

## SPECIAL LEAVE GUIDANCE

### 1.0 PRINCIPLES

- 1.1 The provision of both paid and unpaid leave allows employees to take a reasonable amount of time off during working hours in order to deal with urgent or unforeseen problems arising outside the work situation or a request for special leave for public duties.
- 1.2 It is important that employees do not see this as an addition to their annual leave and each case should be considered on an individual basis, with appropriate documentation produced.
- 1.3 In managing individual special leave requirements, the following principles will always apply:
- **Fairness and equity** - employees will be treated fairly and equitably as an individual recognising that they are all unique.
  - **Monitoring** – Appropriate records will be maintained by line managers and passed to payroll where appropriate.
  - **Consistency of approach** – the management of special leave requirements will be consistent with other cases that have occurred within the Trust.
- 1.4 This guidance provides examples of when a period of special leave is appropriate and the maximum length of each period of special leave.
- 1.5 Special Leave includes the following types of leave:
- Emergency Leave (includes Compassionate/Bereavement Leave)
  - Parental Leave
  - Doctors, Dentist, Hospital Appointments
  - Fertility IVF/Treatment
  - Jury Service/attendance as witness
  - Magisterial/Local Authority Duties
  - Training and Mobilisation with Reserve Forces
  - Unpaid Leave

### 2.0 SPECIAL LEAVE PROVISIONS

#### 2.1 Emergency Leave

- 2.1.1 Employees may be eligible for paid leave of up to a total of 1 week full pay (pro rata for part time employees) in a rolling year to respond to emergency needs such as

caring for a dependant, or dealing with the immediate aftermath of a household emergency, or as a compassionate response to an immediate situation.

2.1.2 A dependant may be a child, partner, wife, husband or parent, i.e. someone who relies on individuals for assistance in a particular emergency and/or where an individual is the primary carer.

2.1.3 Paid leave of absence should be granted to allow a compassionate response to immediate needs. Immediate needs means that these events have been unpredictable, and could not have been planned for. Absence needs to be approved via the normal reporting procedures, however the type of leave authorised may need to be discussed and agreed with line managers on the individuals return to work. Requests for Special Leave may arise from varied domestic situations, examples include:

- Breakdown of normal carer arrangements for a dependant
- Making arrangements for coping longer term with a carer problem
- Illness of a dependant
- Accompanying a sick dependant to the GP, clinic or hospital (unpredictable and unplanned)
- To provide assistance when a dependant is injured or assaulted
- To deal with an incident, which involves your child during your working hours which prevents them from attending their normal childcare setting
- Cases of bereavement including time off for making urgent funeral arrangements and dealing with legal matters
- Dealing with household emergencies such as the aftermath of a break-in or fire

*Time off for attending funerals whether paid or unpaid will be determined on a case by case basis at the manager's discretion.*

2.1.4 This list is not exhaustive; employees should speak to their line manager or Divisional Human Resources Adviser if they are unsure. In some circumstances it may be more appropriate to use a mixture of emergency leave and annual leave.

2.1.5 Where it is possible to plan for any of these scenarios, for example if a child minder is going on holiday or a dependent has a planned admission to hospital, the employee would be expected to take normal annual leave.

2.1.6 In the case of long term or terminal illness, where individuals are the sole supporter, line managers may consider applications for extended paid leave, unpaid leave, or a combination of the two. Parental leave or a career break could also be considered (please see section 2.2 of this guidance for further details on Parental leave or the separate guidance document on Career Breaks).

2.1.7 Any requests for compassionate leave should be treated as a request for emergency leave and should be considered under paragraph 2.1 – 2.1.4.

- 2.1.8 The Trust is aware that grief can affect all staff in different ways and therefore individual's line managers will need to be aware of this. Where there is a clear medical reaction to grief, resulting absences will be treated as sick leave and not special leave. Appropriate medical certificates must then be provided to support absences in line with the Health and Wellbeing policy. Employees should be encouraged, if appropriate to visit their G.P, the Occupational Health Department or Staff Counselling Services.
- 2.1.9 All emergency leave requests should be carefully considered. Where the Trust is unable to approve the emergency leave, employees will be given written reasons for this and a compromise should be sought wherever possible. Employees are advised that emergency leave is not a contractual right.

## **2.2 Parental Leave**

- 2.2.1 Parental leave is the right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with children and strike a better balance between their work and family commitments.
- 2.2.2 Parental leave should not be confused with Shared Parental Leave which is an entitlement that falls under the maternity provisions. Full details of this entitlement can be found in the Maternity, Adoption and Maternity Support Policy.
- 2.2.3 Parental leave is unpaid. The provision allows for 18 weeks' leave for each child and adopted child, up to their 18<sup>th</sup> birthday. The leave applies to each child not to an individual's job i.e. if an employee has taken 10 weeks leave with a previous employer they will have up to 8 weeks parental leave remaining if they are eligible (see 2.2.4).
- 2.2.4 Leave will only be granted if the employee has at least one year of continuous service with the Trust and can only be taken by a legal guardian who has parental responsibility for the child. Foster parents will only be eligible if they have secured parental responsibility through the courts. If an employee is separated or does not live with the child, they have the right to parental leave if they keep formal parental responsibility for the child.
- 2.2.5 Leave should be taken in blocks of one-week, unless your child is disabled (see 2.2.6), with a maximum of 4 one-week blocks to be taken per year. One-week's parental leave is equal to the length of time that individuals would normally be required to work in a week. Therefore if an employee works 2 days per week, a week's parental leave is equal to 2 days. Where working patterns vary from week to week an average working week needs to be calculated.
- 2.2.6 Parents of children who have been awarded disability living allowance may take the leave in days or shorter periods than a week if required.
- 2.2.7 Employees must give their manager a minimum of 21 calendar days' notice of the need to take parental leave. As long as the employee qualifies for parental leave

and the correct notice is given, the employee should be able to take parental leave at any time.

- 2.2.8 Parental leave can be taken immediately after a period of maternity leave by giving at least 21 days' notice prior to the expected week of childbirth or placement. In cases where this may not be possible i.e. the child is born prematurely or less than 21 days' notice is given that a child is to be placed with the employee for adoption, then notice should be given as soon as possible.
- 2.2.9 Leave can only be postponed if there is a good business reason for doing so. Parental leave can be postponed for up to 6 months but cannot be postponed so that the leave ends after the child's 18<sup>th</sup> birthday. Parental leave cannot be postponed if it is being taken by the father or partner immediately after the birth or adoption of a child.
- 2.2.10 If it is necessary to postpone leave then the manager must write to the employee explaining why within 7 days of the original request, suggesting a new start date which must be within 6 months of the requested start date and cannot change the amount of leave being requested.
- 2.2.11 During any period of parental leave, employees will retain all of their contractual rights except remuneration. Employees are entitled to return to work to the same job following their period of parental leave and they will maintain continuous service. It is good practice for managers to maintain contact with their employee during periods of parental leave and employee should discuss and agree arrangements for this with their line manager prior to leave commencing.

### **2.3 Doctors, Dentist, Hospital Appointments**

- 2.3.1 Hospital, GP, dental appointments and appointments for medical procedures should be arranged outside of the employee's working hours wherever possible, or at the beginning or end of their working day. If this is not achievable, it should be discussed with the manager in advance of the appointment date. It is expected that time taken off for attendance at medical appointments will be made up or taken as unpaid. In exceptional circumstances a manager may agree to paid time off to attend appointments. Excessive health related absence will be managed under the Health and Wellbeing Policy.
- 2.3.2 Separate provisions apply for antenatal appointments and these are outlined in the Maternity, Adoption and Maternity Support Policy.

### **2.4 Time off for IVF/Fertility Treatment**

- 2.4.1 Employees will be given reasonable paid time off for receiving treatment. This will be agreed with their manager based on individual circumstances and the needs of the service. If an employee has exhausted the agreed paid time off and still requires further time for treatment, they will need to discuss this with their manager.

Alternative arrangements may include taking annual leave, unpaid leave or changing working patterns in order to make time up.

- 2.4.2 Following implantation the woman is regarded as being pregnant and any further appointments relating to this will be covered under the provisions for antenatal appointments.

## **2.5 Jury Service or Attendance at Court or Tribunal as a Witness**

- 2.5.1 The Trust acknowledges that if an employee is summoned for Jury Service or to appear in Court as a witness that they are required to attend.
- 2.5.2 Employees are required to claim travelling expenses, subsistence and loss of earnings from the Court. The Court will provide the employee with all the relevant forms and information.
- 2.5.3 If the amount of earnings re-claimed from the Court is less than the normal basic pay for the contracted hours, the Trust will make up the difference subject to evidence of the expenses claimed.
- 2.5.4 The employee's manager must advise the payroll department in writing of the expenses claimed so this amount can be deducted from their salary.
- 2.5.5 No travelling expenses or subsistence allowances will be paid by the Trust to the employee. This should be claimed from the Court directly.
- 2.5.6 The employee will be expected to attend work as normal if not required by the Court. The employee should advise their manager accordingly. Failure to do this may result in the absence being recorded as unauthorised and therefore unpaid.

## **2.6 Time off for Public Duties**

- 2.6.1 The Trust recognises its role in the local community and encourages employees to contribute to the community and gain from personal development opportunities by participating in a variety of public duties, for example: Member of NHS Statutory Body, Magisterial duties, Local Government/Council activities.
- 2.6.2 Reasonable time off work will be given in order to carry out duties. An entitlement of up to one working week paid leave for each duty per year will be given subject to a maximum of 10 working weeks for any combination of duties.

## **2.7 Training with Reserve Forces**

- 2.7.1 An employee serving as a member of the Reserve Forces, as defined in the Reserve Forces Act 1996 shall be granted up to 10 days paid leave for regular Reserve and Territorial Army service. This is to cover normal requirements to attend annual camp; further unpaid leave to cover additional special training may be considered subject to service requirements.

- 2.7.2 **Call out order:** These are legally enforceable and will be issued as formal notification of a Reservists mobilisation. A call-out pack will be sent by the MOD and will include the dates and anticipated timeline. Where possible a minimum of 28 days formal notice will be given, although there is no statutory requirement for a warning period prior to mobilisation.

On receipt of a call-out pack, managers should notify the HR department of the impending mobilisation so that pay can be adjusted accordingly and any other necessary requirements can be put in place.

The manager should meet with the Reservist employee to discuss mobilisation in relation to handover of work, confirmation of what happens to their pay and conditions and to exchange contact details to enable a smooth reintegration of the Reservist back in to the workplace at the end of the mobilisation.

*Pay and conditions:* - During their term of service, reservists will be paid by the MOD. The military pay for some will be less than their NHS pay. If the basic salary is less than the employees NHS pay, the Reservist can apply to the MOD for the difference to ensure they suffer no loss of earnings. The employee's NHS pay and contractual benefits will be suspended during the period of mobilisation.

The employee should be encouraged to take any accrued annual leave before mobilisation. Annual leave will not accrue during the period of mobilisation. Reservists accrue annual leave with the MoD whilst they are in full time service and this is factored in to the mobilisation period and taken before the last day in permanent service.

Mobilisation does not break continuity of employment; however any period of mobilisation does not count towards reckonable service.

- 2.7.3 **Pension:** Employers contributions will be paid by the MOD during their absence. The reservist must meet employee contributions.
- 2.7.4 **Employment Protection:** Reservists called out are entitled to employment protection. This is provided by the Reserve Forces (Safeguard of Employment) Act 1985.
- 2.7.5 **Demobilisation:** The Reservist employee must write to their manager by the third Monday after their last day of military service making their request to return to work and suggesting a date which should fall within 6 weeks of their last day of full-time service.

Reservists have the right be reinstated where possible to their former role, if not then a mutually acceptable role on the same terms and conditions prior to mobilisation.

## **2.8 Unpaid Leave**

- 2.8.1 Unpaid Leave should only be given in exceptional circumstances and should not be granted until the employee has exhausted their entitlement to paid annual leave. The maximum amount of unpaid leave that will be granted in a rolling year is 4 weeks. Additional unpaid leave will only be granted in exceptional circumstances by a Senior Manager or Director.

## **3.0 APPLICATION FOR LEAVE**

- 3.1 Applications should be made using the Special Leave Authorisation Form (Appendix A) and submitted in accordance with the relevant timescales relating to the specific type of leave required.
- 3.2 Where it has not been possible to complete the documentation prior to the absence, this should be done as soon as possible upon the employee's return to work.
- 3.3 The line manager should discuss the application for leave with the employee and the period of time they anticipate being away from work. Consideration should be given to all the options that are available in their individual circumstances.
- 3.4 Please refer to the relevant section of this document for further guidance if considering the need to turn down a request. Advice should also be sought from the HR department.
- 3.5 If an employee feels their request has been unreasonably refused, they should in the first instance speak to their line manager's manager, Divisional Human Resources Adviser or their Trade Union or staff elected representative.

## **4.0 SUMMARY OF SPECIAL LEAVE ENTITLEMENTS**

<b>Type of Special Leave</b>	<b>Entitlement in rolling year (Full Time)</b>
Emergency Leave	Up to 1 week's full pay
Parental Leave	18 weeks unpaid leave in the first 18 years of a child's life
Fertility/IVT Treatment	Reasonable time in agreement with manager
Unpaid Leave	Maximum of 4 weeks unpaid leave
Other Requests – such as <ul style="list-style-type: none"><li>• Jury service/court attendance</li><li>• Magisterial duties</li><li>• Reserve forces training/Call out</li></ul>	See relevant section above

## **5.0 RESPONSIBILITIES**

### **5.1 Employee**

- 5.1.1 The employee is responsible for informing their manager as soon as is practicable of their requirement to take a period of special leave and to give as much notice of the leave as possible.
- 5.1.2 The employee should ensure they have documentation where appropriate to prove that the leave is required, for example a doctor's certificate/letter for a dependant, written arrangements regarding funerals, letters re Jury Service or Council Duties etc.
- 5.1.3 The employee is responsible for speaking to their line manager's manager, Divisional Human Resources Adviser or Trade Union or staff elected representative if they feel their request for special leave has been unreasonably refused.

### **5.2 Managers**

- 5.2.1 The manager is responsible for ensuring that the allocation of such leave periods is fair, and based on evidence provided where necessary. The manager should also keep accurate records to monitor the total leave being taken and ensure that special leave is recorded on the employee's weekly or monthly salary return to the Payroll department.
- 5.2.2 The manager must give written reasons for exceptionally refusing a request for special leave. Any request should not unreasonably be refused. They should speak to the Divisional Human Resources Adviser before refusing a request.
- 5.2.3 The manager is also responsible for identifying, and acting on, any abuse of this policy. This action may include disciplinary action.

### **5.3 Human Resources**

- 5.3.1 The Human Resources team is responsible for advising all parties on this policy and for providing specific management and employee guidance. A member of the HR team will act as a HR representative at any formal meetings in relation to this policy.



## Appendix A - SPECIAL LEAVE AUTHORISATION FORM

This form must be completed as soon as possible, preferably before the special leave commences but at the latest within 7 calendar days of the leave. Managers must ensure the leave is recorded on HealthRoster accordingly and please keep a copy of the form in the individual's file held locally.

### TO BE COMPLETED BY MEMBER OF STAFF

<b>NAME:</b>	<b>JOB TITLE:</b>
<b>DEPARTMENT:</b>	<b>GRADE:</b>
<b>TYPE OF LEAVE (please circle):</b> Emergency Leave Parental Leave Other Leave (Please state.....) Unpaid Leave	
<b>REASON:</b> .....	
<b>DATE LEAVE COMMENCES</b>  <b>FROM.....TO.....</b>	
<b>TOTAL NUMBER OF WORKING DAYS</b> .....	
I have read the Special Leave Guidance and understand and agree to the terms under which the Leave is taken	
<b>SIGNATURE</b> ..... <b>DATE</b> .....	

### TO BE COMPLETED BY MANAGER

<b>APPROVED/NOT APPROVED</b> .....
<b>PAID Y/N</b>
<b>ALLOCATION FOR LEAVE REMAINING IN YEAR:</b> Compassionate Leave Parental Leave Other Leave
<b>COMMENTS</b> .....
<b>SIGNATURE</b> ..... <b>DATE</b> .....
<b>Please return to relevant Human Resources Department</b>

**HR USE**

**VERIFIED AND ON SYSTEM ..... DATE .....**

**PRINT NAME.....**