

Employment Break Policy

Human Resources Policy No. 37

Additionally refer to: HR01 Equality and Diversity
 HR16 Grievances and Disputes
 HR18 Reviews and Appeals in relation to Assimilation under Agenda for Change
 HR24 Maternity Leave
 HR25 Adoption Leave
 HR26 Maternity Support (Paternity) Leave
 HR27 Parental Leave
 HR28 Flexible Working
 HR30 Annual Leave & Public Holidays
 HR59 Development and Training Support

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Employment Break Policy

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1. Policy Statement

This policy outlines the processes in place for staff wishing to take an employment break. It outlines the steps to follow and provides guidance for the management of such issues.

2. Overview

2.1 The Trust is committed to providing staff with access to leave arrangements which support them in balancing work responsibilities with personal commitments. This policy is one of a series of policies that make up the Trust's approach to help staff balance work and home life.

2.2 The Trust recognises the importance of domestic or out-of-work commitments and acknowledges that, at certain times in an employee's working life, circumstances may arise where it is appropriate to request an Employment Break. This policy sets out the arrangements within the Trust to enable all employees to request an Employment Break. It does **not** provide an automatic right for employees to take an Employment Break but will ensure that serious consideration is given to any request.

2.3 A flowchart detailing an overview of the process can be found in appendix A. Further information is available from the Human Resources Department.

3. Definitions

An employment break enables employees to take an unpaid break from work for a period of 3 months up to 5 years. In accordance with Agenda for Change Terms and Conditions, it may be possible to take breaks, either as a single period or as more than one period.

4. Scope and Eligibility

4.1 This policy applies to all staff who are directly employed by the Trust, whether full time or part-time, permanent or temporary including those working via the Temporary Staffing Department and have a minimum of 12 months' service with the Trust.

4.2 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equality & Diversity Policy (HR01). Special attention should be paid to ensuring the policy is understood when using it for staff new to the NHS or Trust, by staff whose literacy or use of English is weak or for persons with little experience of working life.

4.3 The Employment Break Policy is provided for planned breaks in service for a period of not less than 3 months and up to 5 years. The period of the break will be unpaid.

4.4 Any reasons for requesting a break under this policy, such as childcare, eldercare, care for another dependant, training/research, study leave or work abroad and any other reasons will be considered on their individual merits.

4.5 Employment breaks will not normally be approved for individuals to take up paid employment with another employer except where, for example, work overseas or charitable work could broaden experience of value to the Trust or wider NHS. In such circumstances written authority from the Trust will be necessary.

5. Duties

5.1 Trust Board will:

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- 5.1.1 Oversee the policy and ensure that processes are followed when an employee requests an employment break.
- 5.2 **Managers will:**
 - 5.2.1 Implement this policy and ensure that all employees are aware of their responsibilities under it. Support and guidance may be sought from Human Resources.
 - 5.2.2 Give full and reasonable consideration to employee requests to taken an Employment Break.
 - 5.2.3 Liaise with the pensions department prior to agreeing the break.
 - 5.2.4 Where agreed, update the employee with significant developments in their department or the Trust.
 - 5.2.5 Invite the employee to relevant seminars, training updates and key developmental meetings to ensure that staff are made aware of guidance.
- 5.3 **Employees will be:**
 - 5.3.1 Expected to maintain their skills/knowledge and expertise at an acceptable level in line with KSF and the requirements of their professional body.
 - 5.3.2 Required to maintain professional registration where this is required for their role.
 - 5.3.4 Required to maintain contact with their manager and notify them of any changes in their personal circumstances.
 - 5.3.7 Expected to liaise with Pensions prior to commencing an employment break.
- 5.4 **Human Resources department will:**
 - 5.4.1 Provide support and guidance to staff and managers on the implementation and application of this policy.
 - 5.4.2 Monitor the application of this policy and update it as required.
- 5.5 **Pensions will:**
 - 5.5.1 Provide a schedule of pension payments to managers when requested.
 - 5.5.2 Discuss with employees the effect of the proposed break when requested.
- 6. **Applications for Employment Breaks**
 - 6.1 Employees may request an Employment Break at any time during their employment with the Trust, subject to satisfying the eligibility criteria set out in Section 4.
 - 6.2 Although there is no automatic entitlement to an employment break, employee requests will not be unreasonably refused. Initial application (Appendix B, Section A parts 1 to 5) should be completed by the applicant and submitted to the immediate manager/team leader; if supported by the manager this will be subject to final approval by the appropriate Centre Manager or Head of Service.

- 6.3 Section B of the Application Form should be completed by the line manager to confirm the arrangements for the agreed break and forwarded to the relevant Centre Manager or Head of Service.
- 6.4 Although it is recognised that an employment break may need to be used in urgent situations, it is expected the applicant will normally give 3 months' notice prior to the date they wish to begin their Employment Break.
- 6.5 An employee can request to take an Employment Break immediately following Maternity/Adoption Leave; however, s/he must return to work at the end of his/her employment break for a period of at least 3 months in order to retain his/her entitlement to NHS rates of Maternity/Adoption Pay.
- 6.6 If an employee has elected to accept NHS Maternity/Adoption Pay and subsequently does not return to work for the Trust or a different NHS employer for at least 3 months immediately following the end of his/her Maternity/Adoption Leave and Employment Break, s/he will be expected to repay to the Trust the difference between the Statutory Maternity/Adoption Pay to which s/he was entitled and the NHS rates paid.

7. Employment Break Conditions – Provisions of the Policy

- 7.1 Under the provisions of this policy the Trust will provide the individual with a minimum of two weeks paid employment per annum, at the grade and incremental point on which he/she was previously employed. Part of this work may be carried out through the Temporary Staffing Department. Where an employee is not available during their employment break, for example overseas, they may complete these two weeks at the beginning or end of the employment break.
- 7.2 Under the provisions of this policy the individual will, where applicable:
- Agree with their manager a minimum period for which they will make themselves available for work each year, which should not be less than two weeks.
 - (For each 12 month period on the Employment Break) be expected to attend an agreed number and range of training sessions, meetings, seminars etc. and to maintain required knowledge and expertise. These sessions may be additional to, or part of, the minimum employment periods during the break.

In exceptional circumstances where individuals are unable to complete these commitments, they must discuss this with their manager prior to submitting an application.

- 7.3 In order to ensure that the conditions are jointly met, the manager will ensure that an employment and training record is maintained for the individual. The purpose of this process is to identify the employment and training experience and activities undertaken during each year of the Employment Break. A relevant manager will be nominated as a personal contact point for the individual during his/her break from permanent employment.
- 7.4 Applicants do not have to resign to take an agreed employment break, although there will be a temporary change to the contract of employment. The period of the break will count toward continuous employment for statutory purposes. Other provisions dependent upon length of service e.g. annual leave, NHS pension contributions (unless agreed by the Trust) contractual redundancy payments, and NHS sick pay will be suspended during the period of the Employment Break.

- 7.5 Applicants who are members of the NHS Pension Scheme may request as part of the Employment Break application process to continue to make employee contributions to the NHS Pension Scheme whilst taking an unpaid Employment Break.
- 7.6 Periods of paid employment during the break with the Trust (or another NHS Trust where this was part of the Employment Break agreement) will count as reckonable service.
- 7.7 All contractual terms and conditions of employment which are dependent on reckonable years of service will be re-implemented on the individual's return to work. The individual's incremental date will remain unchanged.
- 7.8 Any other employee benefits/remuneration which the individual received during their employment will **not** continue throughout the duration of the Employment Break, unless specifically agreed before commencing the break and conform to prevailing contractual terms and conditions of service.
- 7.9 **NHS Pension Scheme**
- 7.9.1 Managers are advised to liaise with the Trust's Pensions Manager **prior** to agreeing a pensionable employment break and to request a schedule of pension payments that would be due from the Trust and the individual **before** a final decision is given to the applicant. Where pensionable employment breaks are approved by the appropriate manager employer contributions will be paid in accordance with NHS Pension Scheme regulations up to a maximum of 6 months. The applicant must be made aware that they will be responsible for **both the employee and employer contributions** for the remainder of the employment break (up to a maximum contribution period of 18 months), and that they would be required to set up a standing order for the required amounts before the break commences to be paid on a monthly basis on 15th of each month of the break. Any late payments would result in the pension record being closed as no arrears are allowed to accrue.
- 7.9.2 Employees are advised to liaise with the Trust's Pensions Manager before commencing an Employment Break to establish the effect of the proposed break on their NHS Pension Scheme benefits. Applicants must be made aware that if they take a **non-pensionable** break they will lose their **full** death in service benefits during the period of the employment break. However, a reduced payment based on the service at the members date of death would be payable.
- 7.9.3 Any employee wishing to continue to make payments into the NHS Employment Pension Scheme during an employment break must advise their Line Manager as part of their application. Appendix B contains the Trust's Employment Break application form.

8. Commencement and Duration

- 8.1 Both the Trust and the applicant will sign an agreement before the break commences (see Appendix B) stating their commitment to the fulfillment of the Employment Break Policy requirements. This will include an undertaking by the applicant to return to work for the Trust for an agreed minimum period after the agreed break. The expectation is that this period will normally be equal to the length of the break agreed. The completed agreement will be retained in the employee's personal file.
- 8.2 The employee will be required to give an agreed period of notice/confirmation of their wish/intention to return. This notice period, which must be agreed with the manager

prior to the commencement of the break, should be in writing and will normally be a minimum of two months if the break is less than one year and six months if the break is more than a year.

- 8.3 In the event of organisational change affecting the employee's post during the period of the break, the Trust will keep the employee fully informed and will consult with the employee who will have the same rights and entitlements in respect of the organisational change as other employees in the affected area of work. Managers should liaise with Human Resources in all cases so that the appropriate formal consultation can take place.

9 Returning to Work

- 9.1 The notice period required for an employee wishing to return to work is normally a minimum of:

- 2 months if the agreed break is for up to 1 year
- 6 months if the agreed break is for more than 1 year

The employee should contact their manager and put this notice in writing as soon as they are able to confirm a definite date on which they wish to return to work.

- 9.2 If the agreed Employment Break is for up to one year, the post previously occupied by the employee will be held open for their return, although it may be filled on a temporary/fixed term basis during the period of the break. As such the employee will be guaranteed re-appointment to their original post (as far as reasonably possible) at the equivalent salary level, reflecting national increases awarded during the break.

- 9.3 If the agreed Employment Break is for longer than one year it may not possible to re-employ the individual in their original post on their return. The applicant will return to a post that is as similar as possible to their original at the equivalent salary level (reflecting national increases awarded during the break). Where appropriate, a manager may fill the individual's post temporarily allowing the individual to return to the same post at the end of their employment break; however there is no guarantee that the position will remain available. The Trust will, subject to the individual fulfilling the conditions of the policy, take all reasonable steps to plan recruitment to facilitate re-employment to the original post.

- 9.4 An employment break may be extended to enable the identification of a suitable post. Such an extension will be no longer than 6 months in duration, but in any event must not exceed the 5 year maximum allowed for an Employment Break.

- 9.5 The procedure for the return to work following a break of longer than one year will be as follows:

- On receipt of notice of intention to return the manager/team leader will confirm the return arrangements.
- The manager and employee will discuss the current vacancy situation and together identify vacant posts or other work options mentioned above to facilitate the return; where appropriate, arrangements will be made for the employee to be placed on the Trust redeployment register.
- Where no vacancy arises for which the individual may be considered, the conditions relating to the Employment Break may continue for a further period by mutual

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agreement of the manager/team leader and the individual, subject to the break not exceeding the maximum of 5 years allowed.

- If an employee chooses not to accept a reasonable alternative job offer and thereby return to work under this policy their employment will be deemed to have terminated on the last day of the agreed Employment Break.

9.6 On return from the Employment Break, the employee will receive an appropriate period of induction back into the workplace. The nature and length of the induction process will be arranged between the manager and the individual concerned and dependent on the needs of the post, prevailing work circumstances and statutory regulations.

9.7 Employees returning from an Employment Break will not be able to request a further Employment Break until they have returned for at least a period of 12 months, other than in exceptional circumstances.

10 Not Returning to work or Failure to Return to Work

10.1 Employees who decide not to return to work will be required to write to their manager giving 3 months notice (except where the employment break is 3 months in duration where normal contractual notice will apply).

10.2 Employees who do not return on the agreed date without prior agreement will lose the right to return and will be deemed to have terminated their employment on the last day of the agreed Employment Break. The individual may, of course, apply for any suitable vacancies within the Trust; the Trust will give favourable consideration to such applications where the individual had justifiable reasons for their failure to return.

10.3 Staff who otherwise fail to return will be deemed to have terminated their employment on the last day of the agreed Employment Break.

11. Appeals

11.1 Employees will be entitled to a written reason for the refusal of any application from the relevant manager.

11.2 Employees have the right to appeal against any decision to refuse their request for an Employment Break using the Trust's Grievances and Disputes policy (HR16).

11.3 To appeal, the employee must write to their Centre Manager/Head of Service (or where the application has been refused by the Centre Manager/Head of Service, to the appropriate Centre Chief or Executive Director) within 14 days of receipt of the confirmation letter, clearly setting out the reasons why they consider the decision to be unfair.

11.4 The manager to whom the appeal is addressed may delegate responsibility for hearing an appeal to an alternative Trust manager not previously involved in the decision.

11.5 The manager hearing the appeal will arrange a hearing at the relevant stage of the Grievances and Disputes policy to discuss the employee's reasons for appeal. This meeting will normally be held within 14 days of receipt of the appeal and the employee will have the right to be accompanied by a colleague from the Trust or an accredited Trade Union Representative. The outcome of this hearing will be confirmed in writing

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normally within 7 calendar days of the meeting, together with any further right of appeal in accordance with the Grievances and Disputes policy.

- 11.6 Following this, the individual will not be able to re-submit an application for an Employment Break for 12 months from the date of the original request unless there is a change in the circumstances of the individual or in their department.
- 11.7 If, following an appeal, the individual still feels that their request has been unreasonably refused, s/he may raise a Stage 3 grievance using the Trust's Grievance Procedure (HR16) provided there are reasonable grounds for doing so.
- 11.8 All records of applications and decisions will be retained in the employee's personal file.

12. Training Needs

- 12.1 There is no mandatory training associated with this guidance. If staff have queries about its operation, they should contact their line manager in the first instance.

13. Review Process

- 13.1 This policy is based on the agreed national terms and conditions.
- 13.2 The Workforce Director is responsible for monitoring the operational effectiveness and efficiency of this policy and for making any recommendations re changes to it
- 13.3 The operation of the policy will be monitored annually in partnership with TNCC representatives.
- 13.4 The Trust will fully review this policy within 3 years.
- 13.5 In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the document strategy having to return to the ratifying committee.

14. Equality Impact Assessment

This policy applies to all employees equally and does not discriminate positively or negatively between protected characteristics.

15. Process for Monitoring Compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Duties	<i>To be addressed through the monitoring below</i>			
To ensure the consistent and fair treatment of staff with employment break requests whilst ensuring that core standards are not compromised.	Review of policy when updated	Workforce Director	Annually in partnership with local staff representatives	TNCC

16. References

16.1 Legislation

- Equality Act 2010
- Health and Safety at Work Act 1974
- Employment Rights Act 1996

16.2 Other References

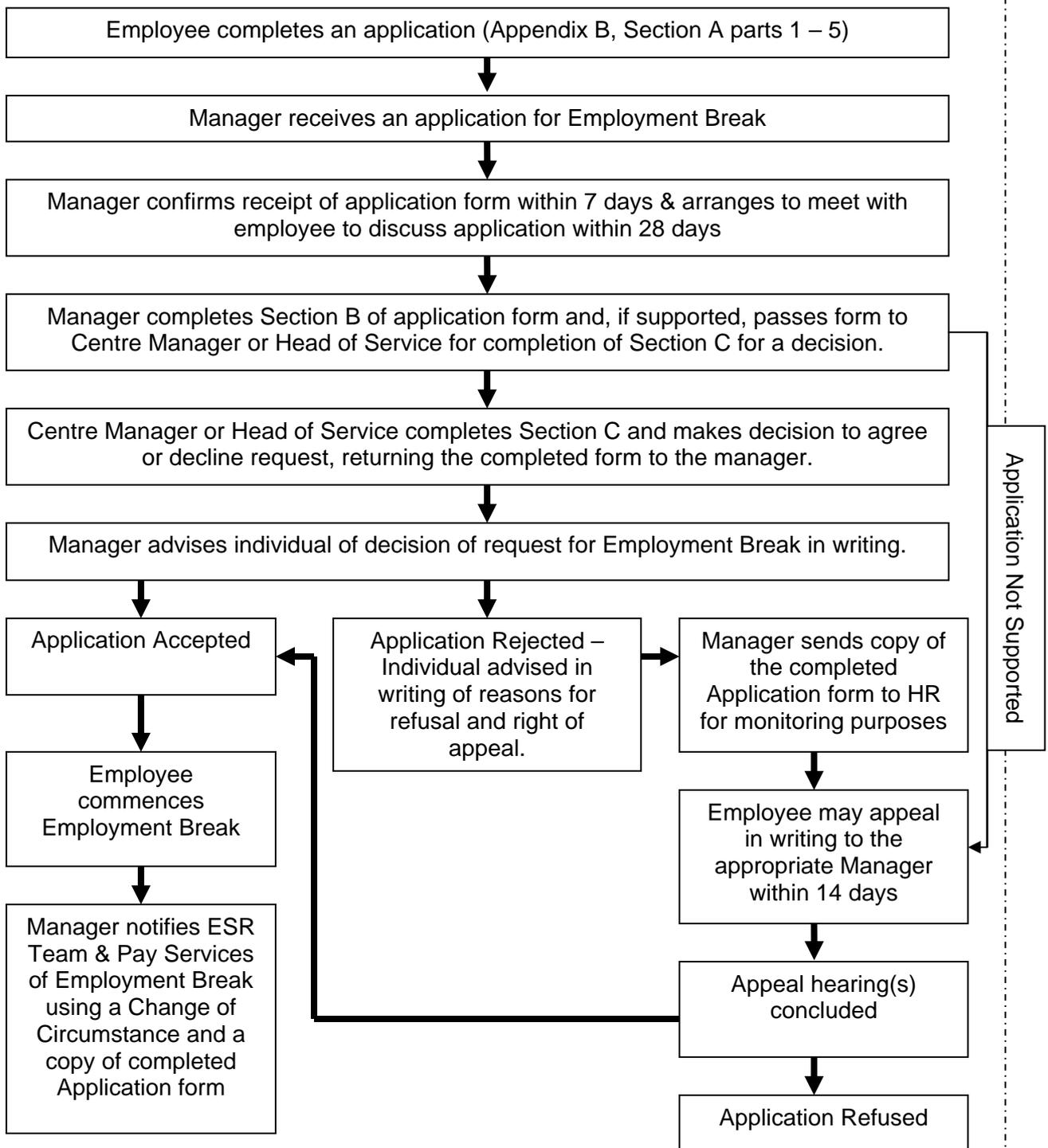
- Agenda for Change Terms and Conditions, section 36
- NHS Pensions (March 2011), *Life Assurance and Family Benefits Factsheet – 1995 Section*. NHS Pensions. Available at: [http://www.nhsbsa.nhs.uk/Documents/Pensions/Life Assurance and Family Benefits Factsheet 1995 Section \(V2\) 03.2011.pdf](http://www.nhsbsa.nhs.uk/Documents/Pensions/Life_Assurance_and_Family_Benefits_Factsheet_1995_Section_(V2)_03.2011.pdf)
- NHS Pensions (March 2011), *Life Assurance and Family Benefits Factsheet – 2008 Section*. NHS Pensions. Available at: [http://www.nhsbsa.nhs.uk/Documents/Pensions/Life Assurance and Family Benefits Factsheet 2008 Section \(V2\) - 03.2011.pdf](http://www.nhsbsa.nhs.uk/Documents/Pensions/Life_Assurance_and_Family_Benefits_Factsheet_2008_Section_(V2)_03.2011.pdf)

16.3 Relevant Trust Policies

- HR01 Equality and Diversity
- HR16 Grievances and Disputes
- HR18 Reviews and Appeals in relation to Assimilation under Agenda for Change
- HR24 Maternity Leave
- HR25 Adoption Leave
- HR26 Maternity Support (Paternity) Leave

- HR28 Flexible Working
- HR30 Annual Leave & Public Holidays
- HR27 Parental Leave
- HR59 Development and Training Support

OVERVIEW OF THE EMPLOYMENT BREAKS POLICY



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Part 3 – NHS Pension Contributions

I am a member of the NHS Pension Scheme and wish to continue to make employee contributions to the scheme during my Employment Break. I have liaised with the Trust's pension advisor and request that the Trust makes employers contributions (up to a maximum of 6 months) in accordance with the NHS Pension Regulations:

YES NO N/A* (delete as appropriate)

I understand that prior to my leave commencing, it is my responsibility to make provisions with the payroll department for the employee contribution payments to be made and maintained during my unpaid employment break. I accept that should I fail to maintain payment of the agreed contributions this will affect my pension provisions.

* Not applicable

Part 4 – Employment Break conditions

I agree to: (delete as appropriate)*

- to undertake at least two weeks paid work per annum, arranged with my manager* (section 7.1)
- not to work for another organisation during the period of the Employment Break* (section 4.5)
- to give the Trust the required notice of my intention to return to work. (section 9)
- if I decide not to return, I will write to my manager immediately, giving 3 months' notice, (except where the employment break is 3 months in duration, where normal contractual notice will apply). (Section 10)
- if I leave the Trust before completion of any development opportunities that have been funded by the Trust (except if my contract is terminated by the Trust for reasons other than on the grounds of dismissal for misconduct), I undertake to repay in full the proportion of fees contributed by the Trust. This may be waived by the Trust if I move to another agency deemed acceptable e.g. another NHS employer.* (for more information see HR Policy 59 – specifically section 5.5)
- if I leave the Trust within a 2 year period following the completion of any development funded by the Trust (except if my contract is terminated by the Trust for reasons other than on the grounds of dismissal for misconduct). I will undertake to repay: 1/24 of the Trusts contribution for each month remaining of the 2 year period. This may be waived by the Trust if I move to another agency deemed acceptable by the Trust e.g. another NHS employer.* (for more information see HR Policy 59 – specifically section 5.5)
- In the event of a repayment being required for any developmental opportunities as outlined above, I undertake to make such a repayment on receipt of an invoice from the Trust or agree to it by means of a deduction from my final salary, in which case I will be informed by my manager, of the amount prior to the deduction being made.* (for more information see HR Policy 59 – specifically section 5.5)
- I understand there is no guarantee that the post to which I return will be exactly the same as that in which I am currently employed (Section 9).
- I agree to repay my NHS maternity / adoption pay if I do not return to work* (section 6.6)
- I understand I am required to return to work for a minimum period equal to the length of my Employment Break. (section 8.1)
- Other conditions to be agreed with manager (detail):

Part 5 – Declaration

I have received and read a copy of the Employment Break policy (HR37) and confirm my agreement to all sections of the policy and the above conditions.

Signed:

Date:

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Section B - To be completed by the manager:

I confirm I have discussed with the above individual his/her* request to take an Employment Break. He/she* meets the requirements set out in the Employment Break Policy. I understand all of the employment break conditions (including any NHS Pension Employer Contributions): It is therefore my decision to:

Support his/her* application

OR

Not to support his/her* application for the following reasons:

His/her* Employment Break will begin on: ____/____/____ and end on: ____/____/____ (if known)

This is expected to last for ____ years ____ months.

Reason(s) for Employment Break: *(complete only if needed to supplement the employee's rationale above).*

I have read the Employment Breaks policy and my commitments to the employee. I will also maintain contact and keep the applicant informed of any developments, staff meetings etc.

Name (Print):		Job Title:	
Signed:		Date:	

Section C - To be completed by Centre Manager/Head of Service:

This application is Agreed / Not Agreed* - Please give reasons:

Name (Print):		Job Title:	
Signed:		Date:	
Is this a revised application? (i.e. has this application been submitted previously but the date has now changed)	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date copy of this form and change of circumstance form sent to ESR:	

Line Manager Action:

Please retain a copy of the signed documentation and change of circumstance form on the individuals file and send the Application for Employment Break to ESR with a Change of Circumstance form. Please note if the commencement of the Employment Break changes a new Application for Employment Break must be completed and a further copy and change of circumstance form sent to ESR to advise indicating that this is a revised application.

IF AN APPLICATION IS DECLINED PLEASE SEND A COPY OF THIS FORM TO YOUR HR ADVISORY CONTACT

Equality Impact Assessment Form

Stage 1 – Initial Assessment

Managers Name	Kate Youlden	Division	Human Resources
Function, Policy, Practices, Service	HR37 Employment Breaks	Purpose and Outcomes – intended and differential	The policy sets out clear guidelines for employees to submit a request for an Employment Break and for managers to handle and process such requests. The policy applies to all staff including those on temporary contracts to promote work life balance, clarifying that any such arrangements are at the discretion of the Manager and authorised by the Centre Manager/ Head of Service.
Implementation Date	October 2012	Who does it affect?	All staff
Consultation Process	HR and TNCC	Communication and awareness	Team Brief, TNCC minutes and Intranet, HR Report

For completion of the following table please see point 7 in the guidance notes.

Equality Target Group	(a) Positive Impact	(b) Negative Impact	Reason/Comment
Men	None	None	Any member of staff may submit an application to request an Employment Break. The guidelines under which the Trust will agree to any request are outlined in Sections 5 and apply equally to all staff. The conditions do not discriminate in any of the categories listed.
Women	None	None	
Black/Black British	None	None	
Asian/Asian British	None	None	
Chinese	None	None	
White (including Irish)	None	None	
Other racial/ethnic group (please specify)	None	None	
Mixed race	None	None	
Disabled	None	None	
Gay/Lesbian/Bi-sexual	None	None	
Transgender	None	None	
Younger People (17-25) and children	None	None	
Older People (50+)	None	None	
Faith groups (please specify)	None	None	

Following completion of the Stage 1 assessment, is Stage 2 (Full Assessment) necessary? **No**

Date Completed: August 2012

Signed by Manager completing the assessment: Kate Youlden, Senior HR Manager

Date agreed by TNCC: September 2012