

# Policy Document

Reference: HR61

## Special Leave

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### Version Control Schedule

Version	Issue Date	Comments
1	November 2019	To create a 'Special Leave' Policy by extracting this guidance from Policy No. HR52 'Annual and Public Holiday Leave' to provide a uniform and equitable approach to the application of Special Leave across all Trust Staff Groups.
2	October 2020	12 month review of new policy. Minor amends to referencing error and examples of when bereavement leave may be extended.

### Statement on Trust Policies

The latest version of 'Statement on Trust Policies' applies to this policy and can be accessed [here](#)

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## 1. INTRODUCTION

The aim of this Policy is to provide a uniform and equitable approach to the application of Special Leave across all Staff Groups.

## 2. POLICY STATEMENT

This policy advises of the roles and responsibilities of individual Trust staff in the management of special leave.

Additional information regarding the general principles employed can be found in Appendix 1 to 3. These include:

- Procedure for Special Leave for all staff groups including bereavement, emergency, short term carer's and disability leave;
- Procedure for non-attendance during adverse conditions and;
- Time off for public duties.

## 3. SCOPE

3.1 This policy applies to all Trust employees and is part of the Trusts on-going commitment to Equal Opportunities and improving Working Lives.

## 4. DEFINITIONS

"The Trust" - University Hospitals of North Midlands (NHS) Trust

"Trade Unions" - Recognised and accredited by the Trust

"Agenda for Change" - The new NHS Pay System

Annual Leave Year - The annual leave period shall be from 1<sup>st</sup> April to 31<sup>st</sup> March.

## 5. ROLES AND RESPONSIBILITIES

### 5.1 Responsibility of the Human Resources Directorate

It is the responsibility of the HR Directorate to provide initial training and on-going support and advice in the application of the Policy where required. It is the responsibility of the HR Directorate to ensure that the policy is regularly developed and updated and is compliant with legislation.

### 5.2 Responsibility of Managers

It is the responsibility of managers to:

5.2.1 Ensure that they are familiar with the special leave policy and their responsibilities under the policy and to comply with its requirements.

5.2.2 Ensure that employees are made aware of the special leave policy and their responsibilities under the policy.

5.2.3 Monitor and manage the timely utilisation of special leave for those staff they are responsible for.

### 5.3 Responsibility of Employees

It is the employee's responsibility to:

5.3.1 Be aware of the special leave policy and to comply with its requirements.

5.3.2 Ensure equitable use of the special leave policy.

#### **5.4 Role of Staff Side**

It is the role of staff side to raise concern or provide support on a member's behalf as necessary in this policy.

### **6. EDUCATION AND TRAINING**

In order to ensure that all managers, employees and Trade Union representatives implement this policy and procedure in an appropriate and agreed manner, the Trust will endeavour to organise seminars and training sessions or will give guidance and individual training as and when necessary.

Any formal training will be recorded on the employees file, usually ESR.

### **7. MONITORING AND REVIEW**

This policy will be monitored on an on-going basis via information available from e-rostering, advice and queries sought, information from case reviews and Trade Union Representatives and personnel file audits and will be formally reviewed for consistency on an annual basis.

This policy may be amended at any stage, usually with agreement from staff side. In any event the policy will be reviewed and updated in line with any changes to legislation or as deemed necessary or in three years.

## APPENDIX 1: PROCEDURE FOR SPECIAL LEAVE

### 1. INTRODUCTION

The Trust recognises that staff are individuals with lives, families and challenges outside of work and that it must be as flexible as possible in helping them to balance these external demands with the demands of their jobs. It is recognised that from time to time staff require to be absent from work at time of urgent or unforeseen need arising from domestic, personal and family reasons. As a result leave will be available to help staff deal with these circumstances. Leave granted under these arrangements is not intended for long term domestic and family reasons but rather:

- Bereavement Leave (including contractual child bereavement leave);
- Emergency Leave;
- Short term carer/domestic need leave;
- Disability Leave.

### 2. DEFINITION OF TERMS

(NB: reference to one week is pro-rata for part-time employees)

#### Family Member

As a guide, the following are classed as a family member: spouse; civil partner; child; parent; parent-in-law; grandparent; brother/sister; and other dependants (see below). Relationships such as adopted or fostered children, same sex couples etc. are recognised by the Trust as family members under the above categories. Management discretion should apply in special circumstances.

#### Carer

A carer is defined as caring for someone who 'reasonably relies upon the employee for assistance'. (Employee Relations Act 1999).

#### Dependant (In accordance with Gov.uk [definition](#))

A dependant is the partner, child or parent of the employee, or someone who lives with the employee as part of their family. For example, this could be an elderly aunt or grandparent who lives in the household. It does not include tenants or boarders living in the family home, or someone who lives in the household as an employee.

In addition to the above, a dependant may be, any person who reasonably and usually relies on the employee:

- a) for assistance on an occasion when the person falls ill or is injured or assaulted or
- b) to make arrangements for provision of care in the event of illness (mental or physical) or injury.

In the cases of illness, injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only person who can help in an emergency.

### 3. RANGE OF LEAVE PROVISION

#### 3.1 Bereavement

It is the responsibility of Managers to respond with compassion to the granting of leave under these circumstances. It should also be recognised that individuals cope differently in cases of bereavement and therefore the leave granted should be on a case by case basis based on employee need. The following are guidelines for the amount of time to be given.

- a) Death of a close family member as defined previously in the “definition of terms” – **up to one week’s paid leave** (pro-rata for part-time employees) would be expected to be granted.

(Managers can grant paid bereavement leave for relationships outside of this definition in exceptional circumstances.)

Managers should ensure staff are aware of Staff Support Services and/or other appropriate agencies where it is felt necessary. A further period of up to one working week paid leave (pro-rata for part-time staff) is available at the Trust’s discretion where it is felt that the employee is unable to return to work. This decision should be made in consultation with Occupational Health, Staff Support or HR. Examples of this may include (but are not limited to) where the employee has to travel a significant distance or overseas, or where there is trauma or Police involvement.

- b) The Agenda for Change Terms and Conditions Section 23 set out a minimum national standard of leave and pay for bereaved parents. 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).

All bereaved parents will be eligible for **a minimum of two weeks of child bereavement leave**. A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay.

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 the individual would have received had he/she been at work. This would normally be based on the previous three months at work.

Where both parents of a deceased child work for UHNM, the entitlements in this Section will apply to both members of staff.

Full details of Child bereavement leave can be found in [Agenda for Change Terms and Conditions Section 23](#).

### 3.2 Emergency Leave

The principle of Special Leave is to offer support. By their very nature, circumstances where the granting of emergency leave is appropriate will vary considerably but will include instances described below.

- following a serious accident or sudden serious illness of a family member or dependant
- a sudden or severe setback in personal circumstances requiring immediate attention e.g. burglary, fire, flood, where there is a need to find accommodation, see the police etc.
- when a short term response to a long term care problem is required – i.e. break down of care provision
- to deal with an urgent incident involving a school child during school hours where there is a requirement to attend

For circumstances which fit into the category of Emergency Leave, up **to 3 working days paid** leave in any leave year may be granted. Any additional leave required above the 3 working days may be taken at manager’s discretion. The employee can choose to take this as unpaid leave or on a time owing basis at the employee’s discretion.

Appropriate evidence should be provided to the line manager to support the request for

Emergency Leave.

### 3.3 Short Term Carer/Domestic Need

This is short-term leave only and applies to circumstances such as general illness of a dependant requiring alternative care arrangements or other circumstances for example:

- To visit and care for a dependant if they are ill or in hospital
- To deal with a non-urgent issue involving a school child during school hours where there is a requirement to attend e.g. an arranged meeting.
- Non-emergency visits to healthcare practitioners, where these cannot be arranged outside of an individual's normal working hours.
- Attendance with a family member or dependant to healthcare practitioners where required.
- Emergency visits to a vets or non-emergency visits where appointments out of hours are not possible or where direct care due to sickness is required
- To wait for a home maintenance visit i.e. washing machine repairer, plumber etc. which cannot be arranged outside of working hours

**Up to 3 working days paid leave may be granted on a time owing/payback** basis to staff. These 3 working days are the maximum that can be taken on this basis during any annual leave year. These may be taken as single days, half days or the proportion of the hours required.

In the first instance, staff should utilise time that is already owed to them. If they have no accrued time owing available, then time may be granted on a payback basis. Short Term Carer/Domestic Need can be granted to employees at any time provided the situation meets the general criteria outlined above. Employees do not have to exhaust their annual leave entitlement before leave can be granted but may choose to use their annual leave as an alternative.

#### Administration of Time Owing

Line Managers should keep an appropriate record of time owing and file the application forms in an employee's personal file.

Where cover is required within the department employees with time owing should be offered the opportunity to provide the cover prior to the use of bank or agency staff. Employees and managers will be expected to agree reasonable arrangements.

Employees are expected to agree with the manager reasonable arrangements to work back any time owing preferably within 3 months or by the end of the leave year. Medical staff who work flexibly or swap shifts may discuss leave and time owing arrangements separately with their Clinical Directors.

### 3.4 Disability Leave

Time required for appointments connected with a disability, such as rehabilitation, assessment, treatment or the servicing of necessary equipment or disability aids may be classed as a 'reasonable adjustment' under the Equality Act (2010) and is distinct from sickness absence as it includes time when an employee is well but absent from work for a disability related reason. Where disability leave is needed, agreement should be reached between the manager and employee on the approximate number of paid and unpaid days and approximate date of leave.

The number of days leave must be viewed as reasonable and manageable by the manager and should be planned in advance where possible in line with service delivery. Line managers have the discretion to make decisions with regards to requests for disability leave without seeking further guidance. Where agreement cannot be reached between the manager and the individual and the manager needs further information when considering such a request, they can refer an individual to Occupational Health. The purpose of this referral is to seek guidance on whether an individual's condition is likely to be classed as a disability under the Equality Act (2010), to

advise Occupational Health what adjustments are already in place, where applicable, and ask what potential reasonable adjustments could be considered. It is accepted that although advice is being sought from Occupational Health they do not always comment on the Equality Act unless the line manager asks a specific question. Examples of the advice from Occupational Health could be 'In my opinion the provisions of the Equality Act 2010 are likely to apply in this case as the individual is suffering with a health condition that is substantial, long term and affects day to day activities, However, the decision would ultimately be a legal matter' or 'In my opinion the provisions of the Equality Act are likely to apply as his/her diagnosis will automatically be protected against discrimination under the Equality Act 2010 from the day they are diagnosed for Cancer, HIV or Multiple Sclerosis'

Managers should input the amount and duration of planned and unplanned disability leave on EASY etc., as it is actually taken.

Please see the Managers Guidance for supporting disabled staff which can be found on the Trusts intranet.

#### **4. REPORTING AND AUTHORISATION OF LEAVE**

For all Special Leave the employee must call the Empactis Unplanned Absence telephone line as soon as they know they will not be attending work and no later than within 1 hour before start time where practically possible and no later than 3 hours before start time for night shifts. If the employee does not call the Empactis Unplanned Absence telephone line they will be considered absent without leave (AWOL)/ unauthorised absent. The employee must report their reason for absence and expected return to work date. Employee system requirements can be found [here](#).

The manager will call back the employee via Empactis within 24 hours of the notification of absence to categorise the absence and approve any Special Leave. Manager system requirements can be found [here](#).

The employee must contact the Empactis Unplanned Absence telephone line on the day their special leave ends. Absences cannot be closed for a day in the future and must be closed on the day the employee is returning to work.

A consistent and fair policy should be adopted; it is not appropriate to refuse to grant Special Leave for a member of staff, purely on the basis, for example, of whether their duties are more difficult to cover than those of another member of staff. It is anticipated that reasonable applications will be approved.

If an application for leave is rejected, the reasons for doing so should be made clear to the member of staff. Appeals against a decision should be made under The Trust Grievance Policy and Procedure.

The Human Resources Directorate is available to assist managers and staff in dealing objectively with requests for leave and to ensure fairness and consistency in the application of the policy.

Managers and supervisors should take steps to ensure that this policy is not abused, and if they have reasonable grounds for suspecting that employees are taking leave and falsely claiming special leave then advice should be sought from the Human Resources Directorate.

Staff will be required to sign the leave request form at the time the leave is granted which will incorporate a provision to pay back the time owing or have the equivalent amount of pay deducted from their salary.

#### **5. OTHER LEAVE ENTITLEMENTS**

- Annual and Bank Holiday Leave
- Paternity/Maternity Support Leave
- Adoption Leave
- Fostering Leave

- Parental Leave
- Maternity Leave

The above leave entitlements, excluding Annual and Bank Holiday Leave, are covered within the Parental/Maternity Leave Policy (HR11).

In addition please refer to the Trust Policy for Reservist Forces – Trust policy and Protocol for Training and Mobilisation (HR58).

There is no provision for paid time off for job interviews unless the employee is at risk of compulsory redundancy. Please see HR04 Organisational Change Policy.

There is no provision for paid time off for court appearances, except Jury service, unless this is for work-related appearances. Other appearances, including expert witness where the employee is being paid additionally to attend, will be granted on a pay back basis only. For further details regarding Jury Service, please see Appendix 4, paragraph 4.

## **APPENDIX 2: PROCEDURE FOR NON-ATTENDANCE DUE TO UNFORESEEN ADVERSE CONDITIONS**

### **1. INTRODUCTION**

It is the employee's responsibility to fulfil their contract of employment and ensure that they are able to attend work to perform their duties. However it is appreciated that there may be some occasions when staff face unforeseen difficulties in getting to work. These could include examples such as adverse weather conditions or disruption of the rail/road and/or public transport networks due to accident etc. (The list is not exhaustive).

### **2. PAYMENT OF STAFF**

#### **2.1 Staff who are unable to attend work**

Staff who do not arrive at work are expected to take annual leave, time off in lieu or flexi-time where these arrangements exist.

If unable to exercise any of these options, managers may agree to either:-

- record the absence as authorised absence without pay, or
- arrange for staff to work equivalent additional hours to meet service needs. In this case no deduction will be made from pay.

*NB: Where possible managers will, subject to service requirements make every effort to accommodate whichever is the member of staff's preferred option.*

#### **2.2 Staff who attend, but arrive late**

Staff who arrive no later than 1 hour after their normal start time.

Where staff have made every effort to get to work, but have arrived late (no later than 1 hour after normal start time) they will not be penalised. Full payment will be made but actual hours attended will be recorded.

Staff who arrive later than 1 hour after normal start time.

In this case, staff will not be penalised for the first hour but will be expected to exercise one of the options outlined in the case of non-attendance (i.e. 2.1) to account for the additional period.

#### **2.3 Staff who request to leave early**

If the manager agrees it is sensible considering their duties that day (this may be a difficult decision in respect of clinical staff who have patient responsibilities) their journey home and conditions around where they live, the request should be granted. However either time owing, flexi time, annual leave or working from home should be utilised.

#### **2.4 Staff not attending work or needing to leave early to collect children as a result of schools closing due to adverse weather conditions and staff who don't attend or need to leave to look after other dependants such as elderly parents as a result of home help services being suspended due to adverse weather conditions.**

In this instance short term carers leave should be granted. i.e. On a time owing basis. Of course managers can use discretion regarding allowing annual leave, flexi time or working from home if felt appropriate.

#### **2.5 Staff not able to work due to services being suspended**

On the rare occasions where services are suspended and staff are therefore prevented from doing their normal duties, every effort will be made to provide alternative work. e.g.. help on other wards/areas, administration work, completing Statutory and Mandatory Training, working

from home, etc. Should it not be possible to provide alternative work then staff will be sent home and receive the pay they were due to receive for that period of work.

### 3. OTHER CONSIDERATIONS

It may be practicable subject to service needs for managers to consider additional options, these could include.

- Exploring the possibility of home-working or changing shift patterns.
- Considering temporary change of location, if member of staff is able to attend alternative site due to home location. For example nurse or midwife may be able to attend community clinic but unable to get to acute site.

Before exercising any of these options staff must ensure that arrangements have been agreed by their line manager.

In cases of adverse weather, the operations team may, as part of its pressure planning process make arrangements to get staff to and from work or provide overnight accommodation. Specific Details will be made available at the time.

It is expected that staff will need to use options only in adverse/infrequent circumstances e.g. severe weather conditions, severe disruption of public transport etc. It should not be used as a method of enabling staff to regularly arrive late for work. If managers suspect that this is not the case they can withdraw the use of these options. Advice should be sought from Human Resources in such circumstances.

## APPENDIX 3: TIME OFF FOR PUBLIC DUTIES

### 1. INTRODUCTION

The Trust recognises that some staff have chosen to undertake public duties in addition to their employment with the Trust. This policy aims to outline the Trust's support provisions for these employees. The provisions within this policy are in line with the Employment Rights Act 1996, the governing legislation for the right to time off for public duties.

### 2. TIME OFF FOR PUBLIC DUTIES

The following public duties are covered by this policy as governed by the Employment Rights Act 1996.

- Justice of the Peace
- A Local Councillor
- A Member of a General Teaching Council
- Member of a local authority
- Member of a police authority
- Member of a statutory tribunal
- Member of the governing body of an educational establishment
- Member of a relevant health body (a health authority or Primary Care Trust)
- Member of a board of prison visitors or a prison visiting committee
- Member of the Environment Agency

The Trust will grant reasonable time off for any of the duties of Justice of the Peace and, as regards membership of the above bodies, to:

- Attend meetings of the body or any of its committees or subcommittees;
- Perform duties approved by the body

The Trust may authorise up to 10 working days of Public Duties Leave with pay (based on full time employees, adjusted pro rata for part time employees) during each leave year for those duties covered above. However where commitment is more onerous, more time with pay may be granted at the Trusts discretion following individual discussions.

Managers have the discretion to approve unpaid time off in addition to the above where appropriate.

All requests for leave regarding the undertaking of public duties, regardless of whether the leave is paid or unpaid, must be submitted in writing to the line manager. Requests should be submitted at least 6 weeks ahead of a planned commencement date.

Appointment to any of the public bodies listed above must be discussed with the line manager first and then notified in writing to the line manager.

When deciding whether to grant paid and/or unpaid Public Duties Leave and the amount of leave granted, managers must take account of the following factors:

- The time off required for the performance of the duties of the office or as a member of the body in question, and how much time is required for the performance of the particular duty;
- How much time off the employee has already had for public duties or time off for trade union duties and activities within the current leave year;
- The impact on service provision, ensuring that there is no detrimental effect on patients and service users.
- The provision of paid and/or unpaid Public Duties Leave should be reviewed between the member of staff and their line manager on an annual basis taking account of the above factors.

### **3. VOLUNTEER FORCES**

The Volunteer Forces consist of the Royal Naval Reserve, Royal Marines Reserve, the Territorial Army, and Reserve Air Forces and Cadet Forces.

Any employee who is a member of the Volunteer Forces is entitled to 10 working days paid leave (based on full time employees, adjusted pro rata for part time employees) to attend annual training camps. If additional time is required, this is taken as either annual leave or unpaid leave. The maximum continuous obligatory training commitment for those in the Volunteer Forces is 15 working days.

The member of staff must give, to their line manager, as much notice as possible of their requirement to attend a continuous period of obligatory training.

The Trust is required to release employees from their duties if called up (mobilised) for service with the Regular Forces. This is taken as unpaid leave and will generally be covered by the Employment Break Scheme. Employees should inform the Trust as soon as possible of this request. Please refer to the Trust Policy for Reservist Forces – Trust policy and Protocol for Training and Mobilisation (HR58).

No employee should accept “High Readiness Reserves” liability before consent has been given by the Trust.

For further details on becoming a Volunteer Reservist, please contact Human Resources.

### **4. JURY SERVICE**

If required to undertake Jury Service, staff must inform their line manager on receipt of the summons. Whilst sitting on a jury, employees will be paid by the Trust. The Trust does not pay travel costs or subsistence allowance for attendance as a juror.

Where an employee receives regular paid supplements, their pay during jury service will be based on what the employee would have received had he/she been at work. This will be based on a reference period of the previous three months at work. The individual however must ensure that all documentation required to be completed to enable the Trust to claim losses back from the Courts is completed and administered correctly. Failure to do this would result in losses to the Trust as a result being deducted from wages.

Where an employee on jury duty is released by the Court, the employee must report to work for this period.

The Trust may request that staff have their jury service deferred if attendance would cause service difficulties.