



Castlerea Borough Council

Career Break Policy

1. Introduction

The Council recognises the contribution that a Career Break Policy makes to the development of Equal Opportunities in employment; this is a core principle which underpins both efficient and effective service delivery. Through this policy it is our aim to improve staff retention and enhance flexibility so that we can continue to provide a high quality service to the citizens of the Borough.

It is important that all requests and arrangements for career breaks are treated consistently across the Council, this policy will therefore provide guidance to staff and managers regarding career break arrangements.

2. Purpose

The main objective of this scheme is to facilitate employees who:

- have special domestic responsibilities for a dependant;
- want to undertake further education;
- want to travel abroad;
- want to set up their own business and become self-employed.

A career break will not be allowed for the purpose of taking up alternative salaried or wage earning employment. An exception will be made in the case of an employee who has been granted a career break for further education purposes, who wishes to take up paid employment during Christmas, Easter or Summer vacations or who is required to do this as part of a placement year during his/her course of study.

3. Eligibility

To be eligible employees must have a minimum of one year's continuous service with the Council in a permanent capacity.

Applications will be facilitated as far as possible, but subject to the exigencies of the service.

4. Duration and Number of Breaks

A career break may be granted for not less than one year and a maximum of three years. A career break may be extended twice for a period of not less than one year on each occasion, provided that the total period does not exceed three years in total.

Subsequent career breaks will only be considered if the period of service between career breaks is not less than the initial career break (including extensions) and does not exceed three years in total for all career breaks.

5. Conduct

During a career break, employees will be subject to the Council's requirements in matters of conduct.

It will be the employee's responsibility to maintain contact with the Council to keep up to date with current developments. This will include providing the Council with any changes to address.

6. How to Apply

Applicants must give at least 3 months notice (except in exceptional circumstances).

The application should be made in writing to the employee's Director, through his/her manager. If approved, the application will be forwarded to the Finance and General Purposes Committee for consideration.

The effective date will be a management decision, taking into account any extenuating circumstances, and the likely time-lag for filling the vacancy.

7. Service and Superannuation

A career break will not count as reckonable service on which superannuation benefits; salary increments; annual leave entitlement and sick leave entitlement is based. Service before and after a career break will be accrued for this purpose. The contract of employment is suspended during a career break. The employee will be responsible for the payment of any monies to NILGOSC to preserve pension benefits. To ensure a continuation of reckonable service prior to and post career break, a lump sum payment must be made to NILGOSC. Further details can be obtained from the Human Resources Section

8. Notification of Vacancies

The subsequent vacancy, arising from the career break, will be filled in accordance with the Code of Employment and Promotion Procedures.

Officers on career break will be eligible to apply for posts which are advertised during the period of the career break. However, if successful, the employee would be expected to be available to take up post. It is the responsibility of the individual employee to find out about potential posts. The Council does not undertake to individually inform employees of vacancies.

9. Return to Work

On return to work from a career break, employees will normally be assigned to their former posts, but in some cases may be assigned to a vacancy at an

equivalent level of post. The intention of the Council is to reassign employees at the end of the career break, but in exceptional cases, some delay may be unavoidable.

Employees on a career break must contact their manager and Human Resources three months before they are due to return to:

- confirm that they intend to return on their due date
- apply for an extension to their career break
- indicate that they wish to resign from their post

In addition, officers on career breaks of more than twelve months, must notify the Human Resources Section at the end of each twelve month period that it is their intention to return at the end of the career break.

10. Other unpaid arrangements

Career breaks should not be confused with other unpaid arrangements such as special leave or unpaid maternity leave.

11. Social Security & Inland Revenue Arrangements

It is the responsibility of individual employees taking a career break to contact the Department of Health and Social Services to determine whether they are entitled to any social security benefits and to check the position as regards national insurance contributions.

Employees who take up employment approved by the scheme should contact their local office of the Inland Revenue.

PLEASE NOTE GUIDANCE OVER FROM LGSC ON IMPLICATIONS FOR PENSION ETC

Career Breaks the Implications for Continuity of Employment and Pension Arrangements October 2006

Introduction

This paper outlines the implications for the employer when an employee has been granted an approved absence (ie career break) and the effects on continuity of employment and pension arrangements.

The Local Government Pension Scheme (Northern Ireland)

The Local Government Pension Scheme (Northern Ireland) Employers' Guide section 2.16 on Approved Absences states:

Employers can grant periods of absence. In some cases (such as maternity leave) the employee has a statutory right whilst in others (such as career breaks), it is at the employers' discretion. ...The arrangements for the payment of contributions during an approved period of absence are as follows:

If the period of approved absence lasts 30 days or less the member and employer must pay during:

- *Career breaks, study leave, special leave, etc – on the pay that would have been paid if the absence had not occurred.*

*Apart from paid maternity or adoption leave, if the absence is more than 30 days the employees can choose to pay contributions in order to count the period of absence as membership. Contributions are worked out on the pay that would have been received had the absence not occurred. If the member opts to pay contributions to cover the period of absence, the employer **must** pay the employer's portion. The maximum period that can be covered is 36 months from the start of the absence. The member must apply in writing to the employer within 30 days of returning to work, or the date employment terminated, if earlier.*

Comment

The contributions must be paid for the first 30 days of the career break and these can, with the employee's agreement, be deducted from the last months pay before the break begins.

Within the 30 days of returning to work, or terminating employment the employee can opt to pay contributions to cover the career break period up to 36 months. If the employee opts to pay contributions to cover the period of absence then the following applies:

1. Employee returning from career break and assigned to former post or similar post in an equivalent grade

The employee pays the contributions over the period of the career break. For example following a career break of 12 months the employee would pay the contributions over 12 monthly instalments.

The employee does have the option to pay the contributions as a lump sum or over a shorter time but they can not extend the repayment period.

The employer has to pay the contributions as a lump sum up front.

2. Employee leaving LGPS (NI) employment

The employee pays the contributions as a lump sum up front. This then forms part of their Preserved Benefits and the increased service is included in final pension calculations. Payment can not be deferred as the additional years service would not be included in final calculations.

The employer pays the contributions as a lump sum up front.

3. Employee changing jobs within the LGPS (NI)

The employee pays the contributions over the period of the career break. For example following a career break of 12 months the employee would pay the contributions over 12 monthly instalments. The employee does have the option to pay the contributions as a lump sum or over a shorter time but they can not extend the repayment period.

The 'old' employer pays the contributions as a lump sum up front.

The maximum period that can be covered by contributions during an approved absence is 36 months. Therefore if the career break is longer than 36 months or the employee takes more than one career break during LGPS (NI) employment totalling more than 36 months they will not be able to opt to pay contributions over and above 36 months.

Issues around the wider provision of the NILGOSC scheme

- No death in service benefit can be provided during a career break. An employee on a career break is recommended to take out a Life Insurance Policy.
- In the event of a serious illness leading to retirement/dismissal on medical grounds the career break officer will receive lump sum and pension from NILGOSC (subject to medical recommendation) but no enhancement will be payable.

- It is recommended that employees intending to pursue a career break should seek independent advice with a view to obtaining life insurance and permanent health insurance cover for the full duration of the career break.

Below is summarised a legal island bulletin addressing career breaks and continuity of employment from July 2006.

EMPLOYMENT LAW EMAIL SERVICE NORTHERN IRELAND EMAIL No. 570

What happens if an employee takes a career break and then returns to work - does the break count towards continuous employment or does continuous service start again from scratch?

LEGISLATIVE BACKGROUND - CONTINUOUS EMPLOYMENT

The basic rule for calculating the length of an employee's continuous employment is to ascertain their start and end dates of employment. There is a statutory presumption that any service with the same employer during the period identified is 'continuous employment' unless the contrary can be shown.

Article 8 of the Employment Rights (NI) Order 1996 contains the provisions most relevant to this subject area:

'(1) any week during the whole or part of which an employee's relations with his employer are governed by a contract of employment counts in computing the employee's period of employment...

(3)... any week (not within paragraph (1)) during the whole or part of which an employee is - (c) absent from work in circumstances such that, by arrangement or custom, he is regarded as continuing in the employment of his employer for any purpose... counts in computing the employee's period of employment.'

DEFINING A CAREER BREAK

Whilst career breaks are not officially recognised by law, a range of legal, moral and practical considerations are associated with them.

Offering career break schemes allows an employer to retain valued and skilled employees who are seeking a period of extended leave, perhaps years, to pursue personal goals or commitments outside of work i.e. childcare, study or travel.

In relation to the employee's eventual return, IDS HR Study (June 2004) identified that the basis on which employees return to work after a career break varies widely.

In some organisations the person may be guaranteed a right to return but in others there is simply provision for the employee to apply for re-engagement. Nevertheless, no matter what the agreed provisions are, the career break is usually a resignation in the hope of later re-employment.

Problems may arise when an individual seeks to establish that continuity of employment was not broken by virtue of the career break. Some employers will allow re-engaged employees to count the period of employment prior to the career

break for the purposes of accruing contractual rights. However, an employee who returns from a career break is likely to have lost any statutory rights that depend on accrued length of service.

CASE LAW

There is very little case law relating to career breaks, which is why *Curr v Marks and Spencer Plc* proved to be so significant. In this case an employee who was made redundant in 1999 claimed that she was entitled to her redundancy pay based on 26 years continuous service as she had originally started with the company in 1973 and had worked for the retailer on a casual basis during her career break. Marks & Spencer argued that her original contract had ended in 1990 when she left on a four year career break and they should only pay for the years Curr had worked after her return from her career break.

The Court of Appeal found that, having rigorously analysed the relevant provisions of the Employment Rights Act (the GB equivalent of the Employment Rights NI Order 1996), Curr's employment had been broken, notwithstanding evidence that 'it was intended that there should be some continuing relationship.' Continuity of employment is a statutory right that cannot simply be written into a contract for it to occur.

This case clearly demonstrated that, given that there is no specific legislation on career breaks, each individual scenario will come back to basic contract law but also on whether the relationship during the break was sufficient to maintain continuity of employment within the statutory definition.

Therefore, if employers are keen to utilise career break options, it is essential for the parties to clarify whether the periods of employment are to be classed as continuous for contractual purposes and what effect this will have, if any, on statutory rights. In giving his decision in the above case, LJ Clarke stated, 'I hope that the experience of this case, and perhaps others, has persuaded M&S of the importance of explaining the implications of the (career break) scheme as fully as possible to prospective participants.' Suffice to say that should any of your employees opt to take a career break, they must be made fully aware of the implications this will have on their contract of employment. All things considered it can be seen that a break in continuity is more likely than not and might affect the decision.