

Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave

1.0 Introduction

Surrey County Council is keen to encourage its employees to become Foster Carers, Friends and Family Carers, and Staying Put Carers, and also to support those already providing these types of care by providing time off where necessary.

Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave is time off work which may be granted under the umbrella of special leave. It can be granted for a variety of reasons and may be granted in addition to other leave entitlements. This type of leave should be used to enable employees to become Foster Carers, Friends and Family Carers, and Staying Put Carers and to continue to provide care where a child is in placement or young person is in a staying put arrangement.

Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave may be granted to undertake training to become an approved Foster Carer or Friends and Family Carer, as well as to attend formal meetings (including home visits), or to deal with unexpected emergencies. Staying Put Carers do not undergo an assessment process and so will only need Leave to attend formal meetings or to deal with unexpected emergencies, Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave must not be used where other forms of leave such as annual and/or flexi leave are more appropriate to the circumstances.

It is essential that employees spend the substantial majority of their contracted hours carrying out the role for which they are employed; however, managers will want to show support for those wishing to become a Foster Carer or those already providing foster care.

The law entitles employees to a reasonable amount of unpaid time off for emergencies involving dependants and this will also apply to Foster Carers, Friends and Family Carers, and Staying Put Carers.

2.0 Definition

A Foster Carer is defined as a person who is approved as a foster parent in accordance with the Fostering Services (England) Regulations 2011, or is temporarily approved as a Foster Carer under the Care Planning Placement and Case Review (England) Regulations 2010.

Foster Carers are approved as such by a local authority fostering service or an Independent Fostering Agency. Foster Carers care for children placed with them by a local authority (a looked after child), who is the child's corporate parent. A looked after child may stay with their Foster Carer for a short period or for longer periods of time; some children remain with their Foster Carer until they reach adulthood. Some Foster Carers provide respite care, which allow the child's parents or usual carers to take a break.

Family and Friends Carers are defined by the Department for Education as someone who can be a relative, friend or other person with a prior connection with somebody else's child who is caring for that child full time. An individual who is a "connected person" to a looked after child may also be a family and friends carer. A child who is cared for by a family and friends carer may or may not be looked after by the local authority (Department for Education. Family and Friends Care: Statutory Guidance for Local Authorities. 2011).

Department for Education uses 'Staying Put' to define the following arrangements where:

- A young person who was looked after immediately prior to their eighteenth birthday (as an eligible child) continues to reside with their former foster carer/s
- The carer/s were acting as foster carers to the child immediately prior to the young person's eighteenth birthday (that is, the carers were approved as foster carers in accordance with the Fostering Service (England) Regulations 2011 and the child had been placed with them by the local authority, or via an Independent Fostering Agency)
- A young person is deemed an eligible child, within the meaning of paragraph 19B(2) of Schedule 2 to the Children Act 1989, immediately before he/she reached eighteen
- The "Staying Put" arrangement is set out in the child/young person's Pathway Plan
- A proportion of the allowance paid to the "Staying Put" carer/s is paid by the Local Authority Children's Services under section 23C of the Children Act 1989
- The "Staying Put" arrangement extends until:
 - the young person first leaves the "Staying Put" arrangement; or
 - the young person reaches their twenty-first birthday, if continuously, and still living in the arrangement; or
 - the young person completes the agreed programme of education or training being undertaken on their twenty-first birthday, if continuously living in the arrangement since their eighteenth birthday.

Department for Education "Staying Put" arrangements can therefore cover all young people who were previously eligible children living in foster care, and who were looked after immediately prior to their eighteenth birthday, as long as the arrangement meets the above criteria, regardless of whether the young person is undertaking full or part education, training or employment or none of these activities.

The Children and Families Act introduced the new duty for local authorities to enable a Staying Put arrangement, beginning after a fostered young person reaches the age of 18, whereby they can remain living with their foster carer up to the age of 21 (or 25 if in full-time education). In this way, stable family homes can be guaranteed at a crucial transitional period in the lives of some of the most vulnerable in our society. Legally, the arrangement is not the same as a foster placement. The "former relevant child" can no longer be a looked after child once they turn 18; they are a young adult and a care leaver. The foster carer, with whom they were placed immediately before they ceased to be looked after, is no longer acting in the capacity of foster carer for

that young adult. They are their "former foster carer". The foster placement becomes a "Staying Put arrangement" and is not governed by Fostering Services Regulations.

3.0 Circumstances for Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave

The following are examples of when an employee may request time off work for reasons relating to their caring role. The list is not exhaustive and each request should be considered.

- **Leave during assessment to become a Foster Carer or Friends and Family Carer**

An employee wishing to become a Foster Carer or a Friends and Family Carer will have to undergo an assessment process to gain approval that they are suitable to undertake the role.

The Foster Care assessment process includes a combination of home visits (between 8-10 visits, with each visit lasting around 2 hours) in addition to the requirement to undertake specific training (prospective Surrey Foster Carers must attend one evening training session a week for 6 weeks, lasting 3 hours each session plus one whole Saturday. This may differ with another fostering agency).

Staying Put Carers do not undergo an assessment process, so time off does not apply in this situation for Staying Put Carers.

- **Leave at the commencement of a placement or a staying put arrangement**

It may be necessary for the employee to take time off when the child is first placed with them in order to settle the child, or to ensure appropriate child care arrangements can be put in place to allow the employee to continue to work.

- **Leave to attend meetings or other activities related to caring for the foster child and young person in a staying put arrangement**

Foster Carers and Friends and Family Carers are often asked to attend meetings to discuss the child's well-being and progress (such as their education and health care plan, personal education plans, looked after children reviews or social worker reviews), or to be available for other reasons related to their fostering role. Due to local authorities and independent fostering agencies working practices these may be during office hours.

Staying Put Carers will need time off to attend meetings to discuss the young person's well-being and progress (such as review meetings, supervision meetings with staff from the leaving care service or fostering service, review meetings) or to attend training. Due to local authorities and independent fostering agencies working practices these may be during office hours.

Does the employee have additional annual or flexi leave over and above their contractual annual leave entitlement available? Unlike the statutory leave entitlement

these are not just to be used for holidays or rest. Employees are expected to cover both their planned and unplanned absences using such additional contractual annual or flexi leave and this should always be considered as an option as part of your decision-making (employees cannot be made to use their statutory entitlement to time off for circumstances that would be covered by special leave paid or unpaid). Managers should be prepared to fully explore this with the employee, for example special paid leave would not be appropriate to enable an employee to take a dependant to a pre-planned medical appointment.

- **Emergency leave**

Anyone looking after a child will face situations where they are needed at home at short notice. This can include when a child falls ill or arranged child care is unexpectedly unavailable. Such situations are already covered by the existing statutory entitlement to reasonable unpaid leave for time off to care for dependants under Section 57A Employment Rights Act 1996.

4.0 Qualifying Conditions for Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave

Every employee who is going through the assessment process to become an approved Foster Carer or Friends and Family Carer is entitled to make a request for Foster Carer Leave and Friends and Family Carer Leave, regardless of hours worked. Employees are entitled to this right from their first day of work.

Surrey County Council staff who work in frontline social work teams in the Children's and Safeguarding Service may be unable to become approved Surrey Foster Carers. The reason being the potential conflict of interest between their professional role and that of a Foster Carer. Any conflict of interest may be of detriment to the interests of looked after children and therefore must be avoided.

Factors to consider when making decisions for Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave:

- special leave can be granted exceptionally for a specific purpose.
- employees are expected to spend the majority of their contracted hours carrying out the role for which they are employed.
- Employees can make a reasonable request for time off, based on the circumstances of individual cases. Employees may be expected to make a contribution of their own time.
- all special leave requests will take into consideration all other requests made by the employee in the previous 12 month rolling period
- requests for leave will be considered in line with business needs. This means that sometimes requests may not be granted.
- this may be an emotional time for the employee, which can impact on both their professional and personal life. Ensure that they are aware of the help and support available to them through the employee assistance programme.
- read the special leave policy and be familiar with the request process and keep a record of all applications and the outcome of the request.

5.0 Leave entitlement

Leave during assessment for approval

All time off to attend meetings, home visits and training, including travel and waiting time during the assessment to approval process for prospective foster carers and friends and family carers, will be paid at the employee's normal weekly rate of pay. If working hours vary from week to week, pay will be based on the average pay for the previous 12 complete working weeks, excluding overtime unless it is compulsory. With the exception of the first visit, evidence of appointments should be available on request by the manager. Employees are also expected to use flexible working where appropriate.

This provision for paid time off cannot be used for any other purpose.

Staying Put Carers do not undergo an assessment process, so time off does not apply in this situation for Staying Put Carers.

Leave during a placement

Employees who are approved Foster Carers or Friends and Family Carers may make a reasonable request to take unpaid special leave, to enable them to attend the required training courses and meetings with social services (for example looked after children review meetings, Personal Education Plan meetings, Education, Health and Care Plan meetings, social worker reviews, pathway planning meetings), training, or to accommodate an emergency placement, etc.

Employees are also expected to use flexible working where appropriate.

Individuals should request and agree the dates with their manager. This provision for time off cannot be used for any other purpose. Individuals must also inform their manager immediately if they cease to be Foster Carers or Friends and Family Carers.

Leave during a Staying Put arrangement

Employees who are Staying Put Carers may make a reasonable request to take unpaid special leave, to enable them to attend the required training courses and meetings with social services or the Independent Fostering Agency who oversees the Staying Put arrangement.

Employees are also expected to use flexible working where appropriate.

Individuals should request and agree the dates with their manager. This provision for time off cannot be used for any other purpose. Individuals must also inform their manager immediately if they cease to be a Staying Put Carer.

Emergency leave

Anyone looking after a child or young person will face situations where they are needed at home at short notice. This can include when a child falls ill or arranged child care is unexpectedly unavailable. Such situations are already covered by the existing statutory entitlement to reasonable unpaid leave for time off to care for dependants under Section 57A Employment Rights Act 1996.

6.0 Pay during Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave

There is no statutory right to be paid time off for being a prospective or approved Foster Carer, Family and Friends Carer, or Staying Put Carer. Leave for Foster Carers, Friends and Family Carers, and Staying Put Carers referred to in this policy is in addition to any statutory right to time off to care for family and dependants provided for by Section 57A of the Employment Relations Act 1996.

All time off during the assessment to approval process for attending meetings, home visits and training, including travel and waiting time, will be paid at the employee's normal weekly rate of pay. If working hours vary from week to week, pay will be based on the average pay for the previous 12 complete working weeks, excluding overtime unless it is compulsory. Employees are also expected to use flexible working where appropriate. Additional leave during the assessment process and once a child is in placement or a young person is in a staying put arrangement should be taken as either unpaid leave, annual leave or flexi leave, with the exception of an emergency. This time off is for attending training and meetings.

When a child is placed in foster care, family and friends care, or a young person is in a Staying Put arrangement, the cost of caring for them is paid to the Carer in the form of an allowance. Many fostering services also pay a fee on top of this allowance, in recognition of the work Foster Carers, Friends and Family Carers and Staying Put Carers do in caring for these children and young people.

7.0 Notifying of the need for Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave

When making a request for time off under Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave, the employee must:

- Advise their line manager that they intend to take time off under Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave as soon as they are aware of dates. This will allow their manager time to plan for their intended leave period.
- Provide a written letter/ email from the local authority fostering service or Independent Fostering Agency to attend a training course, written notification of an assessment appointment or other meeting with social services (assessment appointments only apply to Foster Carers and Friends). These documents must originate from the course provider or assessing body.

8.0 Approving a request (managers)

Line managers will need to discuss and agree with the employee the time that will be taken as paid special leave during the assessment process and confirm this via email. Line managers will also need to do this when an employee wishes to take unpaid leave and managers should update SAP records accordingly. Please see guidance on unpaid leave for further information.

Line managers will also need to check documents originating from the course provider or assessing body.

9.0 Refusing a request

There may be occasions where line managers are unable to agree a request for time off. Managers should explain the specific reason(s) for the refusal and demonstrate that their request has been considered seriously and fairly. This should be confirmed in writing.

Requests for Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave should be made as early as possible, and conditions such as high-demand leave weeks and peak work periods should be taken into account when considering such leave requests. Where there is a strong business need it may be necessary for managers to ask an employee to find more appropriate dates for attending meetings relating to the assessment process or training, or to make alternative arrangements.

10.0 Abuse of time off

Abuse of the right to Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave will be dealt with in accordance with the Disciplinary Procedure.

11.0 Legal positions

Employees are legally protected from suffering any detriment or disadvantage because they are taking or seeking to take time off during the assessment process to become an approved Foster Carer or Friends and Family Carer or where they are having time off to support a child settle into their foster care placement.

12.0 Terms and conditions

As any Foster Carer Leave, Friends and Family Carer Leave and Staying Put Carer Leave will be for short periods, all terms and conditions of employment will continue to apply.

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