



ST. PATRICK'S CENTRE (KILKENNY)  
KELLS ROAD KILKENNY

## Policy Document

**POLICY TITLE: Force Majeure Policy**

Prepared by: HR Manager	Approval Date: October 2016	Review Date: October 2018
Policy Number 11 – Other Policies	Approved By: Signed: <u>David Kielan</u> Operations Manager Signed: <u>[Signature]</u> Board Member	

### Mission Statement

**To enable people to live a good life, in their own home, with supports and opportunities to become active, valued and inclusive members of their local communities.**

**To enable a supported self-directed living (SSDL) model of provision which is underpinned by our beliefs, values and vision.**

Review Date:  Revision No: _____	Amendments required:  _____	New Revision Status:  _____
Reviewed by:	Approved By:  Signed: _____ Operations Manager	

**Policy Statement:** The Parental Leave Acts 1998 and 2006 include a provision for limited paid leave (force majeure leave) which enables employees to deal with immediate family emergencies.

**Scope:** This policy is relevant to all employees of St. Patrick's Centre Kilkenny.

## **Responsibilities:**

### **Responsibility of the Employee**

To abide by this policy.

### **Responsibility of Line Manager**

Line Managers have responsibility for the effective implementation of this policy and to follow up directly with employees when they are not following the policy or to refer to HR for advice.

### **Responsibility of Human Resources**

HR will support management with the implementation of this policy by providing recommendations and providing advice. HR will be responsible to ensure all staff are made aware of the Policy.

## **Policy**

Force majeure leave is short-term paid leave that employees can avail of to enable them to deal with family emergencies, resulting from the sudden injury or illness of a family member, once certain conditions have been met.

### **Entitlement**

An employee is entitled to paid leave owing to the urgent illness or injury of:

- a child (natural or adopted);
- a spouse/partner;
- a person to whom he or she is in loco parentis;
- a brother/sister;
- a parent/grandparent;
- a domestic dependent.

This entitlement applies only when the immediate presence of an employee is indispensable, at the place where the ill/injured person is located.

The entitlement to force majeure leave is limited to three (3) days in any 12 consecutive months or five days (5) in any 36 consecutive months. There is no service requirement for an employee to avail of force majeure leave.

## Applying for the leave

Due to the nature of force majeure leave, prior notice cannot be given. However, you are required to inform the organisation as soon as possible on the first day of absence. On return to work, you will need to discuss the reasons for taking the leave. You must also complete the attached force majeure form on return to work.

Your manager will conduct a review of the application and will confirm whether or not the leave will be treated as force majeure leave.

Part days are regarded as full days for the purpose of the maximum number of days allowed.

Medical appointments for which your presence is necessary and for which you have prior knowledge will not be deemed eligible for force majeure leave.

## Notes on Leave

The nature of force majeure leave cannot, by definition, be forecast or predicted in advance. In other words, such leave must be taken in response to the injury or illness of an immediate family member that is not foreseeable or otherwise generally predictable.

In general terms, “injury” must be of a substantial nature to require the immediate and indispensable presence of the employee concerned. Routine minor injuries are clearly not covered by force majeure leave entitlement.

The term “illness” must be an illness so significant that it requires the immediate and indispensable presence of the employee concerned. Therefore, routine and predictable illnesses will not generally be covered by force majeure leave entitlement.

Ultimately, it is the unforeseen and sudden nature of the illness or condition that will dictate the right to such leave.

It is the employee’s responsibility to have in place appropriate arrangements to take care of instances involving routine and predictable illness among immediate family members, childminders, appointments, hospital visits’ etc.

The following three levels of criteria are used to assess whether an employee’s situation entitles him or her to a period of force majeure leave, is the employees presence:

urgent;  
immediate;  
indispensable.

Therefore, for example, if an employee who has prior knowledge of a family member’s doctor/hospital appointment, which will require his or her presence, will be in a position to provide notice to the employer, and so would not be entitled to force majeure leave. In these circumstances, either annual or unpaid leave may be offered and made available to the employee concerned.

Where, subsequent to an emergency a child has an immediate follow-up hospital appointment or a further hospital appointment (at a future date), leave from work for such appointment cannot be taken as Force Majeure Leave. Also, if the crèche/childminder won’t take a child because of illness and the parent has to stay at home, this cannot be taken as Force Majeure leave unless the illness is of a serious nature, and requires immediate medical attention or hospitalisation. Similarly, Force Majeure leave will not be granted when a child minder is unable to mind the child/children.

Evidence may be requested when applying for this leave. Such evidence would possibly include a letter from a medical practitioner or a hospital, stating that the employee’s presence was required or was necessary at the side of the immediate family member.

In the case of schools or crèches closing, for example due to inclement weather, an emergency leave situation may result for some staff. This does not fall under the legal definition of force majeure leave. Where the

employee is unable to make alternative arrangements, annual leave or unpaid leave could be considered on a case-by-case basis.