

Special leave policy and guidance

1.	Scope
1.1	The policy applies to all employees of the Information Commissioner's Office.
2.	Purpose
2.1	<p>The primary purpose of this policy is to demonstrate the ICO's commitment to being a supportive and caring employer.</p> <p>This policy seeks to do this by providing a mechanism by which staff may request time away from work to cope with periods of domestic crisis or emergency, and to engage in activities which are beneficial to the wider community.</p>
2.2	The policy informs staff and managers of the ICO's arrangements for special leave, including bereavement leave, compassionate leave, carer leave, time off for public duties, and other forms of leave that are not covered by annual leave arrangements.
2.3	The policy is designed to ensure that the ICO is compliant with legislation in relation to time off for dependents, and provide information about arrangements for time away from work for public duties or certain types of voluntary work.
2.4	The policy will help to ensure that special leave is granted in a fair and consistent manner, and that equality of opportunity matters are given consideration when dealing with special leave requests.
2.5	The policy incorporates the procedure to be followed when requesting special leave.
3.	Introduction
3.1	The ICO has provisions for special leave for members of staff in order to provide a supportive and caring response in times of domestic emergency, difficulty or crisis, or to support them if they want to undertake specified forms of public duty, or voluntary work.
3.2	'Special leave' is a general term used to describe paid or unpaid time off work which is given in addition to annual leave to help staff to manage their lives outside work in the circumstances outlined later in this document.
3.3	Special leave is not a contractual right. The provisions described in this document are discretionary. The granting of special leave requests is discretionary on the part of the ICO.
3.4	It is vital that the provisions are applied fairly and consistently and take due regard of equality and diversity considerations.

3.5 There are several categories of special leave described in this policy. You should note that you might not be granted special leave if the total amount of special leave that you have requested or previously been granted is considered to be excessive.

Therefore you should not expect to be granted many occasions of special leave even if each request falls into separate categories.

3.6 You will be required to provide evidence of the reason for a request for special leave where possible. Such evidence might not always be available, and so you are expected to exercise a high degree of honesty and good faith when making a request. Requests for special leave which are false or misleading will be considered to be an example of gross misconduct and may lead to your dismissal from the ICO.

3.7 This policy describes the maximum number of days of special leave which may be granted in various situations. In truly extraordinary circumstances the maximums may be waived. This can only be done with the approval of the Director of Organisational Development.

4. Roles and responsibilities

4.1 As a member of staff you will:

- Make a formal application to request special leave;
- Be reasonable and, wherever possible, timely with your request;
- Give reasons for your request;
- If an emergency special leave request is made, contact your manager as soon as possible stating the reason for the request;
- Provide evidence if required;
- Keep your line manager informed of developments.

4.2 Line managers will:

- Be reasonable and consistent when providing commentary on special leave request forms, obtaining advice from HR when necessary.
- Satisfy themselves as to whether the request is justified, requesting evidence if necessary. Managers will provide information about, or copies of, evidence they have seen when forwarding special leave requests to HR.
- Liaise with HR if they have queries about the appropriateness and availability of special leave in particular circumstances.
- Confirm the outcome of the special leave request to the member of staff upon receipt of information from HR and ensure that it is accurately recorded on their flexi time record.

5. Procedure

5.1 The circumstances in which special leave might be requested are varied.

The following sections describe how you should apply for special leave. There is an application form to be completed, and this can be found at appendix 1.

5.2 **Applications made in advance of special leave:**

i) If you know in advance that you would like to request a period of special leave, you should notify your manager using the special leave application form, detailing why you wish to apply for special leave and the dates on which you wish to take the leave.

ii) Your manager should discuss your application with you and can provide comment upon your application if they have further information about the background to the application. Your manager should then forward the application to Human Resources for approval.

iii) Human Resources will communicate the decision to you by completing the bottom section of the special leave application form and returning it to you via your manager. It may be that you need to combine special leave with annual leave, flexi or unpaid leave to cover the time that you are away from the office. A copy of the form will be kept on your HR file.

iv) If special leave has been authorised, your flexi record should be updated as appropriate.

5.3 **Applications for special leave made retrospectively:**

It is often not possible to apply for special leave in advance, for example if you experience bereavement or an unexpected hospitalisation of a dependant.

In this kind of situation, you should follow the following procedure:

i) Contact your line manager on the first day that you will not be in the office and explain the situation to them. It may be helpful if you can try to estimate how long you will be out of the office, though it is recognised that this is not always possible.

ii) If you are away from the office for longer than you initially expected, you should contact your line manager to keep them up to date with the situation.

iii) Upon your return to work you should complete the Special Leave

application form, detailing why you wish to apply for special leave for the time that you were out of the office, and confirm the dates on which you wish the special leave to be granted. You should then send this to your manager.

iv) Your manager should discuss your application with you and can provide comment upon your application if they have further information about the background to the application. (For example, if your manager knows that you have already taken a considerable amount of leave/flexi to provide emergency child care and you have taken another day off to look after your child). Your manager should then forward the application to Human Resources for approval.

v) Human Resources will communicate the decision to you by completing the bottom section of the special leave application form and returning it to your manager. It may be that you need to combine special leave with annual leave, flexi or unpaid leave to cover the time that you are away from the office. A copy of the form will be kept on your HR file.

vi) If special leave has been authorised, your flexi record should be updated as appropriate.

vii) There is no formal appeal process if you are not granted all of the special leave that you have requested. If you think that all of the circumstances of your case have not been taken into account, you may provide additional information to HR. If you are still unhappy with the outcome of your request, you may raise a grievance.

5.4 It is recognised that there may be circumstances in which you may feel that it is not appropriate to inform your line manager why you wish to apply for special leave.

It is anticipated that this will not be a common situation. If it does happen, you should submit your special leave application form directly to the HR team and they will determine if special leave is appropriate.

If special leave is approved in this way, the HR team will inform your manager that special leave has been granted so they can authorise the flexi time adjustment. The details of the reasons for special leave will not be disclosed to your manager without informing you.

A copy of the special leave application form will be kept on your HR file.

The HR team may instruct you to follow the usual procedure for applying for special leave if it is felt that there is no reason to exclude your manager from the process.

6. Paid special leave: Bereavement

6.1 This section describes the maximum amount of special leave which may be granted in the event that you suffer bereavement. The maximum amount of special leave described under each section is pro rated for part time staff.

The amounts described are the upper limits of special leave allowed, and should not be considered to be minimum entitlements to special leave.

6.2 The definitions in this section of guidance are as follows:

Close relative: someone who is related by blood, for example, mother, father, brother, sister, children, grandparents etc. Or someone with whom you have a close emotional relationship, for example partner's parents/in-laws, partner's siblings, stepchildren, adoptive parents etc.

Partner: someone with whom you have a close and stable relationship. This includes married couples, civil partners, individuals who are living together as a couple, but not related by blood or marriage, including same sex couples.

Dependant: defined as a spouse or partner, child or parent, or someone who lives with you as part of your family. For example this could include an elderly relative who lives in the household. A dependant could also be someone who reasonably relies upon you for assistance. You may be the primary carer or the only person available to help in the event of an emergency.

6.3 **Bereavement: close relative, partner, or dependant**

Amount of leave: up to five days.

The amount of leave to be granted should take into account your relationship with the deceased (to be described on the special leave application), your involvement in making funeral arrangements and any other extenuating circumstances etc.

6.5 **Bereavement: other relatives (aunts; uncles; cousins etc)**

Amount of leave: up to one day

One day of special leave may be granted to attend the funeral of the person who has died.

6.6 **Bereavement: Close friends**

Amount of leave: up to one day

One day of special leave may be granted to attend the funeral of a

close friend who has died.

- 6.7 Additional days, up to a maximum of five days, may be granted in exceptional circumstances in the event of the death of an 'other relative' or 'close friend'. For example, if you were raised by your aunt or if your close friend has passed away in particularly distressing circumstances.

You will need to explain the circumstances of your situation if you wish to request more than the standard number of days special leave for your situation.

- 6.8 Other factors to be taken into consideration include travelling to and from a funeral, especially where the journey involved is long or difficult; and also whether the employee is required to attend other formal cultural or religious ceremonies in connection with the bereavement.

- 6.9 If you feel unfit to return to work following the special leave which has been granted, you will need to take sick leave and either self certify or obtain a doctor's note for your absence.

If you are fit to return to work, but would like some further time off work, you should speak with your manager about the possibility of booking some annual leave or flexi leave.

7. Domestic and family circumstances

- 7.1 This section describes the maximum amount of special leave which may be granted in certain domestic and family circumstances. The maximum amount of special leave described under each section is pro rated for part time staff.

7.2 Break down of care arrangements

Amount: up to five days in any twelve month period (but see also section 7.4)

Leave may be granted if normal arrangements for the care of a child, elderly relative, or dependant, unexpectedly breakdown. The leave is permitted to allow you to make alternative care arrangements, for example, if the person normally responsible for providing the care falls ill or fails to turn up.

This form of special leave is not intended to allow you to provide longer term care. You may be required to combine this leave with annual leave, flexi leave or TOIL.

7.3 Care of children, elderly relatives or dependants

Amount: up to five days in any twelve month period (but see section 7.4)

This leave may be granted to allow you to care for a sick child, elderly relative or dependant provided that no other alternative arrangements can be made and they are unable to care for themselves. The maximum allowance of five days in a year is per employee, not per dependant.

The amount of paid leave allowed will not normally exceed five days in any one year, however additional leave (both paid and unpaid) may be allowed in exceptional circumstances. (see Frequently Asked Questions)

You may be required to take annual leave, flexi leave, TOIL or unpaid leave to contribute to an extended period of care.

- 7.4 The maximum amount of special leave in any twelve month period to cover the break down of care arrangements **or** care of children, elderly relatives or dependants is five days in total (pro rated for part time staff).

You will not be able to request five days special leave because of breakdowns of care plus another five days for caring for sick dependants.

Though these limits should generally be regarded as maxima, the Director of Organisational Development may authorise additional leave in exceptional circumstances.

7.5 **Accompanying a child or dependent to medical appointments**

If you need to attend a medical appointment with a child or dependant, you will be required to use annual leave, flexi leave, TOIL or may apply for unpaid leave. If the appointment is outside core hours, you may attend the appointment by making use of the flexi time system.

The exception to this is described in 7.6 below.

7.6 **Carer's leave to attend appointments**

Amount: up to 3 days in any 12 month period (this can be split into part days)

For the purpose of this provision, a carer is defined as a person who has responsibility to assist in the care of a dependant, who may be an adult or a child, and who has a serious illness, disability or is

terminally ill (see Frequently Asked Questions for further details).

This form of leave does not include the provision of general care.

Leave may be granted to allow you to accompany the person to medical appointments or at home assessments required because of the nature of your dependant's condition.

If it is likely that you will need to accompany the person to frequent appointments throughout the year, you may be required to take annual leave, flexi-leave, TOIL or unpaid leave to attend subsequent appointments.

You will be required to describe the nature of your dependant's condition in your special leave application.

7.7 **Domestic crisis**

Amount: up to 3 days

This form of special leave is to provide support in situations of domestic crisis or hardship, where time off is needed to help resolve an unforeseen situation that requires immediate resolution. Examples of this might include a fire, flood, or a burglary. In your application for special leave you will need to explain the nature of the hardship that would arise if special leave were not provided.

This form of leave will not be granted for situations where you are waiting for a tradesperson to visit your home to undertake work (e.g. waiting for a locksmith because you need to replace your locks having lost your keys, waiting for a mechanic to help start your car or waiting in for a heating engineer to call to your home).

Neither will this form of leave be granted for seeking a replacement domestic appliances (e.g. if your boiler has unexpectedly stopped working) or a replacement car if yours has been damaged or stolen. You will need to take annual leave, flexi leave, TOIL or unpaid leave in these situations.

7.8 **Family crisis**

Amount: up to 5 days

This form of special leave is to provide support in the event of an unforeseen family emergency to help you respond to and deal with the issue or put in place longer term arrangements.

Circumstances will differ from person to person, but examples may

include:

- a dependant or family member is involved in an accident or is assaulted;
- a child is involved in an incident at school or on a school trip;
- the imminent death of a close family member;
- the miscarriage of a wife's or partner's child;
- unforeseen arrangements that need to be made as a result of a personal crisis.

This form of leave is different to carer leave, and is available to help you deal with the immediate aftermath of the crisis.

7.9 **Marriage/civil partnership**

Amount: up to 5 days

This form of leave may only be granted once while you are employed by the ICO, and you must have at least 12 months service with the ICO at the date of your marriage/civil partnership for it to apply.

You will need to book the time off in advance, though upon your return to work you will be required to supply a copy of your marriage/civil partnership certificate in support of your request for this form of special leave.

8. Non domestic reasons and public duties

8.1 This section describes the maximum amount of special leave which may be granted in for public duties and other non-domestic circumstances. The maximum special leave allowed is pro rated for part time staff.

8.2 **Civil defence courses:** Up to 15 days with pay for voluntary members of the United Kingdom Warning and Monitoring Organisation or employees nominated by local authorities as Scientific Intelligence Officers.

8.3 **Magisterial duties:** up to 20 days with pay will be permitted to carry out magisterial duties. Any additional time must be taken as annual leave, flexi-leave, TOIL or unpaid leave.

8.4 **Elected members of local authorities/Mayoral duties:** Up to 18 days per year may be granted to undertake the duties of local councillor. This may be extended to 24 days if the duties equate to that of Mayor.

8.5 **Membership of the governing body of an educational establishment:** Up to 5 days per year will be permitted for carrying out the duties of a school or college governor.

8.6 **Youth movements:** Up to 5 days leave with pay may be granted for employees who are part time youth leaders. Leave can be used as either a complete week or as separate days to attend training courses in youth leadership. You should speak with HR to determine if leave will be granted for involvement with your particular organisation.

8.7 **Reserve forces and Territorial army training:** special leave with pay will be granted for half of the training requirement up to a maximum of 8 days with pay in a training year (April – March), eg a training course of ten working days will mean you are entitled to five working days of special leave with pay.

Days not covered by special leave may be taken as annual leave, flexi, TOIL or unpaid leave.

8.8 **Cadet forces training:** You may be granted up to 5 days special leave with pay in any leave year if you are a member, instructor, or officer in the Cadet Forces (e.g. Air Training Corps, Sea Cadet Corps), to attend camps or special instructional courses, provided they are held under naval, military or air force auspices.

8.9 **Membership of other bodies:** Up to 3 days per year may be granted if you are involved in the management of one of the public bodies described in Appendix 2.

9. Other leave with pay

9.1 **Appearing in court as a witness:** If you are required to appear as a witness in a private capacity in a criminal or coroner's court you may be granted special leave with pay.

If you are to appear as a witness in a private capacity in civil proceedings you may be granted special leave without pay or the time can be taken as annual leave.

If you are called to give evidence in criminal or civil proceedings, in a coroner's court or any other outside body as a witness in your official capacity should be regarded as being on official duty.

9.2 **Jury service:** If you are required for jury service you will be allowed special leave with pay for the entire period they attend court. If you are released early from jury service you must inform your manager immediately, or report to your normal place of work at the earliest opportunity. Failure to do so may lead to the recovery of money paid to you.

You must not claim for loss of earnings while on special leave with pay for jury service, as the ICO will still pay you. You can, however, claim

other financial loss from the courts which is incurred as a direct result of jury service (such as additional childcare costs) up to a daily maximum, and for travel and subsistence.

10. Unpaid leave

10.1 This section provides details of leave that may be granted on an unpaid basis. You may also wish to speak with Human Resources about the possibility of taking an unpaid career break if the period of leave to be requested is for more than one month.

10.2 **Mobilisation of reserve forces:** If you are called for active service, or expect to be mobilised, you must inform your manager as soon as possible. Managers should also be informed of any changes in arrangements as soon as possible.

You will be granted unpaid special leave for the duration of your active service, including any accrued active service leave. During the period of active service, the MOD will pay you a military salary, the Reservist Standard Award. If there are differences between ICO pay and the military pay you should make a claim to the MOD to recover the difference. Your call up letter will detail how to do this.

Managers need to be sensitive to requests for reasonable time off before and after the expected tour of duty, for example one week of annual leave prior to the tour of duty, special leave for the duration of the tour, and one week of annual leave immediately after the tour of duty.

10.3 **Elective surgery:** This is defined as a non-essential surgical procedure that you have chosen to undertake for personal reasons such as optional cosmetic surgery and laser eye treatment.

It does not include non-essential surgery which has been medically advised or prescribed by your doctor or consultant. An example of this would be reconstructive surgery following a mastectomy (recovery from which would be treated as sick leave).

Managers may allow unpaid time off for elective surgery, though you may be required to cover some or all of the absence with annual leave/Flexi/TOIL. This will depend on how much time you will need to be away from work.

If you are unfit to return to work at the end of the agreed period of unpaid special leave, for example due to unforeseen complications, you should contact their manager as soon as possible. The usual reporting procedures, related to sickness absence should be followed. If you need to take further time off work, then this additional absence will be recorded as sick absence and, where appropriate, must be covered by a medical certificate.

10.4 **Gender reassignment surgery:** If you are to undergo gender reassignment surgery, you will be allowed a mix of paid and unpaid special leave, dependent on your individual needs. You should contact HR for further advice.

10.5 **Unpaid leave for other reasons:** Unpaid leave may be granted to supplement time off work when paid special leave has been granted.

You should refer to the 'Parental Leave' policy if you wish to take unpaid leave for the care of a child over a period of one to four weeks.

11. Frequently asked questions

11.1 **What type of condition is regarded as being a 'serious long term illness' for which special leave may be allowed to attend medical appointments with a dependent?**

It is not possible to provide a comprehensive list of the various types of condition this could refer to, but the type of situation envisaged is one where the dependant's condition has a severe and continual impact on their daily health.

An example would be receiving special leave to accompany a partner to a hospital appointment related to the diagnosis or treatment of cancer, or taking a child to appointments to treat severe renal problems.

This form of special leave is not intended to cover attending appointments with a dependant who has a condition that is long term but is under control. You would need to take annual leave, flexi leave or TOIL in these circumstances.

11.2 **Will I be granted time off to take my child to the orthodontist?**

No. Accompanying your child to dental appointments should be done using annual leave, flexi-leave or TOIL. Alternatively you should arrange the appointment to take place outside core hours.

11.3 **My uncle, who raised me with my aunt from childhood, has died. Will I only be able to have special leave for the funeral?**

No. If you have a close bond, such as you describe, you will be entitled to request up to five days special leave. You will need to describe your circumstances in your application for special leave.

11.4 **My child is due to have injections at the health centre and the appointment is during my working hours. Obviously, she can't take herself, so will I be given special leave or a flexi credit for**

the time off?

No. You will need to take annual leave, flexi-leave or TOIL to attend the appointment or try to arrange for it to take place outside core hours. The policy is intended to provide support in times of domestic emergency or crises and does not provide for time to be granted to take dependants to non-emergency appointments.

11.5 Can I have special leave (or a flexi credit) for a meeting with my child's teacher or head teacher?

No. Meetings with a teacher or head teacher do not attract special leave or a flexi credit. A credit may be given if you are called to school in an emergency to take your child home due to injury or illness.

11.6 My mother died, and I have already had five days of special leave, but don't feel like I can return to work. What happens now?

If you are not well enough to return to work after your special leave, you should call your manager to inform him/her of this. The time that you are off work will be sick leave and you will either need to complete a self certification upon your return to work or obtain a note from your doctor to cover the time off. Any time longer than seven calendar days will require the submission of a note from your doctor.

This provision applies even if the funeral has not been held by the time you have used up the special leave granted to you.

If you are well enough to return to work, but feel that you would like some more time off before returning then you may speak with your manager about booking some annual leave or flexi leave.

11.7 My father has been diagnosed with terminal cancer and has an appointment for radiotherapy and needs to be accompanied. Will I be able to request special leave for this?

You will be able to get special leave for the time required to accompany him to the appointment and ensuring that he is settled safely back at home. It is likely that this will be an on-going course of therapy, and so you may need to use annual leave, flexi-leave or TOIL for some future appointments. Unpaid leave may also be available.

11.8 I feel that my manager's comments on the special leave application form do not reflect my circumstances and as a result recommend that I should not be granted special leave. What should I do?

You should speak with your manager about the reason for their

comments. It may be that they do not fully understand the circumstances.

If your manager does not change his or her mind about their comments or recommendations and you think your request has been unfairly turned down by HR because of the comments made, you may provide further details direct to HR for consideration.

If your request for special leave is still turned down you will need to submit a grievance to take the matter further.

11.9 Why is a copy of my special leave application kept on my HR file?

This is to ensure that there is a record kept of special leave granted and the circumstances. As mentioned throughout the policy, there may be an expectation on you to take some time as annual leave, flexi-leave or TOIL if the amount of special leave requested appears to be excessive.

11.10 What other records of special leave requests will be held?

Details relating to special leave requests will be held on the HR data base, and a record of requests and their outcome will be held in order to establish precedents and provide for greater consistency in the application of the policy.

11.11 What kind of exceptional circumstances might allow me to request more than five days special leave in a year to care for a sick child or dependent?

It is anticipated that such requests will be rare. An example of a situation which may merit additional special leave could be having dependants undergoing multiple serious operations within the course of the year. The ICO may not be able to provide special leave for the entire time that you are away from work even in these circumstances, so you may need to take annual leave, flexi leave, TOIL or unpaid leave.

11.12 Can I request special leave to take my child to a speech therapy appointment?

No. You will need to take annual leave, flexi-leave or TOIL for this or you may request unpaid leave. Alternatively you could try to arrange the appointment to be outside core hours.

11.13 I was due to have the day off on annual leave, but my child was ill and could not go into school, so I had to look after him. Can I take carer's leave and claim back my day of annual

leave?

The purpose of carers leave is to help an employee cope with an unexpected situation by allowing them time off to care for a dependant when they were otherwise expected to be at work. As you were on leave that day and did not expect to be at work this would not apply.

11.14 What might be considered to be 'truly extraordinary' circumstances in which the maximum special leave entitlement might be waived?

It is difficult, and perhaps undesirable, to be too prescriptive about this. The purpose of this clause in the policy is to enable the ICO to provide a supportive and caring response in the event of circumstances that are highly unusual.

As difficult and stressful as any bereavement or instance of family illness undoubtedly is, the maximum special leave allowance will be applied in the vast majority of cases.

11.15 I left work early to care for my sick son a few days ago and have been granted special leave for the part of the day I missed. What should I credit on my flexi spreadsheet?

You should record your actual leaving time on your spreadsheet, and credit the number of hours and minutes required to take you up to 4.54pm.

If you were to be granted special leave for coming in late because of an emergency care situation, you should record the actual time that you came into work and credit the time missed from 9.00 am.

11.16 What happens if my manager is off for a couple of weeks after I wish to request special leave? Can I refer my request to someone else?

If your manager is going to be absent for some time, you may submit your form to your manager's manager.

11.17 As a manager, what should I do if a member of my team gets a phone call from the hospital to say that it seems his mother is about to pass away?

Let your team member go to the hospital as soon as possible. The arrangements about the nature of the leave and completing the form can be resolved another time. You should, however, ask the person to keep you informed of developments if possible so you know if they are likely to remain off work.

**Information Commissioner's Office
Special Leave Application Form**

Section 1 – Your details

Name:	
Manager's name:	
Department:	

Section 2 - Your request for special leave

Dates special leave requested:	
Number of working days special leave requested:	
Paid or unpaid leave requested (or mix):	
Reason for special leave request:	

Section 3 – Manager's comments

Please add comments if you have further background to the application

Section 4 – Outcome of application, to be completed by HR

No. of days and dates on which special leave has been granted:	
No of days and dates for which annual leave/flexi should be taken:	
Explanation if all special leave requested has not been granted:	

Managers: When this form is returned to you, you must return it to the member of staff who has applied for special leave.

A copy of this form will be retained on the applicant's personal file in Human Resources.

Other public bodies for which special leave may be granted for staff involved in their management or governance (see section 8.9)

National Health Service	Local Valuation Panels
Regional Health Authorities	Parish Councils (in England)
District/Area Health Authorities	Community Councils (in Wales & Scotland)
Health Boards	Prison Visiting Committees and Board of Visitors
Board of Governors of postgraduate teaching hospitals	River Purification Boards
Family Practitioner Committees	Committees of Local Authorities
Local Health Councils	Social Security Appeal Tribunals
Prescription Pricing Authorities	War Pensions Committees
Local Review Committee (Parole)	Professional Body Committees