

Employment Break Policy

Chapter 3

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Additionally refer to:

Development and Training Policy (W11)
Grievance Policy (W8)
Management of Organisational Change Policy (W24)
Maintaining Personal Files and Electronic Staff Record Policy (W27)

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1. Policy on a Page

The Trust recognises that employees may wish to take occasional breaks from employment. The Trust adopts the arrangements set out within the NHS Terms and Conditions of Service Handbook for the application of employment breaks.

It also includes details on:

- Eligibility and duration of employment breaks
- What the application process is
- How employees can request an extension to their break or if situations change how an employee can request to return earlier than expected.
- What employees can do in relation to applying for an employment break following maternity or adoption leave or if they have had a long period absence due to sickness.
- How organisational change is managed which could affect those on an employment break and what steps need to be taken to include them.
- What employees should consider prior to taking an employment break on their pension arrangements and how they can continue to make contributions into the pension scheme.
- How to request additional employment breaks.
- What the process is if applications are refused.
- What the process is for employees who fail to return to work following an employment break and the implications:
 - on their employment status
 - on funding secured for training and development during the course of their employment that may require repayment.

The policy sets out what should be included in the terms of an employment break.

2. Policy Statement

As a Trust we are committed to supporting employee's health and wellbeing and there may be times during employees' careers where it might be necessary to take an extended break to undertake caring responsibilities, travel or to expand an individual's knowledge and skills through additional study.

Employment Breaks are not an automatic right; however the Trust commits to ensure that serious consideration is given to any request.

3. Scope

This policy applies to all employees on NHS Terms and Conditions (section 34).

- 3.1 The scheme should provide for people to take a longer period away from work than that provided for by the parental leave and other leave arrangements. (section 34.5)
- 3.2 The scheme should explicitly cover the main reasons for which employment breaks can be used, *including but not limited to childcare, eldercare, care for another dependant, training, study leave or work abroad*. The Trust will consider other reasons on an individual basis.(section 34.6)

4. Role and Responsibilities

4.1 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.

4.2 Executive Directors / Departmental Directors / Heads of Service

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

4.3 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 employees and line managers in the implementation of this policy.

4.4 Line Managers

- Managers should adhere to this policy when approving annual leave.
- Managers must follow the steps set out in this policy.
- Managers must ensure employees are aware of this policy

4.5 Employees

- Employees should adhere to this policy and procedure.
- Employees need to be familiar with this policy and understand the process for requesting an employment break.

5. Eligibility and Duration

An employment break is applicable for all employees who have a minimum of 12 month service.

An employment break is an unpaid break from work for a period between the minimum of 3 months and up to a maximum of 5 years, taken as a single period or as more than one period.

When considering any request there should be consideration to balance the length of the break with the needs of the applicant, with the needs of the service.

6. Application Process

Managers need to consider applications in the spirit of the purpose of this policy and the time that may be required to make arrangements for the break.

- 6.1 Applications must be submitted in writing and notice periods must be clearly stated in an agreement between the employee and the employer. See Appendix A for flowchart and Appendix B for Application Form.
- 6.2 It is recognised that an employment break may need to be used in urgent situations, however it is expected that you will normally give 3 months' notice prior to the date you wish to begin your Employment Break.
- 6.3 Line manager will review the application form and if they are able to support it, final approval will be required by Divisional Director or Head of Service/Department.
- 6.4 The final decision will be made at least 2 months prior to the date of the employment break is requested to commence.
- 6.5 Where more than three months' notice of leave is given; discussions should start between the individual and the manager within 1 month of submitting the application.

7. Extension or Early Return

An employee may request to extend the employment break or request to return early both giving appropriate notice.

7.1 Extending career breaks:

- 7.1.1 Employees wishing to extend the agreed length of their career break will only be able to do so if cover arrangements may also be extended. Any extension must not exceed the 5 year maximum break.

7.1.2 Employees must give a minimum of 3 months' notice of their intention to extend their career break. Requests for an extension must be made in writing to their line manager, who will also need to respond in writing.

7.1.3 Where an extension is refused the employee has the right to request a review by their line manager's manager. The reviewing manager's decision will be final.

7.2 Returning early:

7.2.1 Employees wishing to return earlier from their career break i.e. before the date of return; must first make a request to their line manager.

7.2.2 Employees must provide 3 months' notice in writing of their intention to return early, setting out their reasons.

7.2.3 The line manager must consider the practical implications including the cover arrangements that were put in place (if relevant) and a meeting between the line manager and employee is encouraged to discuss this in detail and respond to the employee in writing.

7.2.4 The line manager will respond to the request with their outcome to the employee in writing. If the request is refused, the line manager must provide reasons for the refusal in writing. If refused the employee has the right to request a review by the line manager's manager. The reviewing manager's decision will be final.

8. Employment break and Sickness Absence

Employment breaks should not be used instead of sick leave and an employee cannot go directly from sickness absence to an employment break without first returning to work.

Where an employee who is off sick wishes to request an employment break please consult People Advisory Team (HR) and the Pensions Department for further information as some alternatives (e.g. unpaid special leave) may be possible.

9. Employment break following Maternity/Adoption Leave

9.1 Employees may request an employment break following maternity/adoption leave, however, employees must return to work at the end of their employment break for a period of at least 3 months in order to retain their entitlement to NHS rates of Maternity/Adoption Pay.

9.2 Employees may be able to work on the Trust 'Bank' during an employment break that immediately follows maternity leave, however, employees will still be required to return to substantive employment at the end of their employment break for a period of at least 3 months in order to retain their entitlement to NHS rates of Maternity Pay.

9.3 If an employee requests and takes an employment break but does not return to work for either the Trust or another NHS employer for 3 months, they will need to repay the difference between the Statutory Maternity/Adoption Pay and the NHS rates paid.

10. Terms of an Employment Break

- 10.1 Employees on employment breaks will not normally be allowed to take up paid employment with another employer, except where, for example, work overseas or charitable work could broaden experience. In such circumstances written authority from the employer would be necessary.
- 10.2 All breaks should be subject to an agreement between the employer and applicant before the break begins. The agreement should cover:
- the effect of the break on various entitlements related to length of service.
 - a guarantee that, if the applicant returns to work within one year, the same job will be available, as far as is reasonably practicable.
 - if the break is longer than one year, the applicant may return to as similar a job as possible.
 - return to work at the equivalent salary level, reflecting increases awarded during the break.
 - 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.
 - arrangements for keeping in touch during the break.
 - requirements on the applicant to keep up to date with their relevant professional registration needs, including attendance at specified training courses and conferences, and any assistance the employer may give in the support of this.
 - training arrangements for re-induction to work.
 - any other conditions required either by the employer or the applicant.
 - NHS pension arrangements during the break.
- 10.3 The employee should not have to resign to take an employment break, although there will be a change to the contract of employment.
- 10.4 Prior to the commencement of the employment break the employee must agree with their line manager to:-
- Keep in touch during the employment break
 - Maintain their professional registration (if applicable)
 - Maintain training requirements including local re-induction arrangements for their return.

However, it is the sole responsibility of the employee, to ensure that these arrangements are followed through and recorded. For those employees who need to maintain their professional registration it is important that they practice their profession during the period of the career break and within 2 years for the purposes of re-validation. The line manager needs to know from the employee that this has been achieved i.e. undertaking temporary Bank duties.

- 10.5 The period of the break should count toward continuous employment for statutory purposes. However, other provisions depending upon length of service, i.e. contractual redundancy payments, leave entitlements etc, should be suspended for the period of the employment break.

11. Organisational Change

In the event of organisational change affecting the employees' post during the period of the break, the line manager will keep them informed and consult with the employee in line with the Management of Organisation Change policy (W24) particularly if the change significantly affects the role they left.

The employee will be consulted again as part of their planned return to work at the end of their employment break, and it is important that they start discussions with their line manager in advance of their return.

12. Pension Arrangements

- 12.1 An employee who is a member 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.
- 12.2 Payments will be made by the Trust for up to a maximum of 6 months. The employee is then responsible for **both the employee and employer contributions** for the remainder of the employment break (up to a maximum contribution period of 18 months).
- 12.3 Employees 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.
- 12.4 Together with the line manager, 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. If employees 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.
- 12.5 If an employee wishes to continue to make payments into the NHS Employment Pension Scheme during their employment break employees must advise their line Manager as part of their application and, together with their manager, they must contact the Pensions department to discuss further.

13. Returning to Work

A provisional return to work date should be agreed prior to the employee's leave date. Employees are required to write to the line manager to confirm their return-to-work date within the timescales below:-

- Employment Break less than 12 months – 2 months' notice
 - Employment Break more than 12 months – 6 months' notice
- 13.1 If the applicant returns to work within one year, the same job will be available, as far as is reasonably practicable.

- 13.2 If the employment break is longer than 1 year, on receipt of the employee's notice to return the line manager will discuss with the employee the current vacancy situation. Together they will identify vacant posts or other work options to facilitate a return.

Where appropriate, arrangements will be made for the employee to be placed on the Trust redeployment register.

- 13.3 Where no vacancy arises the employment break may continue for a further period by mutual agreement.
- 13.4 If the employee does not accept a reasonable alternative job offer the employment break will be deemed to have terminated on the last day of the agreed employment break.

14. Requesting Additional Employment Breaks

An employee must return to work for at least a period of 12 months before a further application will be considered.

15. Non Return to work following an Employment Break

- 15.1 If an employee decides not to return to work following an employment break then normal contractual notice will apply.
- 15.2 Failure to agree a date in advance with the line manager could result in the employee losing the right to return to work and they may be deemed to have terminated their employment with the Trust on the last day of the agreed Employment Break. The employee may, of course, apply for any suitable vacancies within the Trust via the normal recruitment processes.
- 15.3 If the employee leaves the Trust before completion of any development opportunities that have been funded by the Trust (except if the contract is terminated by the Trust for reasons other than on the grounds of dismissal for misconduct), the employee will undertake to repay in full the proportion of fees contributed by the Trust. This may be waived by the Trust if the employee moves to another agency deemed acceptable e.g. another NHS employer. Please refer to the Development and Training Policy (W11)
- 15.4 If the employee leaves the Trust within a 2 year period following the completion of any development funded by the Trust (except if the contract is terminated by the Trust for reasons other than on the grounds of dismissal for misconduct), the employee will undertake to repay: 1/24 of the Trust's contribution for each month remaining of the 2 year period. This may be waived by the Trust if the employee moves to another agency deemed acceptable by the Trust e.g. another NHS employer. Please refer to the Development and Training Policy (W11)

16. Refused Applications

- 16.1 Employees are entitled to a written reason for the refusal of any application.
- 16.2 Employees are encouraged to discuss this with their line manager to understand the decision in more detail. Should they be dissatisfied with the outcome they should consider raising and appeal under the Trust's Grievance Procedure at formal stage 2. Please refer to Grievance Policy (W8).
- 16.3 An independent manager should hear the appeal. The original manager who made the decision may be present at the meeting. Employees may also invite a trade union or professional body representative or work colleague to attend the meeting. The manager who chairs the meeting will write to the employee to confirm the outcome of the meeting within 7 calendar days.

17. Retention of Records

All records of applications and decisions should be kept for a minimum of twelve months. These will be stored on the employees personal file as they form part of their record of employment and will be retained in accordance with the Maintaining Personal Files and Electronic Staff Record Policy (W27).

18. Support for Staff

- 18.1 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 or a manager can refer on their behalf. Information about the service is also available on the intranet: [SaTH Intranet - Staff Psychology Service](#)
- 18.2 Employees can also seek support from the Trust's Counselling service and Occupational health as necessary and seek support from People Advisory (HR).

19. Training needs

- 19.1 All managers are expected to disseminate information in relation to this policy to their staff.
- 19.2 Managers should seek advice and guidance from HR in relation to briefing and training when involved in the application of this policy.

20. Monitoring and Review

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

21 Equality Impact Assessment Statement (EqIA)

- 21.1 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.

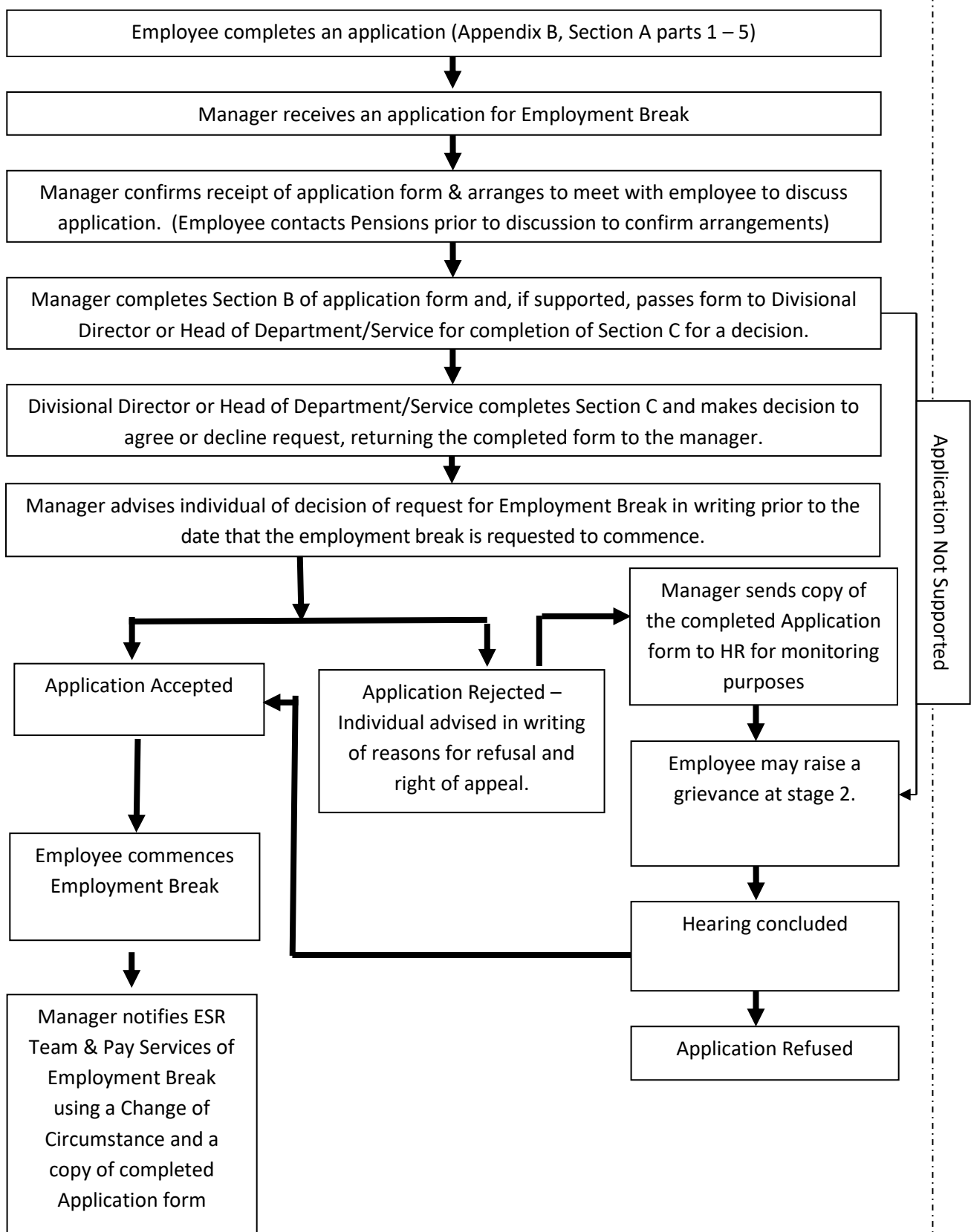
22. Process for Monitoring Compliance

- 22.1 Employment Break arrangements are part of the standard workforce monitoring report.

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
Employment Breaks	HR Compliance Report	Workforce	Yearly	JNCC

Steps for managing employment breaks

Appendix A



Section A - To be completed by the employee:

First Name:		Surname:	
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Home Address (including postcode):	
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I wish to request an Employment Break: (please give details of the reason for the break)

I would like to commence my Employment Break on: ____/____/____

Either - I intend to return to work on: / /

 *(delete as appropriate)

Where possible I am giving my manager at least 3 months' notice of my request for an Employment Break.

I am a member of the NHS Pension Scheme and wish to continue to make employee contributions to

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.

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Part 4 – Employment Break conditions

I agree to: (delete as appropriate)*

- to undertake at least weeks paid work per annum at the Trust, as agreed with my manager*
- not to work for another organisation during the period of the Employment Break*
- to give the Trust the required notice of my intention to return to work.
- 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).
- 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 the Trust development and training policy – W11) * (delete if not applicable)
- 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. * (delete if not applicable)
- 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. * (delete if not applicable)
- 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 .
- I agree to repay my NHS maternity / adoption pay if I do not return to work* (delete if not applicable)
- Other conditions to be agreed with manager (detail):

Part 5 – Declaration

I have received and read a copy of the Trust Employment Break Policy and confirm my agreement to requirements and the above conditions.

Signed:

Date:

Section B - To be completed by the manager:

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

Support the employee's* application

OR

Not to support the employee's* application (reasons to be documented in writing to the employee – retain on personal file)

The employee's* 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 employee informed of any developments, staff meetings etc.

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

Section C - To be completed by Divisional Director/Head of Department/Service:

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

Name (Print):		Job Title:	
Signed:		Date:	
Is this a revised application?	Yes ☐ No ☐	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 a copy of the change to the contract of employment on the employee's file and send the Application for Employment Break to ESR with a copy of the change to the contract of employment. Please note if the commencement of the Employment Break changes a new Application for Employment Break must be completed and a further copy of the change to the contract of employment sent to ESR to advise indicating that this is a revised application.