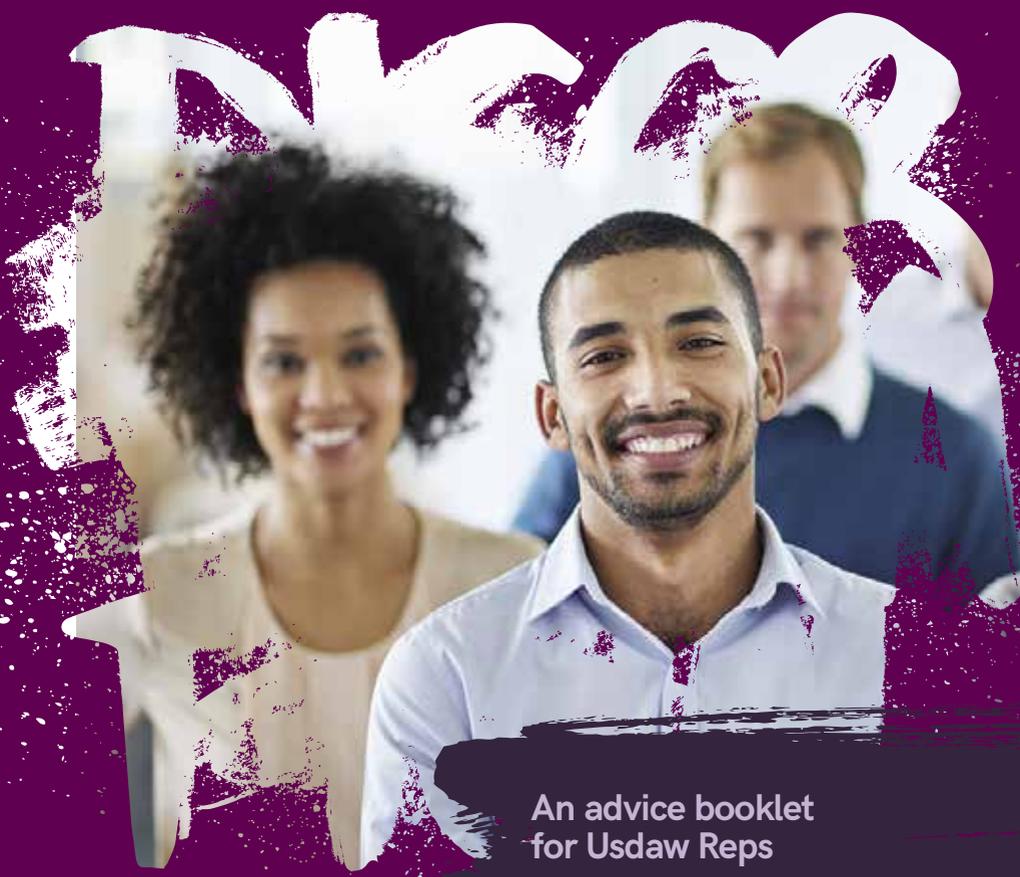


Discrimination Extended Leave

Usdaw

Campaigning
For Equality



An advice booklet
for Usdaw Reps



What is Extended Leave?

This booklet is about extended leave agreements which enable workers to take time off work for a longer period than could be accommodated using their normal holiday entitlement. This might be for things like visiting relatives overseas, making a religious pilgrimage, to deal with personal crises or for other personal reasons.

Why is it important?

Many Usdaw members have close family connections in distant parts of the world such as India, Pakistan, Bangladesh, Australia, New Zealand, America and Canada. They may wish to visit these countries from time to time.

Where an employer doesn't have extended leave facilities, employees may need to choose between keeping their family ties and keeping their job. No worker should have to make such a difficult choice.

Extended leave arrangements, of course, benefit all workers, not just those with relatives abroad. They can assist employees to deal with personal crises, such as family bereavement, or allow people to widen their experiences and interests for example by undertaking a period of study, or undertaking voluntary work.

Extended leave arrangements also benefit employers – by giving people the choice of extended leave, rather than resigning, they retain the skills and experience of dedicated members of staff.

“Extended leave is really great. It helps families keep in contact and not lose touch. I have a member who used her right to take extended leave to visit her daughter in Australia who had just had a baby.

Without it she would not have been able to help her daughter’s family at this busy time or see her new grandchild. If she had only been able to use the holidays she had left for the year, this visit would not have been possible and everyone would have lost out.”

Bernadette Connor
Mid-Counties Co-op, Midlands Division



“Keeping in touch with your family is really difficult these days as we live so far apart. Many of our members work long hours, have busy lives and every day’s holiday they get is vital. But sometimes the normal year’s holiday entitlement is not enough. Extra time is needed if you want to visit family overseas for a special occasion or in an emergency.

Fortunately, my store is really supportive when people request extended leave. I support members to make sure they get requests in as early as possible, which makes it easier to arrange cover. Fairness is important, to make sure that everyone has the opportunity to request extended leave when they need it.”

Sonia Foster
Sainsbury’s, Southern Division



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Where Usdaw has negotiated Extended Leave Arrangements

Extended leave arrangements exist in a number of companies with whom we have agreements:

The Co-op Group

The Co-op Group state that:

'Creating a great working environment for all of our people, giving them the flexibility to contribute to our business, will support [The Co-op's] success.'

They have a career break/sabbatical policy, which is open to all employees. The policy allows staff to take a prolonged period of absence from work, but with the guarantee of their job when they return. Career breaks can be used for any purpose, and can be for any period of time.

Requests are subject to agreement by the individual's line manager.

Morrisons

Morrisons *'recognise that there may be times when you need to have time off work over and above your annual holiday entitlement.'*

Staff can ask for additional leave to take a break for longer than their holiday entitlement. This can be up to 12 weeks' leave, which must include at least three weeks of their holiday entitlement. Staff must have at least 12 months' service, and a period of extended holiday can be taken once in any three-year period.

The policy states that reasonable requests will be agreed unless there is a strong business reason not to.



Tesco

Tesco allows staff with one year's service access to the following:

- **Extended Holiday Leave**

Up to four weeks' unpaid leave may be taken with one year's service. This is granted no more than once every two years and as much notice as possible (minimum four weeks) has to be given. The employee's contract of employment is continuous during the period of leave and contributions towards their pension can be made up on return to work. All benefits are retained during the leave period as they would be during a normal holiday.

- **Lifestyle Break**

This can be from four to 12 weeks in total and should be attached to a period of holiday (unless the employee's annual leave has been used up). The employee must have one year's continuous service. A minimum of four weeks' notice is required. Requests for such leave according to the Agreement are not granted more than once every two years.

Taking this leave does not affect employment status, so an employee does not lose their continuous service or any of their benefits, and is treated as being employed by the company even during the period of leave.

Only one period of either Extended Holiday Leave or Lifestyle Break can be taken in any given holiday year.

Sainsbury's

Sainsbury's flexible working policy allows staff to apply for unpaid leave of up to three months. To make a formal request, staff must have at least 26 weeks' service, however the policy allows for informal requests from those with shorter service periods.

Extended leave arrangements also benefit employers – by giving people the choice of extended leave, rather than resigning, they retain the skills and experience of dedicated members of staff.

What if my Employer does not have an Extended Leave Policy?



A good extended leave policy will have clear guidelines on how to apply, and what to do if you do not agree with the decision.

However, not all employers will have a formal extended leave policy in place – either dealing with requests informally, or having a blanket policy of not allowing extended leave. Therefore, it is helpful to know what legal rights members in this situation may have.

The Equality Act 2010

All workers have the right to 5.6 weeks paid leave each year.

If you need more leave than this, your employer doesn't have to agree, but they must avoid unlawful discrimination when they make a decision about a worker's time off.

The Equality Act 2010 sets out the personal characteristics that are protected by the law, these are called 'protected characteristics'.

A good extended leave policy will have clear guidelines on how to apply, and what to do if you do not agree with the decision.

There are nine protected characteristics, and it is illegal to discriminate against someone on the basis of one (or more) of these:

- Age.
- Disability.
- Gender reassignment.
- Marriage and civil partnership.
- Pregnancy and maternity.
- Race.
- Religion or belief.
- Sex.
- Sexual orientation.

The act protects people from both direct and indirect discrimination.

Direct Discrimination

If, because of a protected characteristic, an employer:

- Refuses someone's request for leave.
- Pays some people more than others during their time off.
- Gives some people more leave than others.

This is likely to be direct discrimination, unless employment law or equality law specifically allows this to be done (for example with maternity leave).



Indirect Discrimination

If an employer:

- Says that everyone has to take leave at a particular time of year.
- Sets conditions on when someone qualifies for extra leave.
- Limits the number of weeks' leave that can be taken together.

This may have a worse impact on people with a particular protected characteristic than it would have on people who do not have the characteristic. Unless an employer can objectively justify what they are doing, this may be indirect discrimination.

It can be difficult to identify discrimination, as it isn't always clear cut and employers are sometimes able to objectively justify their decision, for example with indirect discrimination.

The following examples will help to identify instances of discrimination if they arise.

Example 1

A worker requests a month's leave to go on a religious pilgrimage. No other employees have requested extended leave at the same time, however the manager refuses the request stating that the maximum amount of holiday that can be taken in one period is two weeks.

This policy stops the individual from going on a religious pilgrimage, therefore has a worse impact on them than on people who do not share their religion or belief. This could potentially be indirect discrimination.

Example 2

A black migrant worker in a large superstore needs to take extended leave to travel home to visit his mother who is terminally ill. Because of the distance, and the uncertainty about his mother's life expectancy, he doesn't have enough annual leave remaining to cover the time away. His manager refuses the request, however last year, they had granted extended leave to a white member of staff wishing to visit relatives in Australia.

Potentially, this could be direct discrimination on the grounds of race, as the manager does not appear to have taken a consistent approach.

If you believe that a member has been directly, or indirectly, discriminated against in relation to a request for extended leave, you should seek the support of your Area Organiser in raising this with your employer.

Usdaw contacts

To find out more about the work of the Divisional Equalities Forums and Usdaw's equality work or about joining Usdaw contact:

South Wales and Western Division

Cardiff Office
Tel: 029 2073 1131
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Winning for members
www.usdaw.org.uk/equalities

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