

SPECIAL LEAVE PROCEDURE

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PROCEDURE SUMMARY
The policy sets out the framework for the Trust's approach for managers, staff and staff representatives for the consideration, application and allocation of Special Leave as well as the scope of the procedure and to whom it applies.
The Trust monitors the implementation of and compliance with this procedure in the following ways;
This procedure will be subject to review as per the agreed review schedule of Trust HR policies and procedures and as agreed by the Trust's Partnership Committee.
Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Human Resources Directorate.

Services	Applicable	Comments
Trustwide	✓	

**The Director responsible for monitoring and reviewing this policy is
Executive Director of Corporate Governance and Strategy**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST
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SPECIAL LEAVE PROCEDURE

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APPENDIX 1

APPENDIX 2

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

SPECIAL LEAVE PROCEDURE

1. ASSURANCE STATEMENT

- 1.1 Essex Partnership University NHS Foundation Trust (the 'Trust') is committed to following best practice in its approach to the application, consideration and allocation of Special Leave.
- 1.2 This procedure aims to establish a framework for a common understanding for management, staff and accredited Trade Union representatives of the entitlement, eligibility and application process for Special Leave
- 1.3 A comprehensive and clear special leave procedure will ensure that services are managed effectively and professionally, in a way that meets legal requirements and as sensitively as possible.
- 1.4 This procedure sets out the arrangements for Special Leave, recognising that there are times when staff will need support in dealing with domestic, family and personal situations or be absent from work for public duties. It supports the Trust's approach to family friendly policies, the work-life balance and ensures all staff are afforded the same support during particularly difficult circumstances.
- 1.5 The consideration and allocation of Special Leave within the Trust will be built on and demonstrate the Trust's corporate values and behaviours. These values are in being:
- Compassionate
 - Empowering
 - Open

In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:

- To continuously improve service user experience and outcomes through the delivery of high quality, safe, and innovative services.
- To be a high performing health and care organisation and in the top 25% of community and mental health Foundation Trusts.
- To be a valued system leader focused on integrated solutions that are shaped by the communities we serve.

2. INTRODUCTION

- 2.1 The aim of this procedure is to inform employees of the arrangements under which Special Leave may be granted.
- 2.2 The Trust recognises that employees have family and other responsibilities, which need to be balanced with work.
- 2.3 Leave granted under these arrangements is not intended for long-term domestic or family needs.
- 2.4 In discussing an application for Special Leave, managers will adopt an approach respecting the employee's right to confidentiality at all times.

3. SCOPE

- 3.1 The procedure applies to staff directly employed by the Trust. It is recognised that there are differences in entitlement to conditions of service that may cause some difference in the detail of its application. See **Appendix 1**.
- 3.2 The procedure does not apply to:
- Agency workers, bank workers, medical locums or to contractors.

4. PRINCIPLES

- 4.1 The allocation of Special Leave is at the discretion of the relevant manager.
- 4.2 No other employment, including bank work, is to be taken up on any day for which special leave has been granted.
- 4.3 Consideration should be given to alternative working arrangements such as flexible working, altering shifts or taking time off in lieu where applicable prior to the approval of special leave, at the discretion of the line manager.
- 4.4 Special Leave or a domestic crisis or carers leave, for example, should only be taken when the emergency cannot be dealt with outside normal working hours.
- 4.5 Medical appointments including dental check-ups, non-emergency dental work and non-emergency doctor appointments are covered in the Management of Sickness and Absence Policy and Procedure.
- 4.6 Special Leave will be paid, where appropriate (in line with **Appendix 1**). In addition to this, extra time off, if granted at the discretion of the line manager will always be unpaid.

5 ELIGIBILITY FOR SPECIAL LEAVE

- 5.1 Length of service requirements for each category of special leave varies and are defined in **Appendix 1**.
- 5.2 The period of service must also have completed without a break in service as defined by the Agenda for Change Terms and Conditions.
- 5.3 These conditions apply regardless of the hours worked.

6 CATEGORIES OF SPECIAL LEAVE

6.1 General arrangements

Paid time off is limited to the number of days as stated in **Appendix 1** (pro rata for part time staff). Additional unpaid time will be at the discretion of the Service Director depending on the circumstances. Managers should seek HR advice if granting additional special leave days, as this ensures a consistent approach across the organisation.

6.2 Carers (of Dependants)

Carer's Leave allows an employee to take reasonable time off to look after dependants without losing pay.

Carer's leave is intended solely to cover either emergencies, i.e., unforeseen circumstances that must be addressed immediately and cannot be delayed until after the member of staff's normal working day or, in circumstances where the employee only is able to fulfil planned or unplanned caring duties of the nature detailed in the 6.2.2 below.

6.2.1 The definition of a dependant is detailed in the NHS Terms and Conditions Handbook, Section 35: Balancing work and personal life, paragraph 35.4:

“A dependant is someone who is married to, or is a partner or civil partner, “a near relative” or someone who lives at the same address as the employee. A relative for this purpose includes: parents, parents-in-law, adult children, adopted adult children, siblings (including those who are in-laws), uncles, aunts, grandparents and step relatives or is someone who relies on the employee in a particular emergency”.

6.2.2 Carer's leave may be used when there is:

- Illness/accident/health emergencies
- Breakdown of immediate care arrangements
- Planned or unplanned hospital admissions of child, partner or close relative
- A need to make long-term care arrangements
- Emergency Doctor or Hospital appointments

This is not intended to be an exclusive or exhaustive list.

6.3 **Fostering**

Leave for foster care is to allow employees to make the necessary arrangements to receive the child being fostered and to settle them into the family home.

6.3.1 Foster Care leave is available for fostering children through the local authority or recognised agencies.

6.3.2 Foster care leave may also be available where children of very close relatives would otherwise have to be fostered or go into local authority care.

6.3.3 This is only applicable to individual cases of long-term fostering.

6.4 **Compassionate/Bereavement Leave**

This can be granted to cover bereavement, long term or terminal illness of a dependant as defined in 6.2.1.

6.4.1 Granting of this leave for short periods will be assessed taking into consideration the needs of the individual circumstances.

6.4.2 Time for bereavement can be taken for:

- Funeral arrangements
- Mourning
- Attendance at funeral

6.5 **Public/Civic Duties**

Special leave may be granted for Public/Civic Duties where an employee is required to be absent from work for public or civic duties such as:

- Jury Service
- Serving as a Justice of the Peace
- Membership of a local authority
- Attending court as a witness
- A member of the Reserve Forces of the Armed Forces.

6.5.1 This applies only if these duties cannot be carried out outside normal working hours.

6.5.2 This is not an exclusive or exhaustive list. Advice should be taken from the Human Resources department.

6.5.3 Employees are required to provide evidence of membership or court attendance documentation.

6.6 **Domestic Crisis**

Domestic reasons that require immediate action or attention can be categorised here.

6.6.1 A domestic crisis is an unforeseen situation, which arises, and requires immediate attention and cannot be dealt with by anyone else except the employee, e.g. burglary at home, burst water pipe.

6.6.2 Leave will be granted only at the discretion of the line manager, taking into account quality of patient care.

6.7 **Selection Interviews within the NHS**

Employees attending an interview as part of a selection process for alternative employment within the NHS, including travelling time.

6.7.1 This applies only to attend interviews within the NHS.

6.7.2 For job search and attendance at interviews during times of organisational change, reference should be made to the Staff Affected by Organisational Change Policy and Procedure.

7	APPLYING FOR SPECIAL LEAVE
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- 7.1 Employees must apply in writing using the form attached at **Appendix 2**, giving the specified date.
- 7.2 All employees have the right to privacy but it is expected that they will provide the line manager with sufficient and honest information, detailing the circumstances for making a request for special leave. This will enable managers to make a fair judgement in the use of this procedure.
- 7.3 It is recognised in certain circumstances it will not be possible to give the required notice and it is for the line manager to deem whether sufficient notice has, and could have been given. Where leave is authorised verbally and/or at short notice the form will be completed retrospectively.
- 7.4 Where employees request more than the specified entitlement (**Appendix 1**), managers may consider annual leave and unpaid leave with the approval of the Service Director.
- 7.5 Special Leave will not be granted whilst on any other booked leave. The Trust will consider alternatives to suspension where this is deemed appropriate, which may include a period of special leave whilst a preliminary investigation is undertaken, this would normally be for no longer than 24 hours.
- 7.6 Employees are entitled to a written reason for the refusal of any application.
- 7.7 If employees are dissatisfied with the rationale given for refusing special leave or feel that this procedure has been unfairly applied, this should be taken forward in accordance with the Trust's Grievance Policy HR2.

8	LONG TERM SPECIAL LEAVE, EMPLOYMENT BREAK or SABBATICAL
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- 8.1 The main reasons for which employment breaks can be used include childcare, palliative care, care for another dependant, training, study leave or unpaid work abroad. Other reasons will be considered on their merits.
- 8.2 This applies to employees with at least one year's continuous service, with the exception of long term caring needs (where there are no length of service requirements).
- 8.3 A notice period of at least two months should be provided, for breaks of less than one year. Six months' notice for breaks of 1-5 years is required.
- 8.4 Employees wishing to take long term special leave or sabbatical should make their request in writing to the service director stating the length of time they wish to take and the reasons they wish to take extended leave.
- 8.5 The service director will respond to the request writing within 10 working days.

8.6 Length of Break

8.6.1 The maximum length of a break is five years. It is possible to take breaks, either as a single period or as more than one period.

8.6.2 The minimum length of break should be three months.

8.6.3 The length of any break should balance the needs of the employee with the needs of the service.

8.6.4 There is provision for breaks to be extended with appropriate notice, or for early return from breaks. Applications should be made in writing.

8.7 Terms and Conditions

8.7.1 The employee will not be paid during this period.

8.7.2 The period of the break should count toward continuous employment for statutory purposes. Other provisions which depend on length of service, i.e. contractual redundancy payments, leave entitlements etc., will be suspended for the period of the break (see also separate provisions in the NHS Terms and Conditions of Service Handbook, Section 12).

8.7.3 Employees who are members of the NHS Pension Scheme will have their pension frozen for the duration of the break unless they choose to continue the payments. Should this be the case the employee must advise how the payments will be made prior to going on the break directly with the HR department. Employees should seek guidance from the NHS Pensions Agency regarding the impact of the break on pension provisions. Further information for Scheme members in England and Wales can be obtained from the NHS Pensions website at www.nhsbsa.nhs.uk/pensions.

Applicants do not have to resign to take an employment break, although there will be a change to the contract of employment.

8.7.4 A written agreement between the organisation and employee should be prepared and signed before the break begins.

8.8 During the Long Term Leave, Employment Break or Sabbatical

8.8.1 The employee will keep in contact with the manager during this period in a reciprocal arrangement so they are aware of developments at work.

8.8.2 The employee needs to keep skills and experience up to date during their absence. Where appropriate, it is a requirement that the employee keeps up to date with their relevant professional registration needs, including attendance at specified training courses and conferences. Any assistance or support that the Trust can provide with this will be agreed prior to the leave commencing.

8.8.3 In normal circumstances, the employee cannot undertake paid work for any other organisation during this time, except where this is agreed in advance as part of planned development. The employee will not work bank shifts in the Trust.

8.9 Return to work

8.9.1 If the employee returns to work within one year, the same job will be available, as far as is reasonably practicable.

8.9.2 If the break is longer than one year, the employee may return to as similar a job as possible.

8.9.3 The employee will return to work at the equivalent salary level, reflecting increases awarded during the break.

8.9.4 The notice period required before the return to work should be two months if the break is less than a year and six months if the break is more than a year;

8.9.5 A plan regarding re-induction to the workplace, including training arrangements, is to be agreed prior to the return date.

9.0 MONITORING OF IMPLEMENTATION AND GOVERNANCE

9.1 The Director of Corporate Governance and Strategy is responsible for ensuring there is a system in place to monitor, record and report on Special Leave within the Trust.

9.2 This procedure is subject to review as per the Trust HR policy and procedure review schedule and as agreed by the Trust's Partnership Committee.

9.3 All records of applications and decisions should be kept for a minimum of twelve months.

9.4 Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements.

If an employee is suspected of providing untruthful or misleading reasons for being granted special leave then their application may be treated as potentially fraudulent and referred to the Local Counter Fraud Specialist for investigation. As a result of recommendations further action may be taken under the organisation's Conduct and Capability Policy and Procedure.

10 POLICY REFERENCES /ASSOCIATED DOCUMENTATION

- Employment Rights Act 1996
- Employment Act 2010
- NHS Pension Scheme(s)

11 REFERENCE TO OTHER TRUST POLICIES/PROCEDURES

This policy should be read in conjunction with other policies in place that may be relevant. These include:

- Leave Policy

END