

## **Policy proposals - Time off for Surrey County Council employees who are prospective and approved foster carers and friends and family carers, former foster carers under a “Staying Put” arrangement, Supported Lodgings providers and prospective adopters and special guardians.**

### **1.0 Introduction**

Surrey County Council is keen to support its employees who are prospective adopters, special guardians, foster carers, friends and family carers, former foster carers under a “Staying Put” arrangement and Supported Lodgings providers, and also to support those already providing these types of care by providing time off where necessary.

Leave for Surrey County Council employees who are prospective and approved foster carers and friends and family carers (kinship carers), former foster carers under a Staying Put arrangement, supported lodgings providers and prospective adopters and Special Guardians 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, former foster carers under a “Staying Put” arrangement and Supported Lodgings providers and to continue to provide care where a child is in placement, a young person is in a “Staying Put” arrangement or in a Supported Lodgings scheme. This leave should also be used to support employees who are prospective adopters and special guardians.

This category of leave may be granted to attend formal meetings (including home visits) and undertake training to become a special guardian, an approved adopter, foster carer or friends and family carer, Supported Lodgings provider, as well as to deal with unexpected emergencies. Former foster carers under a “Staying Put” arrangement (known as “Staying Put” Carers) do not undergo an assessment process and so will only need time off to attend formal meetings or to deal with unexpected emergencies. This category of 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 their staff undertaking an assessment, and to those already providing these types of 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. Time off for emergencies already applies to adoptive parents and special guardians, as they hold Parental Responsibility for their dependents.

## 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.

Supported Lodgings Services enable single people aged sixteen and over to be offered accommodation in a home environment when leaving foster care or residential care. The householder, or host, provides a safe and supportive environment, working alongside professionals to help and support the young person in gaining skills for independent adult life. Young people leaving care are often expected to live independently at a much younger age than young people who have lived at home with their families, and Supported Lodgings is set up to bridge that gap. Many young people have lived in children's homes or have moved many times in their childhood and need stability, support and guidance to help them move on to successful independent adulthood.

The Adoption and Children Act 2002 introduced special guardianship and special guardianship orders. Special guardianship is an order made by the court that places a child or a young person to live with someone permanently and gives legal status for non parents who wish to care for that child or young person in a long term secure placement.

### **3.0 Circumstances for Special 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 for prospective foster carers, friends and family carers, adopters and special guardians**

An employee wishing to become a foster carer, a friends and family carer, an adoptive parent, or special guardian 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 number of home visits in addition to the requirement to undertake specific training which may be during the day time.

“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 foster care placement and/or friends and family care placement.**

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.

Adopters and special guardians have Parental Responsibility for their child once the adoption order and special guardianship order has been granted. Any leave taken following the Order should therefore be considered under the council’s Parental Leave Policy, Adoption Leave and Pay Policy, Unpaid Leave Policy and other categories within the Special Leave Policy.

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.

The county council's Time off for Emergencies Policy states that employees have the right to take reasonable amounts of time off work to deal with unexpected or sudden emergencies relating to a dependant, and to make any necessary longer-term arrangements.

They are entitled to as long as it takes to deal with the initial emergency (normally one or two days). There is no right to paid leave, but managers can decide whether leave should be paid or unpaid. Longer periods of absence may be covered by Special or Compassionate Leave. There is no limit on the number of times an employee can be absent from work, and no qualifying period of service.

It is proposed that time off for emergencies is also extended to foster carers, friends and family carers, "Staying Put" Carers and Supported Lodgings providers:

### **Examples of time off for emergencies**

#### Time off may be required for:

#### 1. Illness, injury or assault

This includes mental or physical illnesses that don't have to be life-threatening or need full-time care. It could be an existing condition that has worsened.

For example, if a dependent is mugged without being physically hurt, you could take time off to comfort to help them.

Another example could be where a child or young person falls ill and the foster carer, friends and family carer, "Staying Put" Carer, adopter or special guardian may need to take time off to go to the doctor and make care arrangements. The county council may then ask the employee to take annual leave if the child or young person needs to be looked after for longer.

#### 2. Disruption of care arrangements

A childminder does not turn up to look after a child.

#### 3. If the child was involved in an incident during school time

Employees may ask for time off under emergency leave if the child has been involved in a fight, injured on a school trip, or suspended from school, for example.

#### Exceptions

Foster carers, family and friends carers, "Staying Put" Carers, adopters and special guardians cannot take time off as an emergency if they knew about the situation beforehand e.g. if they wanted to take a child to hospital for an appointment.

Adoptive parents and special guardians have parental responsibility and so 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 Leave**

Every employee who is a prospective and approved foster carer, friends and family carer, special guardian, adopter, “Staying Put” Carer or Supported Lodgings provider is entitled to make a request for time off under the policy, regardless of hours worked. Employees are entitled to this right from their first day of work.

Eligible employees and agency workers with 12 weeks service are now entitled to time off to attend adoption appointments in the period between being notified of a match with a child and the date that the child joins the family. Please see the council’s Adoption Leave and Pay policy and changes to Adoption Leave and Pay 2015 for further details.

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 special leave under this category:

- 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.

## Annex 1

### 5.0 Outline of proposed leave entitlement for Surrey County Council employees under the policy

	<b>Leave during assessment for approval</b>	<b>Additional leave</b>	<b>Additional leave at the start of a planned permanent placement</b>
<b>Adopters</b>	<p>Up to five days paid special leave in a 12-month period.</p> <p>Can be taken in whole or half days.</p> <p>To be used for attending meetings, home visits and training.</p>	<p><b>Additional leave during matching and introductions:</b></p> <p>An additional 5 days' paid or unpaid leave in a 12-month period (e.g. for meetings, training).</p> <p>Statutory time off to attend adoption meetings also applies. See Changes to Adoption Leave and Pay.</p>	<p>The council's Adoption Leave and Pay Policy applies here.</p> <p>The council's Parental Leave Policy allows eligible employees to take unpaid parental leave to look after the child's welfare.</p>
<b>Dual Approved Prospective Adopters (Foster to adopt)</b>	<p>As above.</p>	<p><b>Additional leave during matching and introductions:</b></p> <p>Statutory time off to attend adoption meetings applies. See Changes to Adoption Leave and Pay.</p> <p>The council's Adoption Leave and Pay Policy applies here.</p>	<p>The council's Adoption Leave and Pay Policy applies here.</p>
<b>Foster carers and friends and family care</b>	<p>Up to five days paid special leave in a 12-month period.</p> <p>Can be taken in whole or half days.</p> <p>To be used for attending meetings, home visits and training.</p>	<p><b>Additional leave during approval process or when child is in placement:</b></p> <p>An additional 5 days' paid or unpaid leave in a 12-month period (e.g. for meetings, training, to accommodate an emergency placement, etc).</p>	<p>Additional special paid leave for up to ten days in a 12-month period.</p> <p>If both foster carers are employed, one foster carer would receive up to 10 days and the other up to 5 days.</p>
<b>Special guardians</b>	<p>Up to five days paid special leave in a 12-month period.</p> <p>Can be taken in whole or half days.</p>	<p>Not applicable.</p> <p>A special guardianship order means that the child lives with special</p>	<p>Not applicable.</p> <p>The council's Parental Leave Policy allows eligible employees to take</p>

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	To be used for attending meetings, home visits and training.	<p>guardians who have Parental Responsibility for them until they are grown up. The child is no longer the responsibility of the local authority. Consequently there are no meetings with social services or medical appointments that the special guardian will need to attend.</p> <p>The council's Parental Leave Policy allows eligible employees to take unpaid parental leave to look after the child's welfare.</p>	unpaid parental leave to look after the child's welfare.
<b>Former foster carer under a "Staying Put" arrangement</b>	<p>Not applicable.</p> <p>There is no assessment process for a "Staying Put" arrangement.</p>	<p>Up to 5 days unpaid leave in a 12-month period (e.g. for meetings, training).</p> <p>Whilst fostering regulations no longer formally apply, a "Staying Put" Carer will need time off in some instances.</p>	Not applicable.
<b>Supported Lodgings provider</b>	<p>Up to five days paid special leave in a 12-month period.</p> <p>Can be taken in whole or half days.</p> <p>To be used for attending meetings, home visits and training.</p>	Up to 5 days unpaid leave in a 12-month period (e.g. for meetings, training).	Not applicable.



Individuals should request and agree the dates for time off 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, Friends and Family Carers, “Staying Put” Carers, Adopters or Special Guardians.

## **6.0 Pay**

There is no statutory right for employees to be paid time off for being a prospective or approved foster carer, family and friends carer, “Staying Put” Carer or special guardian. Statutory rights to leave and pay for employees who are prospective adopters with whom looked after children are placed only applies in the period between being notified of a match and the child being placed with the family for adoption. Dual approved prospective adopters may be eligible for adoption leave and pay where they have agreed to have a child placed with them in accordance with section 22C of the Children Act 1989 with a view to them adopting that child. 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.

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 foster 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, “Staying Put” Carers and Supported Lodgings providers do in caring for these children and young people.

## **7.0 Notifying of the need for Leave**

When making a request for time off under this category of leave, the employee must:

- Advise their line manager that they intend to take time off under the Special Leave Policy 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. These documents must originate from the course provider or assessing body.
- Provide a written letter / email from the local authority adoption service or independent adoption agency to attend a training course, written notification of an assessment appointment or other meeting with social services. 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 special leave under this category 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 this category of special 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, friends and family carer, adopter or special guardian or where they are having time off to support a child settle into their foster care placement or when a child is placed for adoption.

## **12.0 Terms and conditions**

As any time off taken under this category of special leave will be for short periods, all terms and conditions of employment will continue to apply.