

# Leave Policy

## Chapter 8: Special Leave Policy

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**Additionally refer to:**

Armed Forces Policy  
Disciplinary Policy  
Grievance Policy  
Adverse Weather and Travel disruption policy

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V 1	Dec 2024	Chris Goulding	Final	Updated eligibility section; defined the maximum days allowed for time off which was missing from the current live policy. The number of days allowed time for Bereavement and child bereavement has remained unchanged. The format is now consistent with the Trust's policy template.

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## **Policy on a Page**

The purpose of this policy is to set out the Trust's approach to the management of Special Leave to enable employees to deal with personal commitments in urgent and non-urgent situations.

The policy also refers to those circumstances when employees are expected to attend court, jury service and other public commitments.

The key principles that underpin the Trust's policy on Special Leave include:

- There is no entitlement to Special Leave.
- All special leave is discretionary but once agreed there is a limit to the amount of special leave that can be granted. Line managers can agree up to 5 days pro rata in a 12 month rolling period. There are two exceptions:
  - Bereavement of a partner or a close relative (defined but not exclusively as parents, natural or adopted child/children, brother or sister, grandparents).
  - Parental Leave in the case 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 emergencies and unexpected events, options for covering time off should first be considered, for example time off in lieu, flexitime, annual leave, unpaid leave.
- Staff should consider the service implications when making a request for Special Leave.
- Requests for special leave should be made to the employee's line manager at the earliest opportunity providing reasonable notice.
- 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.

## **1. Policy Statement**

- 1.1 The Trust aims to support employees during their employment and there will be times when employees need to take time off which may be as a result of emergencies, and through personal circumstances outside of their control which fall under the category of making a request for Special Leave.
- 1.2 The Trust wants to ensure its Special Leave policy is flexible but consistent and is applied fairly and equally across the organisation.
- 1.3 All special leave is discretionary but once agreed there is a limit to the amount of special leave that can be granted. Line managers can agree up to 5 days prorata in a 12 month rolling period. There are two exceptions:
  - Bereavement of a partner or a close relative (defined but not exclusively as parents, natural or adopted child/children, brother or sister, grandparents).
  - Parental Leave in the case of Child Bereavement Leave which is set out in the National Terms and Conditions handbook.
- 1.4 It is expected that special leave will be kept to a minimum and granted when it is appropriate to the circumstances.
- 1.5 For emergencies and unexpected events, options for covering time off should first be considered, for example time off in lieu, flexitime, annual leave, unpaid leave.
- 1.6 Staff should consider the service implications when making a request for Special Leave.
- 1.7 Requests for special leave should be made to the employee's line manager at the earliest opportunity providing reasonable notice.
- 1.8 Where paid leave is granted it will be paid at full basic rate, excluding any supplementary payments.
- 1.9 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.

## **2. Scope**

This policy applies to all staff employed by the Trust, including those staff on leave of absence e.g. maternity, adoption leave, long term sick. Bank staff are excluded from requesting Special Leave.

## **3. Roles and Responsibilities**

### **3.1 Trust Board**

Trust Board has responsibility to oversee and ensure that due process is followed according to the key steps and procedures detailed in this policy.

### **3.2 Executive Directors / Departmental Directors / Heads of Service**

- It is for the Departmental/Directorate Management Teams to ensure this policy is applied consistently and fairly.

### **3.3 Chief People Officer**

- The Chief People Officer has the responsibility for ensuring this policy is implemented appropriately and in accordance with the Trust's Equality, Diversity, and Inclusion Policy.
- To ensure the People Advisory (HR) team provide advice, support, and guidance to staff and line managers in the implementation of this policy.

### **3.4 Line Managers**

- Managers should adhere to this policy when approving Special Leave.
- Managers must follow the steps set out in this policy.
- Managers must ensure their staff are aware of this policy and understand the circumstances when Special Leave can be requested.

### **3.5 Employees**

- Employees should adhere to this policy and procedure.
- Employees need to be familiar with this policy and understand the criteria for requesting Special Leave.

## **4. Eligibility for Special Leave**

- 4.1 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 two exceptions are Bereavement (Compassionate Leave) and Child Bereavement Leave.
- 4.2 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. These provisions apply equally to all staff (bank staff are excluded from requesting Special Leave) regardless of their hours worked and regardless of length of service.
- 4.3 All staff have a statutory right to take unpaid time off work to deal with emergencies involving a "dependent." Under the Carer's Leave Act 2023, the legislation entitles employees up to one week of unpaid leave each year to look after someone who relies on them because they are ill, have an injury, are disabled or have care needs because of their age. It will be a day on right; meaning there is no requirement for a certain length of service.
- 4.4 Taking Special Leave shall not affect the member of staff's annual or sick leave entitlements.
- 4.5 There is a limit to the amount of special leave that can be granted, but managers have the discretion to agree up to 5 days pro-rata in a 12 month rolling period. There are two exceptions:
  - Bereavement of a partner or a close relative (defined but not exclusively as parents, natural or adopted child/children, brother or sister, grandparents).
  - Parental Leave in the case of Child Bereavement Leave. Bereaved parents working for the Trust who lose a child under the age of 18 will be eligible for two weeks statutory leave (known as Jack's law). A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay. Bereavement leave is a right from day one of an individual's employment. This entitlement will apply to both parents of the deceased child, in the case where both parents work for the Trust. Bereaved parents do not need to take two weeks of bereavement leave in a continuous block. Bereaved parents may request to take child bereavement leave at any point up to 56 weeks following the death of the child.

## **5. Other forms of leave considered before Special Leave is granted**

- 5.1 Staff requesting special leave are expected to make every effort to make alternative arrangements where possible. This includes swapping shifts, using accrued Time Off In Lieu, flexi-time, annual leave (authorised outside of normal booking rules) or unpaid leave. The only exception to this is Child Bereavement Leave or compassionate leave.
- 5.2 Line managers will take into account the reason the employee has requested Special Leave, whether other options have been considered and the frequency Special Leave has been granted in the past.

## **6. Special Leave Approval Process**

- 6.1 Requests for Special leave should be discussed at the earliest opportunity with the line manager and the Special Leave form at Appendix A, needs to be completed in order for the request to be considered. Where paid leave is granted, employees will be paid at full basic rate for the number of hours lost, excluding any unsociable hours' payments and other variable payments.
- 6.2 Where an immediate crisis occurs i.e. in emergency situations and the employee is either unable to attend work, or has to leave work immediately they must first inform their line Manager in accordance with procedures set out in their own department for reporting absence. Where the manager is not available, the line manager's manager or a nominated representative should be notified. On returning to work the employee must discuss with the line manager how the leave should be recorded (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.
- 6.3 Where an incident arises during time that has already been booked as annual leave, employees will not be able to swap the leave to another form of leave. Where the incident that resulted in needing time off continues after annual leave ends, employees should discuss with their line manager at the earliest opportunity how they intend to cover any further periods of absence.
- 6.4 Requests for special leave should be recorded electronically on ESR or manually using the form in Appendix A and be retained on the employee's personal file.
- 6.5 Details of requests, both authorised and declined, will be retained on employees personal file either electronically or using the form in Appendix A in accordance with the Trust retention of records procedures. Authorised absences will be recorded on ESR via E-rostering, Managers Self-Service, or notification to Pay Services as per sickness absence reporting.
- 6.6 Employees are responsible for maintaining contact during any period of Special Leave with their line manager agreeing the frequency and arrangements for maintaining contact.
- 6.7 Failure to maintain contact may result in paid leave or authorised unpaid leave being withdrawn, although individual circumstances will be considered on their merit.
- 6.8 If a request for Special leave is declined employees will be entitled, upon request, to a written explanation in accordance with section 35.39 of the Agenda for Change handbook and if unsatisfied with the response can raise a grievance in accordance with the Trust Grievance Policy.
- 6.9 Any abuse of this policy may result in the absence being treated as unauthorised and unpaid. Disciplinary action may be taken in accordance with the Trust's Disciplinary Policy or in accordance with the Trust Counter Fraud Policy (which can include criminal action).
- 6.10 Once the line manager has granted Special Leave, employees can take up to a total of 5 days per year in a rolling 12 month period for full time employees and pro-rata for part-time employees. This

includes employees who work different shift patterns. How Special Leave is taken is agreed between the line manager and the employee i.e. either one day or half a day or one shift. Managers will be expected to use their discretion and review the reason for the request, having first considered alternative solutions, the impact on service, and the employee's employment history.

## 7. Different types of Special Leave

7.1 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. Special Leave can be requested for the following reasons:

- Compassionate Leave
- Child Bereavement Leave
- Leave for Public and Civic Duties
- Emergency Leave/Time Off for a dependent which could be a spouse, partner, child, parent, or someone who depends on the employee where the need for care is triggered by the incident resulting in the request for time off:
  - 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

### 7.2 Emergency Leave/Time Off for Dependent.

7.3 Exclusions for granting Special Leave include situations where time off can be planned or where the situation becomes long term, frequent or on-going. For example, this may 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 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 line managers in advance and at the earliest opportunity. Where the planned time off is unavoidable, extended leave arrangements will need to be discussed as soon as possible. If the employee becomes unwell and is absent from work due to ill health, the absence will be recorded as sick leave. Where possible, employees should use TOIL or other options or make up the time if it is necessary to attend appointments in work time.
- **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 the department's sickness absence procedures.
- **Fertility Treatment** – the Trust will support staff undertaking assisted conception treatment. If an employee is undertaking treatment they are asked to arrange appointments outside of work hours where possible. If it is not possible, the employee should discuss this with their line manager and agree how the time can be covered by taking other forms of leave i.e. annual leave, unpaid leave, and TOIL to support the employee during this time.



Partners required to attend specific appointments to support assisted conception should discuss their requirements for time off to agree how the time will be covered. Where an employee requires time off as a result of side effects of the treatment they should follow their departmental sickness absence procedures.

## **8. Compassionate Leave**

8.1 Compassionate Leave may be agreed where it relates to a close relative (including adopted children, stepchildren, 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.

8.2 Cultural requirements will also to be considered when granting compassionate leave.

## **9. Bereavement Leave**

9.1 Managers will be expected to use discretion in order to support their staff. The following provides a guide for 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 5 days 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.

## **10. Child Bereavement Leave**

10.1 The Trust will show compassion to all staff who are parents and experience the death of a child. The Trust adopts the statutory standard set out nationally with 2 weeks paid leave for staff in these circumstances.

10.2 A bereaved parent is anyone who has 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).

- 10.3 Child Bereavement leave is also applicable where a parent has experienced a stillbirth from the 24th week of pregnancy.
- 10.4 The national terms and conditions are clear; there is no requirement for the child to be under 18 years of age. The Trust recognises that losing a child at any age requires support and compassion.
- 10.5 All bereaved parents will be eligible to two weeks (or hours equal to 2 weeks contractual hours) of child bereavement leave. Bereaved parents will not be required to demonstrate eligibility criteria in order to access bereavement leave or pay, i.e. there is no minimum Trust service required to access this leave.
- 10.6 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).
- 10.7 If both parents of a bereaved child work for the Trust, the benefits under Child Bereavement Leave will apply equally to both parents.
- 10.8 Bereaved parents do not have to take the two weeks of leave in a continuous block, they need to agree the dates with their manager.
- 10.9 Taking child bereavement leave is an individual choice, it is not compulsory for the employee to take child bereavement leave.
- 10.10 Bereaved parents may request to take child bereavement leave at any point up to 56 weeks following the death of the child.
- 10.11 Following the death of a child, employees are requested to inform their manager as soon as possible they will be absent from work. Employees should report absent from work in the same way that they would report absence due to ill health. If employees wish to take child bereavement leave at another time, i.e. after the initial period following the death, they should give the line manager reasonable notice.
- 10.12 At no point will employees be required to produce the child's Death Certificate, or any other official documents, in order to access child bereavement leave or pay. Line managers will ask for written confirmation of the matter, within a reasonable timeframe, in order to satisfy statutory requirements which will be stored on employee's personal file.

## **11 Public and Civic Duties**

### **11.1 Court Appearance and Jury Service:**

- 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.
- If employees attend court as part of their normal duties, they will be paid as normal. For other reasons, where paid time is authorised, any witness fees or other related fee received must be released to the Trust via a comparable reduction in salary via pay services.

- 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.
- Employees must claim all payments available to them. If they receive payments, they must notify their manager and provide evidence. This amount will then be deducted from their pay as appropriate. Payments for excess travel or subsistence will not be deducted. Pension contributions will not be impacted.
- Employees should obtain a Juror's Allowance Leaflet (form 5223) from the court and request their manager completes the form to certify full loss of earnings. A copy should be forwarded to Pay Services and a copy retained on their personal file.
- Employees may be able to claim, from the court authorities travelling, subsistence expenses and full loss of earnings for the day(s) in question.
- The court authorities will provide a statement giving details of payments made against the claim. Employees must provide a copy of this to their manager who will send a copy to Pay Services and a copy will be retained on their personal file. In the event that a claim for loss of earnings is disallowed by the court authorities the Trust will grant pay up to the level of full earnings. If the employee fails to claim for loss of earnings, the Trust may decline to make up the difference in loss of earnings, but each case will be viewed on its own merits.

**11.2 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:**

- Employees will be entitled to 'reasonable time off' to undertake external activities, particularly where there is 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.

**11.3 For details about leave arrangements for Reserve Forces, please refer to the Trust's Armed Forces Policy.**

For details about taking leave during Severe Weather or Transport Difficulties (preventing attendance at work), please see the Adverse Weather and Travel disruption policy.

## **12. Support for Staff**

**12.1 Staff Psychological Service:** The Staff Psychology Service is available to support any member of staff who is experiencing emotional distress in relation to a work-related issue. Individuals wanting to access support can refer themselves by emailing:

[sath.staffpsychology@nhs.net](mailto:sath.staffpsychology@nhs.net) or a manager can refer on their behalf. Information about the service is also available on the intranet:

[SaTH Intranet - Staff Psychology Service](#)

**12.2 Employees can also seek support from the Trust's Counselling service and Occupational health as necessary and seek support from People Advisory (HR).**

### **13. Training needs**

13.1 All managers are expected to disseminate information in relation to this policy to their staff.

13.2 Managers should seek advice and guidance from HR in relation to briefing and training when involved in the application of this policy.

### **14. Monitoring and Review**

14.1 This document will be reviewed in 3 years of the approval date, or sooner if legislative change dictates otherwise.

### **15. Equality Impact Assessment (EqIA)**

15.1 The Trust is committed to the principles of equality of opportunity in employment for all. This policy will be applied equitably and fairly and aims to ensure that no employee receives less favourable treatment on the grounds of age, gender, ethnicity, religion or belief, disability, marriage, or civil partnership, maternity or pregnancy, sexual orientation, or gender reassignment.

### **16. Process for Monitoring Compliance**

16.1 Leave arrangements are part of the standard workforce monitoring report.

<b>Aspect of compliance or effectiveness being monitored</b>	<b>Monitoring method</b>	<b>Responsibility for monitoring</b>	<b>Frequency of monitoring</b>	<b>Group or Committee that will review the findings and monitor completion of any resulting action plan</b>
Leave arrangements	Workforce Dashboard report	HR	Monthly	JNCC

## 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

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#### 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: \_\_\_\_\_