitted an earlier request before 12 months elapsed and they wish to withdraw the earlier application
- Where the employee did not undertake agreed training because it was cancelled - unless this was due to their own conduct in relation to training
- Where the employee failed to start training that was agreed as part of a request because of some unforeseen circumstance beyond their control

9. Process - Employee

9.1 For a request to be valid, under the legislation, it must be submitted in writing and contain the following information:

- A statement that the application is an 'application under section 63D Employment Rights Act 1996'
- The subject matter of the proposed training or study
- Where and when the proposed training or study would take place
- Who would provide or supervise it
- What qualification it would lead to (if any)
- How the employee thinks the proposed training or study would improve their effectiveness and the performance of the Council
- The date of the application
- The date and method – e.g. email or letter - that the employee's last application (if any) was submitted

Employees can submit requests in any written form they choose as long as they contain the above information.

10. Process – Employer

10.1 Within 28 days of receiving a valid request the employer must either:

- Accept the request and inform the decision in writing.
- Meet with the employee to discuss their request - then within 14 days of that meeting, inform the employee of the decision in writing. Employees have the right to be accompanied by trade union representative or work colleague at these meetings.

10.2 There are some variations to these timescales, but should be approached with caution;

- If the person in who would normally deal with training requests is absent from work on the day the application is received, the period within which a meeting must be held is automatically extended. A 28 day extension period will begin on the day that person comes back to work.
- By agreement with the individual who has made the request. Such an agreement must be recorded in writing and a copy given to the employee, clearly setting out what the revised extension period.

10.3 Employers can request additional information if needed. If the employee refuses to provide, the employer can treat their request as withdrawn but must confirm this in writing.

- 10.4 The employer may accept in full the employee's proposals for training as set out in their request. But there may also be cases where some variation is considered reasonable, e.g. different courses or qualifications that would better meet the training need. In such cases, employer needs to discuss the employee's request with them before reaching a final decision and confirming it, in writing, to the employee.
- 10.5 Employers may only refuse an employee's request for time to train for one of the following business reasons –
- The proposed study or training
 - would not improve the employee's effectiveness in the business
 - would not improve the performance of the business
 - would have a detrimental effect on ability to meet customer demand
 - would have a detrimental impact on quality
 - would have a detrimental impact on performance
 - The burden of additional costs would be too great
 - The employer would be unable to reorganise work among existing staff
 - The employer would be unable to recruit additional staff
 - There would be an insufficiency of work during the periods the employee proposes to work, e.g. where hours have been adjusted to accommodate a request
 - There are planned structural changes during the proposed training.

11. Appeals

- 11.1 Any appeal must be made in writing and within 14 days from receipt of the written notification of the manager's decision. An appeal can be made on the basis that the employee intends to –
- Challenge a fact, which is given as a business reason.
 - Bring to the employer's attention something the employer wasn't aware of when the application was rejected.
- 11.2 The grandparent principle will apply; i.e. the appeal will be heard by a manager within the hierarchy more senior than the person taking the original decision. A response must be given within 14 days –
- If the appeal is accepted, the employer should write to the employee setting out the same information as is required when accepting an initial request
 - If the appeal is not accepted an appeal meeting must be held within 14 days of the date you received the employee's appeal notice. Rights of representation apply. The outcome of the appeal must be confirmed in writing within 14 days of the date of the meeting including the grounds the decision and why these apply in the circumstances.

12. Tribunal claims

- 12.1 An employee may only make a complaint to an employment tribunal where either the decision to reject an application was based on incorrect facts (although this issue should first be covered in the appeal meeting). Or the employer didn't follow the correct procedure.

- 12.2 The employment tribunal does not have power to question the business reasons, although it can examine the facts on which the business reason was based to see if they are factually correct. An employment tribunal can order either an award to the employee, or require the employer to reconsider the request by following the procedure correctly.
- 12.3. The maximum level of compensation is eight weeks' pay. There is a separate award of up to two weeks' pay if rights of representation have not been met.

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