

Workforce Directorate Policy

Leave Policy

Chapter 8: Special Leave Procedure

W19

(Ratified December 2019)

This document was last updated to reflect the changes in the NHS Terms and Conditions of Service 'Handbook' (amendment no 40) Version 2.0

Includes Flowcharts, FAQ and Relevant Forms/Paperwork

The Trust recognises that staff will at times require time off work to deal with personal commitments in urgent and non-urgent situations. This chapter sets out the provisions provided by the Trust in these circumstances.

- All special leave is discretionary and there is no entitlement to time off with the exception of child bereavement leave which is set out in the National Terms and Conditions handbook.
- It is expected that special leave will be kept to a minimum and granted when it is appropriate to the circumstances.
- For emergency unexpected events it is expected that short term leave will be paid, other options for time off should be considered, for example time off in lieu, flexi-time, annual leave, unpaid leave.
- Staff should consider the service implications of their request where appropriate.
- Requests for special leave should be made at the earliest opportunity and where possible in advance.
- Where paid leave is granted it will be paid at full basic rate, excluding any supplementary payments.
- It is the responsibility of the employee to maintain contact during any period of leave. The manager and employee should agree the frequency and arrangements for maintaining contact.

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Employee Expectations

1. What expectations are required of me as a member of Trust Staff?

Staff requesting special leave are expected to make every effort to make alternative arrangements and should involve their spouse and/or other family members or friends where possible and relevant to the type of leave requested. This does not apply in relation to Compassionate leave and Child Bereavement Leave.

Maintaining Contact During Leave

2. Should I maintain contact during leave?

Yes, it is your responsibility to maintain contact during any period of Special Leave. The manager and employee should agree the frequency and arrangements for maintaining contact.

3. What happens if I don't maintain contact?

Failure to maintain contact, as agreed with your manager, may result in your paid leave or authorised unpaid leave being withdrawn (individual circumstances will be considered). The absence may then

be treated as unauthorised and disciplinary action may be taken in accordance with the Trust's Disciplinary Procedure.

Eligibility

4. Will time off for special leave be granted?

In all cases Special Leave is granted at the discretion of the manager, subject to the needs of the service and the individual's circumstances, but will not be unreasonably refused. The only exception to this is Child Bereavement Leave.

5. Who is entitled to request time off for special leave?

The handbook states in section 32.36 that for time off for domestic reasons the *provisions should cover all employees*.

6. Am I entitled to time off?

There is no "entitlement" to special leave and individuals do not have a right to take any number of days Special Leave in a year whether paid or unpaid. Each section of this procedure carries guidance to be considered when authorising leave. Special leave may be supplemented by other types of leave as appropriate. The only exception to this is Child Bereavement Leave.

7. Should other forms of leave be considered?

When special leave is requested by an employee, consideration may be given to whether or not it is appropriate to use other types of leave, including accrued Time Off In Lieu, flexi-time, annual leave (authorised outside of normal booking rules) or unpaid leave. However, in supporting our staff we recognise that sometimes there will be no other options available. The only exception to this is Child Bereavement Leave.

8. What will be taken into consideration when reviewing my request?

Your manager will take into account the type of leave requested and the reason for the request, information you have provided in relation to other options you have considered, and the frequency at which you have taken special leave.

9. If I am already on annual leave what happens?

Where an incident arises during time that has already been booked as annual leave you will not be able to swap the leave to another form of leave. Where the incident that resulted in you needing time off continues after your annual leave ends you should discuss with your manager at the earliest opportunity how you intend to cover any further periods of absence. Please note the provisions for Child Bereavement Leave and the timescale this may be taken in.

Leave Approval Process

10. When should approval for time off be requested?

Requests for leave should be discussed at the earliest opportunity prior to leave being taken and all appropriate documentation should be completed accordingly. However the Trust recognises that in some circumstances this may not be possible and discussion regarding the type of leave granted will need to occur on return to work, in these circumstances you must still notify your manager of your absence (see 'What happens in emergency situations?') Where the manager is not available, authority should be sought from the line manager's manager.

11. What happens in emergency situations?

Where an immediate crisis occurs and you are unable to attend for duty as expected you must inform your Manager/Supervisor in accordance with procedures set out in your own department for reporting absence.

In exceptional circumstances, where it is not possible to discuss the type of leave to be agreed, you may elect to notify the department of your absence but take leave and discuss the nature of it with

your manager (i.e. whether paid or unpaid special leave, annual leave, unpaid leave, flexi-time or time off in lieu is appropriate) as soon as is reasonably possible. These circumstances should be rare.

12. How should requests be recorded?

Requests for leave should be recorded on the form in appendix A, this should be retained on the employees personal file.

13. Where will records of my requests be kept?

Details of your requests, authorised and declined, will be retained on your personal file using form in appendix A in accordance with the Trust retention of records procedures. Authorised absences will be recorded on ESR via E-rostering, Supervisor Self-Service or notification to Pay Services as per sickness absence reporting.

Calculation of Pay

14. What pay will I receive if leave is granted with pay?

Where paid leave is granted, you will be paid at full basic rate for the number of hours lost, excluding any unsociable hours' payments and other variable payments.

Refusing Requests

15. What happens if my leave is declined?

If your request for leave is decline you will be entitled, upon request, to a written explanation in accordance with section 35.39 of the handbook.

16. What action should I take if I don't not agree with any decision made in relation to time off for special leave or I feel I have been treated unreasonably under this procedure?

You are entitled to raise a grievance in accordance with the Trust Grievance Procedures as per section 35.40 of the handbook.

Abuse of the Policy

17. What action could be taken if I abuse this policy?

Any abuse of this policy may result in the absence being treated as unauthorised and therefore unpaid. Furthermore, disciplinary action may be taken in accordance with the Trust's Disciplinary Procedure or in accordance with the Trust Counter Fraud Policy (which can include criminal action).

Range of Provision for Time off for Special Leave

18. What provisions apply for time off for Special Leave?

The NHS Terms and Conditions of Service Handbook sets out provisions in relation to Leave/Time off For Domestic Reasons, section 35.35 states *this form of leave should cover a range of needs, from genuine domestic emergencies through to bereavement*. Arrangements for Child Bereavement leave are set out in section 23.

The Trust Leave Provisions include:-

- Emergency Leave/Time Off for Dependant
- Compassionate Leave
- Child Bereavement Leave
- Leave for With Notice Events
- Leave for Public and Civic Duties

Emergency Leave/Time Off for Dependants

19. In what circumstances may this leave be agreed?

- Unexpected breakdown in carer arrangements for dependents
- Arranging for care of dependents who are ill or injured.
- Providing assistance for dependents who are taken ill or injured.
- Dealing with flood, fire, burglary at home.
- Sudden breakdown of a relationship

This list is not exhaustive

20. What is a Dependant?

A dependant could be a spouse, partner, child, parent, or someone who depends on you for care, this may include situations where the need for care is triggered by the incident resulting in the request for time off. See also leave for 'Compassionate Leave'.

21. What circumstances are normally excluded?

Situations where time off can be planned or where the situation becomes long term, frequent or on-going. However dependent upon the circumstances managers may authorise paid leave to support you in difficult or extreme circumstances.

Where events can be planned, annual leave, unpaid leave or TOIL should be booked in advance and in accordance with local booking rules.

22. If leave is agreed will it be paid and how long will it be agreed for?

Emergency Leave/Time Off for Dependant will be paid and will normally be to the maximum of one shift. In exceptional circumstances this may be extended subject to the circumstances and needs of service.

23. Is there a maximum amount of leave that can be authorised?

The Trust does not set maximum amounts of leave that it deems appropriate as it recognises that all circumstances are different. Managers will be expected to use their discretion and review the reason for the request, the consideration given to alternative solutions, the impact on service, and the employee's employment history with considering requests.

Compassionate Leave

24. In what circumstances may this leave be agreed?

Leave may be agreed where it relates to a close relative (including adopted children, step children, parents), partner (married or civil partner) or significant other close person for reasons including: -

- Serious illness or where death is imminent
- Immediately following bereavement
- Arranging/Attending the funeral
- Acting as executor of an estate
- Attendance at an inquest.

When requesting time off due to matters relating to a 'significant other close person' the employee should make the relationship clear on their request for leave.

25. Will other reasons be considered?

Yes, other circumstances will be considered on an individual basis.

26. If leave is agreed how long will it be agreed for?

The Trust does not set maximum amounts of leave that it deems appropriate as it recognises that all circumstances are different. The time off will vary dependent upon the circumstances. Managers will

be expected to use discretion in order to support their staff. Staff are requested to consider service implications wherever possible.

- However as a guide to support staff and managers:-Leave of half to 1 day may be granted to attend the funeral of a relation who is a close relative or significant other close person. Attendance at any other funeral may be requested as unpaid time or annual leave.
- Leave up to 1 week may be granted in the event of bereavement of a close relative, partner or significant other person – consideration should be given to the relationship with the deceased and the requirement for the employee to be involved in funeral plans etc. Additional leave may be agreed in exceptional circumstances or annual leave may be requested.
- Managers should consider the employee's circumstances and the needs of the service when granting special leave, taking into account that some employees may have to travel long distances including going to another country.
- Managers should be aware of different cultural and religious beliefs when considering requests for compassionate leave.

Child Bereavement Leave

27. What is Child Bereavement Leave?

The Trust strongly support that NHS employers should show compassion to all staff who are parents and experience the death of a child. The Trust adopts the standards set out nationally with 2 weeks paid leave for staff in these circumstances. The Trust hopes that this leave will rarely be needed but where this is necessary the Trust wish to support our staff through these circumstances with compassion and care.

28. Who is eligible to Child Bereavement leave?

A bereaved parent is anyone who had responsibility as one of the primary carers for a child who is now deceased. This includes adoptive parents, legal guardians, individuals who are fostering to adopt, and any other parent/child relationship that the employing organisation deems to be reasonable. For example, this may include grandparents who have had caring responsibilities for a child, or instances where someone other than the biological parent is the primary carer (this could be the case where the parents of the child have separated).

Child Bereavement leave is also applicable where a parent has experienced a stillbirth from the 24th week of pregnancy.

29. Does the child need to be under 18 for these provisions to be applicable?

No, the national terms and conditions are clear that there is no requirement for the child to be under 18 years of age. The Trust recognise that losing a child at any age requires support and compassion from your manager and place of work.

30. What leave will I be eligible to?

All bereaved parents will be eligible to two weeks (or hours equal to 2 weeks contractual hours) of child bereavement leave. This leave applies from commencement of employment with the Trust and a bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay, i.e. there is no minimum Trust service required to access this leave.

31. What will I be paid during this period of leave?

All bereaved parents will be entitled to two weeks' occupational child bereavement pay which will include any entitlement to statutory parental bereavement pay. Pay is calculated on the basis of what you would have received had you been at work. This will be based on the average from the previous 12 weeks at work (or from commencement of employment where this is less than 12 weeks).

32. If both parents work for the Trust are we both entitled to the leave?

Yes, the entitlements under Child Bereavement Leave will apply to both members of staff.

33. Do I need to take the leave in a continuous block?

No, bereaved parents do not have to take the two weeks of leave in a continuous block. You should agree with your manager the leave they wish to take, when and how.

34. Is the leave compulsory?

No, taking child bereavement leave is an individual choice, it is not compulsory for the employee to take child bereavement leave.

35. When do I need to take the leave by?

Bereaved parents may request to take child bereavement leave at any point up to 56 weeks following the death of the child.

36. What notice do I need to give my manager?

- If you wish to take child bereavement leave immediately following the death of a child you must inform your manager as soon as possible that you will be absent from work for this reason. You should report absent for work in the same way that you would report absence due to ill-health.
- If you wish to take child bereavement leave at another time, i.e. after the initial period following the death, you should give your manager reasonable notice of your intention to take the leave at this time. You should request your leave in the same way that you request annual leave but this request will not be unreasonably refused.

37. Do I need to provide my manager with a copy of the death certificate?

No, at no point will you be required to produce the child's Death Certificate, or any other official documents, in order to access child bereavement leave or pay. Your manager will ask for written confirmation of the matter, within a reasonable timeframe, in order to satisfy statutory requirements. This will be stored on your personal file.

Any claims that the leave has been falsely accessed would be managed through the Trust Fraud and Corruption policy and where appropriate, subsequently the Trust Disciplinary policy. It is anticipated that these circumstances will be extremely rare.

Leave for with Notice Events

38. How should leave for with notice events be covered?

All efforts should be taken by the employee to reduce the need for paid special leave for 'with notice' events through the use of days off, annual leave, unpaid leave or TOIL. However, it is recognised that there will be occasions where paid time off will be appropriate in the circumstances, particularly where this allows the individual to remain in work or supports wider health and well-being concerns.

39. What does Leave for with notice events include?

Interview Leave – employees are requested to arrange interviews outside of rostered working time where possible. Where this is not possible reasonable paid time off will be granted for internal interviews. For external interviews staff will be required to use annual leave, unpaid interview leave or TOIL.

Medical and Dental Appointments should be arranged outside of working hours wherever possible. It is accepted that such appointments are not always available therefore appointments should be arranged to cause minimal inconvenience to the service and paid leave will be granted. All time off must be agreed with your line manager in advance at the earliest opportunity. Where the planned time off is unavoidably extended leave arrangements will need to be discussed as soon as possible. If the employee becomes unwell and as a result is absent from work due to ill-health the absence will be counted as sick leave.

Personal Choice Treatment - Where an employee chooses to undergo treatment where there is no medical or clinical necessity (e.g. 'cosmetic' surgery/aesthetic surgery) they should discuss this with

their manager. Scheduled time off, such as annual leave, time owing or unpaid leave, should be used. If as a result of such treatment the individual is unfit to work, then they should follow sickness absence procedures.

Fertility Treatment – the Trust wishes to support staff undertaking assisted conception treatment. If you are undertaking treatment you are asked to arrange appointments outside of work hours where possible. However, it is recognised that this is not always possible. In these circumstances your manager will discuss the requirements for time off to agree a combination of paid leave, annual leave, unpaid leave and TOIL to support you during this period.

Partners required to attend specific appointments to support assisted conception should discuss their requirements for time off to agree a combination of paid leave, annual leave, unpaid leave or TOIL to support you during this period.

Where an employee requires time off as a result of side effects of the treatment they should follow sickness absence procedures.

40. What does Leave for Public and Civic Duties include?

- Court Appearance
- Leave for Jury Service
- Leave for Local Government Activities, Justice of the Peace, Member of Health Authority Meetings, NHS Staff Councils, Governing Bodies of Educational Establishments and Police Special Constables Leave for /Reserve Forces

41. What leave will I be able to request if I am required to attend Court?

Employees who attend court on behalf of the Trust will attend as part of their normal duties. Where employees attend Court as a witness on a subpoena, witness summons or otherwise as a legal obligation time off with pay will be considered on a case by case basis dependent upon the circumstances.

Absence for attendance for any other reasons will also be authorised on a case by case basis depending on the nature of your attendance.

42. Will I be paid?

If you are attending as part of your normal duties, you will be paid as normal. For other reasons, where paid time is authorised any witness fees or other related fees received must be released to the Trust via a comparable reduction in salary via pay services.

43. What leave will I be able to request if I am required to attend for Jury Service?

Paid time off will be granted for attendance at Jury Service. Pay (based on normal average earnings) will be less any attendance allowance payments made by the courts via a comparable reduction in salary via pay services.

44. Will I be required to claim back payment from the courts?

Yes, employees must claim all payments available to them. If you receive payments, you must notify your manager and provide evidence. This amount will then be deducted from your pay as appropriate, payments for excess travel or subsistence will not be deducted. Pension contributions will not be impacted.

45. Does my manager need to sign any paperwork specific for Jury Service and compulsory attendance as a witness at a court or tribunal?

Yes, you should obtain a Juror's Allowance Leaflet (form 5223) from the court and request that your manager completes this to certify full loss of earnings. A copy should be forwarded to Pay Services and a copy retained on your personal file.

46. What can I claim from the court?

You may be able to claim from the court authorities for travelling, subsistence and full loss of earnings for the day(s) in question.

47. What evidence of payments will I receive from the court?

The court authorities will provide a statement giving details of payments made against the claim. You must provide a copy of this to your manager who will send a copy of this to Pay Services and retain a copy on your personal file.

48. What happens if my claim for loss of earnings is disallowed either totally or partially?

The Trust will grant pay up to the level of full earnings.

49. What happens if I fail to claim for loss of earnings to which I am eligible?

The Trust may decline to make your pay up or withhold pay completely for the period of your absence.

50. What leave will I be able to request if I undertake duties for Local Government Activities, Justice of the Peace, Member of relevant Health Board, NHS Staff Councils, Governing Bodies of Educational Establishments and Police Special Constables?

You will be entitled to '*reasonable time off*' to undertake external activities, particularly where these are a benefit to society and/or the Trust.

Working contracted hours flexibly should be explored first prior to authorised paid leave.

Where paid leave is authorised it should be agreed on a case by case basis having considered the availability of flexible working and the reason for the request.

51. When should I discuss this with my manager?

Staff should discuss their intentions to undertake duties with their manager prior to confirming their commitment.

Reserve Forces Leave

52. What are the Reserve Forces?

The Reserve Forces consist of the Royal Naval Reserve (RNR), the Royal Marines Reserve (RMR), the Territorial Army (TA) and the Reserve Air Forces (RAFR and RAuxAF).

53. I am a reservist, should I tell my manager?

Yes, employees have an obligation to inform their manager that they are a reservist. Employees are required to inform their manager of training dates as soon as they are aware prior to confirming their commitment to attend to allow appropriate planning for absences. Your manager will need to complete ESR Form Reservist Declaration available on the intranet and submit to the HR Information Team.

54. What leave will I be able to request to undertake duties for Reserve Forces?

Support for training: Two weeks paid leave in addition to normal annual leave entitlement will be available to reservists to attend annual training camp or equivalent continuous training. Requests will be recorded on ESR as 'Training with Reserve and Cadet Forces'. (Note the Trust does not provide PAID time off for Cadet Forces).

Additional unpaid leave or annual leave from the employee's normal annual allocation may be granted for short periods of training. Provided adequate notice is given and where such duties cannot be undertaken during off-duty time. Attendance at weekend camps, which cannot be undertaken during off-duty, will be subject to the same arrangements.

Mobilisation: Employees 'called-up' on active service will be granted unpaid leave for the duration of their period of active service. While the reservist is mobilised, the Trust is not obliged to pay them earnings. However, in exceptional circumstances, for example where there is a delay in the commencement of payment from the MoD, the Trust will continue salary payment after the date of mobilisation in order to provide sufficient time for staff to put their financial affairs in order. This ensures that individuals are not disadvantaged by being mobilised.

Any excess salary paid after the date of mobilisation will be recoverable when the individual returns to work. The designated contact should ensure that the pay department is notified that the employee is being mobilised and the date when their pay should stop. Where an agreement on recovery is not agreed or if the individual does not return to work, overpayments will be managed in accordance with the overpayments and underpayments policy.

55. What happens to my NHS Pension contributions whilst on active service?

Employees will need to contact the Pensions Team as your NHS Pension may be affected when you are mobilised.

56. Do I need to disclose if I receive any payment for these activities?

If you receive any pay or allowances this must be disclosed to your manager and where appropriate a deduction will be made from your pay from the Trust to reflect this.

57. Can my manager refuse my leave for active service?

If you are called up for compulsory active service, your manager can apply for deferral, revocation or exemption. Seek further guidance from the Reservist Champion.

For Voluntary mobilisation you must seek prior agreement with your line manager before volunteering. Your manager will respond to such requests within a maximum of 7 working days.

58. Is there any financial assistance for the Trust if I am mobilised for active service?

Yes, if the Trust incurs additional cost. In order to claim financial assistance, the Trust will provide the MoD with appropriate supporting documentary evidence for example, invoices.

The latest date for submitting claims for financial assistance, other than for training, is within 4 weeks of the date the reservist is demobilised. Seek further guidance from the Reservist Champion.

59. Will I accrue Annual Leave?

When you are mobilised or whilst on unpaid leave employees will not accrue annual leave. Whilst on paid leave, through annual training camp or equivalent continuous training, you will accrue annual leave.

60. Can I carry my Annual Leave over into the next leave year?

All annual leave not taken up on the date of mobilisation may be carried over into the following year. The "up to a maximum of 5 days" rule associated with accrued annual leave being carried forward may be waived in the case of a reservist.

61. How will my incremental date and/or incremental pay rise be affected whilst on active service?

You will have continuous employment rights with the Trust. Your increments will not be affected.

62. What benefits will our Reservist workforce bring for the Trust?

Line managers who carry out appraisal meetings with a reservist should be made aware that Reserve Forces activities undertaken (either through training or mobilisation) bring essential skills into the workplace such as leadership, communication, team working and organisational ability, which ultimately lead to improved performance in the workplace. It is therefore good practice that we recognise these skills and abilities in an individual's appraisal meeting and acknowledge that the

activities can be regarded as evidence of achievement or in some circumstances contribute towards an individual being in a position to evidence application of knowledge and skills.

63. Do I return to my previous role?

Once demobilised, employees must contact their line manager in writing to advise of their intended date of return to work. This must be no later than the third Monday following their last day of military service. Provided you return to work within 6 months of de-mobilisation you will return to the same job. Where this is not possible you will be offered an equivalent position with the same conditions of service.

64. What support will I get on my return to work?

Your manager will arrange for you to undertake a refresher local induction so that you can be updated on any changes. Reasonable time off for therapeutic treatment or appointments will be authorised if required.

**Appendix A
SPECIAL LEAVE RECORD FORM**

This form must be completed and signed in all instances where Special Leave is granted.

One copy of the completed form is to be returned to the individual and a copy retained in the individual's Personal File. Where unpaid Special Leave is granted, Pay Services must be notified immediately. All Special Leave must be recorded on ESR using E-rostering, Supervisor Self Service or notification to Pay Services.

Name of Employee: _____

Department: _____

Employee's Post Title: _____

SPECIAL LEAVE GRANTED/REFUSED IN PREVIOUS 12 MONTH PERIOD:

Granted or Refused	Type of Leave	Number of days paid	Number of days unpaid

REASON FOR LEAVE REQUEST

LEAVE GRANTED ON THIS OCCASION:

Type of Special Leave granted	Dates: From – to	Number of days paid	Number of days unpaid

LEAVE REFUSED ON THIS OCCASION:

Type of Special Leave refused	Dates: From – to	Reason for Refusing Leave

Manager's Name: _____

Date: _____

Manager's Post Title: _____

Manager's Signature: _____

Employee's Signature: _____

Date: _____