

# Force Majeure & Medical Care Leave



**Policy owner** UCD HR (v.1.0) **Approval date and body** UMT, 5 December 2023

## 1. Purpose

The purpose of this policy is to provide leave from work for parents and people with caring responsibilities that need time off for urgent family reasons or to provide personal care or support.

Force Majeure leave provides limited paid time off for urgent reasons such as injury or illness of an immediate family member.

Medical Care leave provides short term unpaid leave from work to provide personal care or support to a prescribed person that needs significant care or support for a serious medical reason. Medical Care leave can be used in a flexible way for parents or carers that need time off from work in situations that can be unpredictable or in some cases pre-planned.

## 2. Definitions

### Force Majeure leave

An employee is entitled to leave with pay for urgent family reasons, for example, an injury or illness of a prescribed person where the immediate presence of the employee at the place where the person is, whether at their home or elsewhere, is indispensable. Force Majeure leave only relates to a situation which is not foreseeable or otherwise not generally predictable. Routine minor and predictable illnesses to children or other family members which invariably occur are not covered.

### The entitlement to Force Majeure

Force Majeure leave shall not exceed 3 days in any period of 12 consecutive months or 5 days in any period of 36 consecutive months. This entitlement applies only when the immediate presence of an employee is indispensable, at the place where the ill/injured person is located.

**Prescribed person** (as described in the Parental Leave Act, 1998, as amended 2006).

Force Majeure leave is granted to one of the following prescribed persons;

- a) a person of whom the employee is the relevant parent or acting in loco parentis,
- b) a spouse, civil partner, or cohabitant of the employee,
- c) a brother, sister or sibling,
- d) a parent or grandparent
- e) a person who resides with the employee in a relationship of domestic dependency.

### **Domestic dependency**

A person is taken to be in a domestic dependency where in the event of injury or illness, one reasonably relies on the other to make arrangements for the provision of care.

### **Medical Care leave**

An employee is entitled to unpaid leave from work to provide personal care or support to a prescribed person who is in need of significant care or support for a serious medical reason.

Medical Care leave is unpaid and non-pensionable.

**UCD defines a serious medical reason** as a disability, illness or injury that requires an employee to provide care or support to a prescribed person either at home or in a healthcare setting.

**The entitlement to Medical Care** leave extends to 5 working days in any period of 12 consecutive months. The minimum leave taken at a time is 1 day. Half or part days are counted as 1 full day in terms of total entitlement.

**Prescribed person** (as described in the Work Life Balance Miscellaneous Provisions Act, 2023)

Medical Care leave is granted to one of the following prescribed persons.

- (a) a person of whom the employee is the relevant parent or acting in loco parentis,
- (b) the spouse, civil partner or cohabitant of the employee,
- © a parent or grandparent of the employee,
- (d) a brother or sister of the employee,
- (e) a person other than one specified in any of paragraphs (a) to (d), who lives in the same household as the employee and is in need of significant care or support for serious medical reason.

### **Relevant Parent**

A parent of the child, spouse, civil partner, cohabitant of the parent of the child, a parent of a donor-conceived child (as provided for under section 5 of the Children and Family Relationships Act 2015., adopting parent or parents of a child or spouse, (or civil partner or spouse if not adopted jointly) are considered to be a relevant parent.

### **Loco Parentis**

An employee that is acting in Loco Parentis is either legally responsible for or fulfils the criteria that they are actively parenting the child on an on- going basis such as providing day to day care and responsibility for the child.

## **3. Scope**

Force Majeure and Medical Care Leave is available for all employees on a permanent contract, fixed term contract or a contract of indefinite duration (CID).

### **Service Requirements**

There are no service requirements to avail of Medical Care Leave or Force Majeure Leave.

### **Pattern**

Force Majeure leave and Medical Care leave only applies to normal working days where the employee would have been in work, but for the requirement to take the leave.

## 4. Principles

It is recognised that employees have family commitments and responsibilities and will need to take time off from work. While Force Majeure leave by its nature is unforeseen, Medical Care leave can be availed of with advance notice or in some instances, can arise unexpectedly.

Employees should be supported and encouraged to take Force Majeure and Medical Care leave. It can be a time of worry when a family member is unwell or under medical care, so you are encouraged to speak with your Head of School/Unit or Line Manager during this time.

In some cases, Force Majeure leave may be appropriate on the first day of illness or injury where the employee had no advance notice and their presence is indispensable and can then consider availing of Medical Care leave thereafter.

Due to the nature of Force Majeure leave, it can only be applied for in retrospect. Where it is possible to provide advance notice of intention to take leave for medical care purposes, employees are encouraged to do so, however it is recognised that this will not always be possible and therefore the leave should be requested as soon as is reasonably practical.

It is a matter for the line manager to be satisfied that the granting of Force Majeure leave or Medical Care leave is appropriate in the circumstances and the following may be necessary to determine if the leave can be granted:

- details of the relationship with the person in respect of whom the leave related or related to,
- reasons why Force Majeure or Medical Care was leave required,
- nature of the personal care of support required and
- relevant evidence such as a medical certification, where appropriate.

## 5. Roles and responsibilities

### Head of School/Head of Unit/Line Manager

- Make themselves aware of their obligations under the policy;
- Be supportive and show compassion for employees that require support with either Force Majeure leave or Medical Care leave;
- Sign any necessary documentation in a timely manner;
- Process and store confidential information in accordance with GDPR requirements;
- Discuss the leave application with Human Resources if unsure if the leave should be granted or not;
- Promote family friendly policies to support an EDI culture which affirms employees with caring responsibilities.

### The Employee

- Make themselves aware of their obligations under the policy;
- Provide as much reasonable notice as possible to their manager or as soon as they return from leave;
- Complete the relevant documentation when applying for Force Majeure and Medical Care leave;
- Provide relevant information as required.

## Human Resources

- Upon request, provide advice to employees and Head of School/Unit or Line Manager regarding the employee's entitlements and applications for Force Majeure and Medical Care leave;
- Process all applications in a timely manner and in an atmosphere of mutual trust and respect;
- Act with discretion when required and with due regard for the circumstances;
- Retain confirmation of medical care leave in accordance with GDPR requirements.

## 6. Related documents

- Parental Leave Act 1998 to 2019
- Work Life Balance Miscellaneous Provisions Act 2023
- Force Majeure leave application form
- Medical Care leave application form

## 7. Version history

Version	Date	Description	Author
1	27.09.2023	Introduction of Medical Care Leave in accordance with Work Life Balance Miscellaneous Provisions Act 2023, [03.07.23].  Re-moved Force Majeure from Parental Leave policy and amalgamated Force Majeure and Medical Care Leave into one policy.	Employee Relations, HR.
1.1	May 2024	Correction to legislation date	Employee Relations, HR