Special Leave Policy

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|  |  |  |  |

# Contents

[1. Introduction 5](#_Toc111140400)

[2. Purpose / Policy Statement 5](#_Toc111140401)

[3. Scope 5](#_Toc111140402)

[4. Definitions 5](#_Toc111140403)

[5. Roles and Responsibilities 6](#_Toc111140404)

[5.1. Integrated Care Board 6](#_Toc111140405)

[5.2. Chief Executive 6](#_Toc111140406)

[5.3. Policy Authors 6](#_Toc111140407)

[5.4. Executive Chief People Officer 6](#_Toc111140408)

[5.5. Line Managers 6](#_Toc111140409)

[5.6. All Staff 7](#_Toc111140410)

[6. Process for Requesting Special Leave 7](#_Toc111140411)

[6.1. Requests for Special Leave 7](#_Toc111140412)

[6.2. Factors to Consider in Approving Special Leave 8](#_Toc111140413)

[6.3. Part time Staff 8](#_Toc111140414)

[6.4. Appeals 9](#_Toc111140415)

[6.5. Misrepresentation 9](#_Toc111140416)

[7. Special Leave for Personal Reasons 9](#_Toc111140417)

[7.1. Definition of Dependents 9](#_Toc111140418)

[7.2. Definition of a Carer 9](#_Toc111140419)

[7.3. Emergency Carer’s Leave 10](#_Toc111140420)

[7.4. On Going Support Required for Carers 11](#_Toc111140421)

[7.5. Bereavement/Compassionate Leave 12](#_Toc111140422)

[7.6. Child Bereavement Leave 13](#_Toc111140423)

[7.7. Emergency Domestic Leave 14](#_Toc111140424)

[8. Medical Appointments 15](#_Toc111140425)

[8.1. General Information 15](#_Toc111140426)

[8.2. Emergency Appointments 16](#_Toc111140427)

[8.3. Regular Appointments 16](#_Toc111140428)

[8.4. Medical Appointments related to Disability 16](#_Toc111140429)

[8.5. Cosmetic Appointments 17](#_Toc111140430)

[8.6. Fertility Treatment 17](#_Toc111140431)

[8.7. Health Screening 17](#_Toc111140432)

[8.8. Blood and Bone Marrow Donations 17](#_Toc111140433)

[8.9. Transgender Employees who are Transitioning 18](#_Toc111140434)

[8.10. Other Medical Reasons and Occupational Health 18](#_Toc111140435)

[9. Public Duties 19](#_Toc111140436)

[9.1. Jury Service 19](#_Toc111140437)

[9.2. Attendance at Court as a Witness 20](#_Toc111140438)

[9.3. Poll Clerk 20](#_Toc111140439)

[9.4. Census Officer 20](#_Toc111140440)

[9.5. Reserves of the Armed Forces 21](#_Toc111140441)

[9.6. Special Constables 23](#_Toc111140442)

[9.7. Magistrate/Justice of the Peace 23](#_Toc111140443)

[10. Other Types of Leave Requests 23](#_Toc111140444)

[10.1. Leave for Travel or Extended Holidays 23](#_Toc111140445)

[10.2. Time off for Interviews 24](#_Toc111140446)

[10.3. Religious Observances/Celebrations 24](#_Toc111140447)

[10.4. Employment Break Scheme 25](#_Toc111140448)

[10.5. Miscellaneous 26](#_Toc111140449)

[11. Monitoring Compliance 26](#_Toc111140450)

[12. Staff Training 27](#_Toc111140451)

[13. Arrangements For Review 27](#_Toc111140452)

[14. Associated Policies, Guidance And Documents 27](#_Toc111140453)

[15. References 28](#_Toc111140454)

[16. Equality Impact Assessment 28](#_Toc111140455)

[Appendix A - Equality Impact Assessment 29](#_Toc111140456)

[Appendix B – Frequently Asked Questions 31](#_Toc111140457)

## Introduction

The organisation is committed to supporting staff to balance their work and personal responsibilities. It recognises that there will be times when staff may need leave from work for domestic, personal or family reasons. This document sets out the range of provisions in place to help staff on those occasions, enabling them to achieve a work life balance.

The organisation is appreciative of the fact that individuals have other commitments in their life, therefore wherever possible accommodation of these will be made to allow the individual to have a seamless transition between their private, public and working lives. However, except where there is a statutory requirement, in applications for absence from work which are covered in this policy, the needs of the service will be considered by the organisation, as will requests being deemed ‘reasonable’ to the circumstances.

## Purpose / Policy Statement

The aim of this policy is to detail provisions for time off work for a variety of reasons – personal and public. The policy provides a mechanism for requesting and agreeing special leave.

The objective of this policy is to provide a fair and consistent framework to support staff at times of need through the provision of paid or unpaid leave because of urgent and/or unforeseen circumstances.

Absence through annual leave, sickness, maternity, paternity and parental leave are all subject to other organisational policies and procedures.

## Scope

This policy applies to all Integrated Care Board (ICB) employees engaged on Agenda for Change Terms and Conditions of Service. It also applies to employees on very senior manager terms and conditions.

## Definitions

* Please refer to main body of policy.

## Roles and Responsibilities

### Integrated Care Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for the management of special leave in accordance with relevant legislation and best practice guidance.

### Chief Executive

* + 1. The Chief Executive is accountable for the policy and procedure being in place to ensure fair and equitable approach to special leave for employees.

### Policy Authors

* + 1. Policy authors are responsible for ensuring that this document is updated when any changes are made to legislation or the NHS Agenda for Change Terms and Conditions for Service.

### Executive Chief People Officer

* + 1. The Executive Chief People Officer oversees the implementation of this policy and is responsible for ensuring that managers take action to meet the organisation’s obligations to ensure equity and consistency.

### Line Managers

* + 1. Day to day responsibility of the implementation of this policy rests with line managers who should inform employees of this policy and its provisions.
		2. Managers should consider that leave requested under this policy is often required at short notice and when an employee is under great distress. All requests therefore should be handled promptly and sensitively.
		3. Line managers are responsible for:
	+ Making timely equitable decisions regarding special leave requests.
	+ Considering the needs of the business.
	+ Being consistent and equitable when making decisions on whether to grant leave and if it should be paid or unpaid leave
	+ Recording decisions on ESR and ensuring Special Leave Forms are completed (available on intranet [HR forms](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/HR-Forms-%26-Documents.aspx) ).
	+ Providing reasons/rationale to the employee if the request is declined
	+ Making every effort to cover the individual’s role concerned during a time of crisis.
	+ If in any doubt as to whether the leave should be granted under special leave policy or should be paid or unpaid, managers are to seek advice from the HR Department.

### All Staff

* + 1. The responsibilities of staff are:
	+ To give as much notice to their manager as possible of any request for special leave, for example if a close relative is seriously ill.
	+ Not to make unreasonable requests.
	+ To understand when special leave needs to be requested and to make such requests as appropriate.
	+ To understand that the business needs of the organisation will be taken into account when decisions are made.
	+ To fully utilise annual leave wherever possible (refer to Annual Leave Policy), and
	+ Not regard paid special leave as an automatic entitlement.
		1. Employees should provide documentary evidence of the reason for leave when available, for example, the form received from the authority requesting attendance as a Juror.
		2. All requests for special leave covered under this policy should be detailed on the Special Leave Form by the employee (available on the intranet [HR Forms)](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/HR-Forms-%26-Documents.aspx)
		3. Employees should give as much notice as possible and submit the Special Leave Form to their line manager prior to taking any time off. When the need for leave is immediate the form must be completed as soon as the employee has returned to work.

## Process for Requesting Special Leave

### Requests for Special Leave

* + 1. Requests for special leave should be made in advance of the time requested, wherever possible.
		2. The reasons, dates and duration for the special leave should be disclosed to the line manager and detailed on the Special Leave Form.
		3. In cases of emergency, the employee should contact the line manager by telephone and the Special Leave Form can be completed on return to work. In this situation, line managers do not need to give an immediate decision regarding whether or not the leave will be approved as paid – this can be discussed on return to work as previous leave granted may need to be taken into account.
		4. Agreement regarding maintaining contact during periods of absence should be agreed.
		5. On receipt of the form, the line manager will make a decision on whether special leave is granted and if this is to be paid or unpaid, in line with this policy. Advice can be sought from HR.
		6. The line manager must then scan any appropriate documentation relating to the request for special leave (e.g. Jury Service Form, Court letters etc.).
		7. In cases where the line manager is unable to approve the time off, the reason should be detailed on the form, a copy returned to the individual and a copy sent to HR.
		8. Once authorised, the manager will need to enter the information on ESR using supervisor self-service (if paid special leave).
		9. A copy of the special leave form and additional documents is to be emailed to HR for retention on the individual’s personal file.
		10. If the leave granted is unpaid a Change Form must also be completed and submitted to payroll for processing.

### Factors to Consider in Approving Special Leave

* + 1. The following factors should be taken into account when considering requests for special leave for Personal / Public reasons:
	+ The circumstances around the request.
	+ Any previous requests for special leave.
	+ In cases where unpaid leave is requested, the amount of annual leave that the employee has left.
	+ The employee’s attendance and absence record.
	+ The number of days requested.
	+ The employee’s employment history with the organisation.
	+ The needs of the service in relation to staff cover arrangements and workload volumes.
	+ The wellbeing of the employee.

### Part time Staff

* + 1. For the purpose of this policy, all entitlements will be pro rata for part time employees

### Appeals

* + 1. Employees are entitled to receive a written explanation if their request for Special Leave is declined (or approved without pay where this may be applicable under this policy).
		2. An appeal should be made using the Grievance Policy commencing at the informal resolution – Stage 1.

### Misrepresentation

* + 1. The ICB will view the misrepresentation of any circumstances relating to special leave requests with the utmost seriousness and accordingly and as potential fraudulent or false claims.
		2. Any abuse of this policy will be pursued by the ICB, including advice/action from NHS Counter Fraud and may lead to disciplinary action in line with the ICB’s Disciplinary policy.

## Special Leave for Personal Reasons

### Definition of Dependents

* + 1. A dependant is:
	+ a spouse
	+ a civil partner
	+ a child
	+ a parent
	+ a person who lives with the employee other than as their employee, tenant, lodger or boarder
	+ any other person who would reasonably rely on the employee for assistance if they fell ill or was injured or assaulted, or who would rely on the employee to make arrangements for the provision of care in the event of illness or injury; or
	+ in relation to the disruption or termination of care for a dependant, any other person who reasonably relies on the employee to make arrangements for the provision of care.

### Definition of a Carer

* + 1. A carer is someone, of any age, whose life is affected by the need to help another person with daily living.
		2. Carers may provide support, take on key tasks, or have a full-time caring responsibility.
		3. Carers need not necessarily live in the same house as the person they care for.

### Emergency Carer’s Leave

* + 1. By definition, an employee cannot apply for emergency carers leave in advance. If the employee needs to leave work unexpectedly or is unable to start work, they must contact their manager immediately to inform them of the reasons for absence.
		2. Examples of reasons for Carer’s Leave are:
* If a dependant falls ill or has been involved in an accident or assaulted, including where the victim is hurt or distressed rather than injured physically.
* To make longer term care arrangements for a dependant, who is ill or injured.
* To deal with an unexpected disruption or breakdown in care arrangements for a dependant, e.g. if a child minder or nurse is absent from duty.
* To deal with an incident involving the employee’s child during school hours, e.g. if the child is ill, involved in an incident or is suspended from school.
	+ 1. Emergency carer’s leave is granted only for the time required to deal with the emergency, so the employee must return to work as soon as they have dealt with the emergency. Where required, the employee must actively seek alternative longer-term arrangements for the care of a dependant as soon as possible after the emergency occurs.
		2. If the employee is unable to make alternative arrangements, they must contact the line manager and explain why further absence is required. If further time off no longer qualifies as special leave for dependants, it is at the discretion of the organisation whether, or not, to grant additional unpaid leave or alternatively annual leave at short notice.
		3. It is the employee’s responsibility to keep in touch with their manager and let their manager know when they will return to work. Any failure to do so may result in disciplinary action.
		4. A Special Leave Form should still be completed with details of the leave agreed as soon as is practicable and signed by the employee upon their return to work.
		5. The maximum for paid carers leave would be a total of 5 days commensurate to the employee’s normal number of working days per week, per rolling 12 month period.
	+ For example, if an employee works 5 days per week they can request up to 5 days per annum in paid carers leave. Or, if they work 3 days per week they can request up to 3 days paid carers leave per annum.
		1. For clarification, the length of emergency paid leave will depend upon the event that has occurred and how long to resolve the emergency or put alternative arrangements in place which may be part of a day or in days. Additional leave may be granted if required however this may not be paid leave.
		2. Time off to attend hospital appointments with family members is not regarded as Carers Leave and should be taken as annual leave or the time made up at a later date. Where an employee may be required to attend on-going medical appointments with a family member/friend etc, please refer to the section On Going Support Required for Carers. It may be more appropriate for a flexible working arrangement to be discussed, even if this is required on a temporary basis.
		3. In the event of a dependent dying, any previous carer leave granted does not preclude the carer from receiving Compassionate Leave.
		4. Employees who need to care for a dependant in circumstances falling outside the right to take special leave for dependants should refer to the ICB's Flexible Working Policy.
		5. Failure to return from a period of special leave for dependants, without authorised further leave or knowingly providing false information may be treated as a disciplinary matter.
		6. Where possible the employee should gain approval for the leave in advance and complete the Special Leave Form. When the need for leave is immediate, employees should contact their line manager to discuss their requirements; the form should still be completed with details of the leave agreed as soon as is practicable and signed by the employee upon their return to work.

### On Going Support Required for Carers

* + 1. Carers are entitled to request a week unpaid leave to allow them to provide or arrange care for a dependant with a long-term care need. A request to take Carers leave should confirm carer and notice which is either twice the length of time being requested or three days, whichever is the longest time can be taken as half or full days. The request can not be denied but can be postponed if would unduly disrupt business needs if leave was approved. If the leave is to be postponed a written counter notice within seven days of the request explaining the reason for postponement and revised dates leave can be taken on. Leave must be permitted within a month of the original request.
		2. Requests for on-going, planned time off for caring responsibilities may be offered, by line managers, as leave without pay. In some circumstances, it may be necessary to look at the possibility of an agreed change to the employee’s working pattern or hours, in order to accommodate the employee’s need for time away from the work place.
		3. Please refer to the ICB’s Flexible Working Policy for further details.

### Bereavement/Compassionate Leave

* + 1. Bereavement/compassionate leave is leave that is granted to an employee if they experience the bereavement (or emergency hospital admission) of a dependant.
		2. In respect of bereavement, this would include close family or friends including a spouse/partner, parent, son, daughter, grandparent, brother, sister, aunt, uncle, nephew, niece and parent-in-law.
		3. It should be acknowledged that in some cases, a person may have the closeness of a parent or spouse but may be more distantly related. In these circumstances, the nature of the relationship and other circumstances should be disclosed to the line manager so that the decision can be taken about whether to approve compassionate leave or not.
		4. The employee should advise the line manager of the reason for absence and expected duration as early as possible.
		5. Employees are to be reminded of the support available to them through the ICB, for example counselling via the Employee Assistance Programme.
		6. Up to one working week (or equivalent pro rata hours) per event with pay may be given to the employee at the discretion of the line manager.
		7. The length of the absence will be dependent on individual circumstances, for example whether the staff member has to organise a funeral or travel a great distance for a funeral.
		8. In extenuating circumstances an application may be made to the Executive Director to request an additional period of compassionate leave.
		9. This should be done in writing and have line management approval. A situation which may warrant this would be if there was a need to arrange multiple funerals, or other care (for example for children of the deceased). The exception to this application process is in cases of child bereavement.
		10. Following a bereavement and the period of leave granted, if an employee feels unable to attend work they should be asked to contact their GP for additional support. It the employee is unfit for work then the Absence Management Policy will apply.
		11. At an appropriate point in time, the employee will be required to complete the Special Leave Form.

### Child Bereavement Leave

* + 1. Child bereavement leave applies to 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 ICB considers reasonable. For example, grandparents who have had caring responsibilities for a child or where someone other than the biological parent is the primary carer.
		2. The child does not need to be under 18 years of age.
		3. Employees are to be reminded of the support available to them through the ICB, for example counselling via the Employee Assistance Programme.
		4. All bereaved parents will be eligible for a minimum of two weeks of child bereavement leave and is in addition to the Compassionate Leave provision.
		5. A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave/pay or be asked to produce the child’s Death Certificate or any other official documentation.
		6. All bereaved parents will be entitled to two weeks’ occupational child bereavement pay which will include any entitlements to statutory parental bereavement pay. Pay is calculated on the basis of what the individual would have received had they been at work. This would normally be based on the previous three months at work.
		7. Where both parents of a deceased child work for the ICB, the entitlements will apply to both employees.
		8. The two weeks of bereavement leave does not have to be taken in a continuous block. The employee should agree with their line manager the leave they wish to take. Taking child bereavement leave is an individual choice and it is not compulsory for an employee to take child bereavement leave.
		9. Bereaved parents may request to take child bereavement leave at any point up to 56 weeks following the death of a child.
		10. Parents who experience a still birth from the 24th week of pregnancy will be eligible for these provisions and will subsequently still be eligible for the provisions set out within the ICB’s Maternity/Adoption Leave policy.
		11. Bereavement leave and pay also extends to those individuals who were hoping to become parents under surrogacy arrangements and where a still birth occurs from the 24th week of pregnancy.
		12. Employees who fall under the Maternity/Adoption Policy pay and leave provisions at the time of their child bereavement or still birth may wish to speak to HR about the taking of child bereavement leave.
		13. Following a bereavement and the period of leave granted, if an employee feels unable to attend work they should be asked to contact their GP for additional support. It the employee is unfit for work then the Absence Management Policy will apply.
		14. At an appropriate point in time, the employee will be required to complete the Special Leave Form.

### Emergency Domestic Leave

* + 1. The aim of emergency domestic leave is to provide a compassionate, short-term response to enable employees to deal with an immediate emergency situation.
		2. The provision can be applied when an employee’s ability to function normally in their working environment is adversely affected by an unexpected breakdown in normal circumstances, such as:
	+ Severe domestic stress such as burglary, fire, burst water main;
	+ Theft or damage of employee’s vehicle.
	+ Being the victim of crime (including hate crime).
	+ The employee’s child being taken to a police station or arrested.

Please note: this list is not exhaustive.

* + 1. Emergency Domestic Leave will not be granted in circumstances where it is considered reasonable for an employee to fulfil their non-work responsibilities in their own time eg repair of washing machine or dishwasher, waiting in for deliveries. It is envisaged that employees will request annual leave or time off in lieu (TOIL) for situations that can be foreseen or planned in advance.
		2. All employees may be granted emergency domestic leave, regardless of their hours of work, type of contract and length of service.
		3. Emergency Domestic Leave is essentially short term in response to a crisis. Managers may grant one day’s (paid) leave or part of a day to deal with the emergency and a further day can be agreed with the line manager, depending on the circumstances.
		4. However, the total number of days should not exceed more than three days in any rolling 12-month period.
		5. It may also be considered by the line manager whether the employee can work from home during the time off or change their working hours where possible. Where employees are not able to attend work or unable to work from home, other options which may be considered are as follows:
* Flexible working, for example, temporary change in work pattern.
* Annual leave.
* Unpaid leave.
	+ 1. Once the immediate emergency has been addressed, the expectation is that the employee will return to work, or, if further time is necessary, has agreed alternative arrangements with their line manager, such as annual or unpaid leave, or change in working hours or pattern.

## Medical Appointments

### General Information

* + 1. Staff should always provide the maximum notice to their line manager when making a request to attend routine medical or dental appointments. Employees are expected wherever possible to make these appointments outside of their normal working hours. Where this is not possible and, where agreed with the line manager, staff should arrange these at the beginning or at the end of the working day to minimise disruption to the service.
		2. Consideration should also be given to supporting the individual’s request on an ad hoc basis, under the provisions outlined in the ICB’s Hybrid Working Policy or the use of time off in lieu (TOIL). If this is not possible, then a request for annual or unpaid leave should be made with agreement subject to line manager’s approval and the needs of the service. There is no right to paid time off to attend routine medical/dental appointments.
		3. It is not anticipated that employees will require more than two routine dental appointments per year.
		4. No paid time off will be allowed to accompany partners or relatives to medical appointments. Annual leave, unpaid leave or an agreed ad hoc flexible working of weekly hours should be requested on these occasions (there are some exceptions to this in relation to antenatal appointments – please see the ICB’s Maternity and Adoption policy).

### Emergency Appointments

* + 1. The ICB appreciates that employees may have urgent medical or dental problems on occasion, which may require time off during working hours to attend the surgery with minimal notice. In most circumstances, time off in lieu (TOIL) will be granted.
		2. The line manager must be informed and, where possible, permission must be obtained before the employee leaves work to attend the medical or dental surgery for urgent treatment.
		3. Where the line manager is not available eg due to annual leave, sickness, the next manager in the reporting line should be contacted.

### Regular Appointments

* + 1. Where a member of staff is required to attend on-going hospital or dental appointments on a frequent basis, a full discussion should take place with the line manager in advance of any treatment starting, to agree the most appropriate way for this time to be arranged to balance the business needs. In these instances the ICB will endeavour to provide as much flexibility and support to employees within the service constraints and would also expect flexibility on behalf of the employee to minimise the disruption to work.
		2. If, for example, the appointments were near the lunch break the organisation would not expect a lunch break to be taken in addition to the appointment time, the time should be incorporated into the lunch break where possible.
		3. If appointments require lengthy travel to and from the appointment it may not be possible to return to the workplace and again the ICB would be looking for some degree of flexibility on behalf of the employee to minimise the time away or make up the time.

### Medical Appointments related to Disability

* + 1. Where the Occupational Health department have identified that the employee is likely to fall within the remit of the Equality Act 2010, the line manager should discuss with the employee any requirement for them to attend medical appointments.
		2. Medical appointments that are for the purpose of the treatment /management of the disability can be agreed as paid leave under the Equality Act 2010 as a ‘reasonable adjustment’. This may be particularly pertinent if the employee needs to travel some distance to attend an appointment with a specialist consultant.
		3. A programme of how many appointments are likely to be required and the purpose of these appointments is to be discussed with the employee and the number of appointments to be agreed as paid.
		4. Where the number of appointments cannot be approved as paid special leave, managers and employees should discuss other ‘reasonable adjustments’ such as flexible working.
		5. Employees may request this leave in other instances eg the yearly maintenance of a wheelchair which means that they are unable to attend the workplace on that day.
		6. Paid special leave will not be applicable for appointment regarding routine illness not related to the disability. The normal provisions, as above, will apply.

### Cosmetic Appointments

* + 1. Where appointments are for cosmetic purposes or where cosmetic surgery is by personal choice employees are required to take the time unpaid or as annual leave. Where the treatment is recommended by a medical adviser or is part of remedial surgery then normal sickness absence procedures and protocol must be followed.

### Fertility Treatment

* + 1. Employees undergoing Fertility Treatment, e.g. IVF, GIFT, AIH, in normal working hours will be allowed time off with pay for the first course of treatment and unpaid leave for subsequent treatments. Annual leave or an agreed ad-hoc flexible working of weekly hours could also be used.

### Health Screening

* + 1. Time off with pay will be allowed for any health screening appointments recommended or required by GPs or specialists eg breast screening.

### Blood and Bone Marrow Donations

* + 1. The ICB encourages employees to donate blood, and employees are given paid leave for this purpose.
		2. Any employees who are selected to donate bone marrow should be given leave for this purpose.
		3. Individuals may also require time off for medical screening and examination prior to the bone marrow donation (which is taken under general anaesthetic) and donors normally require a short stay in hospital followed by a period of recuperation.
		4. The initial appointment and procedure will be granted as paid time off. Any time after this should be recorded as sickness leave.
		5. The employee should gain approval for the leave in advance and this should be detailed on the Special Leave Form.

### Transgender Employees who are Transitioning

* + 1. The ICB recognises the emotional pressure and psychological pressure involved in undergoing gender re-assignment and aims to support any employee during the process, where possible. The organisation will allow the employee to request a reasonable number of days’ leave (this may be a combination of paid or unpaid leave) during the course of the process or where possible, to work flexibly in line with service needs.
		2. The line manager should be advised in advance and documentary evidence provided.
		3. The employee must notify their line manager of any ongoing appointments that they will be required to take due as part of the process.
		4. Any sickness or ill health resulting from the treatment which requires further time off work will be managed in accordance with the Absence Management Policy.

### Other Medical Reasons and Occupational Health

* + 1. Where the ICB considers that an employee is unwell and not fit to attend work, either through a physical or psychological illness, then a decision can be made (in agreement with the HR Team) to place the employee on paid special leave. The purpose of this leave is to ensure that the employee obtains urgent medical advice/fit note etc.
		2. The ICB will meet with the employee and explain the purpose of the special paid leave. It is not expected that this will be for more than the employee’s contractual working week.
		3. Any Occupational Health appointments which an individual is requested to attend, can be taken during working hours unless the employee is already absent from work. All Occupational Health appointments should be managed in accordance with the Absence Management Policy.

## Public Duties

### Jury Service

* + 1. Employees aged between 18 and 70 may be required to attend jury service by virtue of the Juries Act 1974. Employees selected to attend Jury Service will not suffer financial detriment, but salary and allowances will need to be claimed back directly from the Court should the court indicate that the period of jury service is expected to last more than two weeks. If this is the case the employee should raise this with their line manager and the HR Team as soon as possible.
		2. If required to undertake Jury Service for a period of time exceeding 2 weeks, the employee will be paid as normal until their reimbursement application has been processed. Pay may need to be adjusted at a later date.
		3. To claim for loss of earnings the employee will need to complete the Certificate for Loss of Earnings provided by the Jury Service. This will need to be approved by the employer and a copy retained for payroll and the personal file in order to reconcile payments for the period of Jury Service. Upon completion of Jury Service, the Court will pay the employee for travel, subsistence and Loss of Earnings usually via BACS and provide a remittance advice. Any payments received by the employees from the court will be deducted from the employees’ normal take home pay.
		4. To enable payroll to know what to pay, employees must send to HR a copy of the Remittance Advice, which will be sent to the home address within a few weeks of the Jury Service period.
		5. If the employees’ services are not required for any part or whole court day they will be expected to return to work for the remainder of the working day.
		6. If the employees’ jury service ends before the expected 10 day period (or such longer period as the court may have indicated) the employee will be expected to return to work for the remainder of that period.
		7. Where it is felt that the employee’s absence could have a detrimental effect on the business at the time of the Jury Service period the ICB may make an application for excusal or deferral which will be discussed with the employee.
		8. Any employee with an enquiry regarding Jury Service should contact the Summoning Officer at the relevant Court or alternatively visit the website on [www.gov.uk/jury-service/overview](http://www.gov.uk/jury-service/overview).

### Attendance at Court as a Witness

* + 1. Paid leave should be given to any employee who is summoned to appear as a witness in court. The individual should give their manager proof of the court appearance and request special leave.
		2. Attendance at court, as a witness, when required as part of the role undertaken with the ICB will be paid.
		3. This provision also extends to an employee who has been requested to attend as a witness to a hearing held by a professional body (e.g. the NMC).
		4. For attendance as a witness in a case not linked to the work of the ICB or the professional body, a maximum of two week paid leave will be approved.
		5. If the employees’ is not required to attend for any part or whole court day they will be expected to return to work for the remainder of the working day.
		6. If the employees’ service ends before the period expected and agreed with management, the employee will be expected to return to work for the remainder of that period.

### Poll Clerk

* + 1. The ICB will grant one day’s unpaid leave of absence per annum for any employee acting as a Poll Clerk or Presiding Officer at Parliamentary or Local Elections. Any fees received in respect of the duties may be retained by the employee.
		2. Proof of the Poll duties should be given to the line manager and detailed on the Special Leave Form.

### Census Officer

* + 1. Employees may be given one day’s unpaid leave per annum if they are to be a Census Officer.
		2. Employees may retain any fees paid to them in respect of their appointment as a Census Officer.
		3. The timing of this leave must fit with the operational needs of the service.
		4. Proof of the Census duties should be given to the line manager and detailed on the Special Leave Form.

### Reserves of the Armed Forces

* + 1. Reserves of the Armed Forces include the Regular and Volunteer Reserves of the Royal Navy, Army and Royal Air Force.
		2. Reservists who are required to take part in an annual training event may be given a maximum of one week’s paid leave and one week’s unpaid leave per rolling 12 month period (a week being the normal contracted hours worked, i.e. individual works 4 days per week, therefore they would be entitled to 4 days paid leave and 4 days unpaid leave) for Reserve training and duties.
		3. Proof of the Reservist training activity must be provided to the line manager prior to the leave taken and detailed on the Special Leave Form.
		4. Whilst the organisation will do its best to accommodate any requests for this leave, the organisation cannot guarantee that the reservists leave will be given priority. In cases where service delivery would be severely disrupted or hampered, refusal can be given for leave for Reservist training. It is therefore recommended that they apply for the reservists leave as soon as possible after they are informed that they need to take the time off.
		5. The organisation recognises that a reservist may be called out for military operations, with notice typically given 28 days before mobilisation, which can last up to 12 months.
		6. On being called out, the reservist should present their mobilisation papers, typically together with a letter from the Ministry of Defence to the organisation, outlining the date, and possible duration, of their mobilisation. The Ministry of Defence may also contact the organisation independently.
		7. The organisation recognises that, under the Reserve Forces (Safeguard of Employment) Act 1985, if it believes that the employee's absence on military service is likely to do "serious harm" to it, it may apply for an exemption, deferral or revocation of mobilisation. The organisation recognises that the criteria for exemption, deferral or revocation are strict and will seek an exemption, deferral or revocation only in exceptional circumstances.
		8. The organisation's application must be submitted to the relevant adjudication officer within the period of seven days immediately following the date of the employee's receipt of the mobilisation notice.
		9. There is financial assistance available to the organisation from the Ministry of Defence when a reservist is called up.
		10. There is no requirement for the organisation to pay the reservist during their absence on military operations nor do they accrue annual leave. During this period the reservist receives service pay from the Ministry of Defence, along with a standard award to make up any difference (up to the statutory limit) between their service pay and normal average weekly earnings.
		11. The Ministry of Defence also pays the organisation's contributions to the reservist's occupational pension scheme (as long as the reservist gives an undertaking to continue paying their own contributions to the scheme).
		12. Regardless of the length of the military action, the mobilised reservist has the right to be reinstated in their former job within six months of demobilisation, on terms and conditions that are no less favourable to them than those that would have been in place but for the enforced absence from the organisation.
		13. If it is not reasonably practicable to reinstate the reservist to their former job, the organisation must re-engage them in the most favourable occupation and on the most favourable terms and conditions that are reasonable and practicable in the circumstances.
		14. To exercise the right to be reinstated, the reservist must write to the ICB no later than the third Monday after demobilisation confirming their intention to return to work within the following 13 weeks. The initial 13-week period may be renewed for a further 13 weeks if circumstances such as illness or injury prevent the reservist's return during the initial period. However, the reservist forfeits their right to return to work with the organisation if they fail to do so within 26 weeks of demobilisation.
		15. Once the reservist has been reinstated, the organisation will continue to employ them in that same occupation (and on the same terms and conditions) for:
	+ the following 26 weeks;
	+ 52 weeks if the reservist had been employed for a consecutive period of at least 52 weeks at the time they were called up for military operations; or
	+ a minimum of 13 weeks if the employee was employed for fewer than 13 weeks immediately prior to mobilisation.
		1. The continuity of the reservist's period of employment is not broken by a period of mobilisation, if they are reinstated to their former employment within six months of demobilisation.
		2. However, when calculating the employee's total period of continuous employment, the organisation will discount the number of days falling in the period between the date on which the reservist is called up for military operations and the day immediately preceding the day on which they return to work.

### Special Constables

* + 1. If a Special Constable is required for training, duty or to attend court as a witness during working hours, special leave should be approved for up to a maximum of one working week (paid) and one working week (unpaid).
		2. To clarify, a ‘week’ is the normal contracted hours worked, i.e. individual works 4 days per week, therefore they would be entitled to 4 days paid leave and 4 days unpaid leave per annum. Appropriate documentary evidence of the reason for leave should be given to the line manager and detailed on the Special Leave Form.

### Magistrate/Justice of the Peace

* + 1. Any member of staff who is also a Magistrate/Justice of the Peace, should be entitled to reasonable unpaid time off work to carry out any associated duties.
		2. Consideration should be given to the amount of time off already granted when considering requests, in addition to the effect that the absence may have on the department.

## Other Types of Leave Requests

### Leave for Travel or Extended Holidays

* + 1. Employees may require time off work for a variety of reasons eg:
	+ travel for a longer period than the annual leave entitlement would permit, or to accompany a partner on a business trip,
	+ participate in a non-work related course of study,
	+ or to participate in a sporting event,
		1. Special leave may be approved, without pay, subject to the requirements of the service.
		2. The duration of time given as unpaid leave for this reason must not exceed 3 months (unpaid absence of between 3 months and 5 years is regarded as a formal employment break). However, it should be noted that only in exceptional circumstances would time off for this duration be considered.
		3. All cases must be considered individually and discussed in conjunction with HR.
		4. The employee should gain the line manager’s approval for this time off prior to the event and detail this on the Special Leave Form.
		5. The employee and line manager need to agree how they will remain in contact during this time and the arrangements for return to work. If a further period of time is required, this will need to be agreed under a different type of special leave.

### Time off for Interviews

* + 1. Employees who have applied for vacancies within the ICB may be granted reasonable paid leave to attend interviews.
		2. If an employee indicates to their line manager that they wish to take time off for interviews with an outside organisation (including any employers which fall under the NHS umbrella) the line manager can be flexible in the way this leave is granted by approving annual leave, or agreeing TOIL to cover the time off required, taking into account the needs of the business and ensuring there is minimal disruption in the workplace. However, there is no entitlement to paid time.
		3. The exception to this is where employees who have been formally declared ‘At Risk’ of redundancy will be given reasonable paid time off to attend interviews (to seek alternative employment) within the ICB or any other organisation (no restriction to the NHS). Please refer to the Organisational Change Policy.
		4. The employee should gain approval for the time off in advance and this should be detailed on the Special Leave Form.

### Religious Observances/Celebrations

* + 1. All requests for time off for religious observances should be treated considerately.
		2. When an employee seeks leave for a religious festival or cultural observance, the request should be made in advance to the line manager. The following can be considered to support the employee’s request:
* Flexibility in arrangement of hours;
* Annual leave;
* Time off in lieu (where applicable);
* Unpaid leave.
	+ 1. Managers should give priority to such requests when these are made in good time. Where sufficient notice is not given managers need to ensure continued service delivery.
		2. Employees who wish to perform religious observance or prayer during the working day should discuss this with their line manager. Employees who observe times of fasting or abstinence should also speak with their manager. Longer periods of fasting and abstinence can be particularly challenging and tiring for employees and it may be possible to alter work tasks or break times to support the employee.

### Employment Break Scheme

* + 1. The ICB provides staff with access to an unpaid employment break scheme which is open to all employees who have a minimum of 12 months’ service.
		2. The purpose of the scheme is to support the ICB’s commitment to enabling staff to balance work, personal and other commitments, including making provisions for carers. The scheme should be viewed with other types of leave in this policy, together with the Flexible Working policy.
		3. The main reasons for which employment breaks can be used are:
	+ Child care, care for elderly relatives or another dependant;
	+ Training, study leave;
	+ Opportunity to work abroad;
	+ Other reasons will be considered on their merits.
		1. Employees granted an employment break are not normally 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 ICB will be necessary.
		2. The minimum length of break should be three months and the maximum length of break can be up to five years. The length of any break should balance the needs of the employee with the needs of the service.
		3. Application to take an employment break should be made in writing to the line manager in the first instance and any employment break subsequently agreed by the ICB will be subject to an agreement between it and employee before the break begins. The agreement should cover:
* Effect of the break on various entitlements related to length of service;
* Guarantee that, if the employee returns to work within one year, the same job will be available, as far as is reasonably practicable;
* Where the break is longer than one year, the employee may return to a role similar to that being undertaken prior to the break and at the equivalent salary level, reflecting increases awarded during the break;
* Notice period required before the return to work. This should be two months if the break is less than a year and six months if the break is more than a year;
* Provision for breaks to be extended with appropriate notice, or for early return from breaks;
* Arrangements for keeping in touch during the break;
* Requirements on the employee to keep up to date with their relevant professional registration needs, including attendance at specified training courses and conferences, and any assistance the employer will give in the support of this;
* Proposed arrangements for re-induction to work;
* Any other conditions agreed by either by the employer or the employee;
* Signposting to the NHS Pensions Agency regarding arrangements during the break.
	+ 1. The period of the break will count toward continuous employment for statutory purposes. Other provisions depending upon length of service, for example, contractual redundancy payments, leave entitlements, will be suspended for the period of the break.
		2. Employees will be entitled to a written reason for the refusal of any application.

### Miscellaneous

* + 1. Whilst the provisions of this policy are intended to be as inclusive as possible it is recognised that there may be occasions when leave is requested which does not fit of any of the circumstances detailed above. Such requested will be considered on their own merits by the line manager. For example, it is accepted that there may be other reasons why an employee may seek time off work eg to provide care for a terminally ill relative or close friend for less than 3 months (unpaid leave).
		2. In considering any such requests, the manager should take into the account the need to retain and motivate employees, the needs of

the service and any other precedents relating to the granting of paid and unpaid leave.

* + 1. The use of annual leave and flexible working options may also be considered.
		2. Advice should be sought from the HR Team.
		3. Where any exceptional paid leave is agreed, the Special Leave Form should be completed.
		4. Where any unpaid leave is agreed, a Staff Change form must be completed and forwarded to payroll.

## Monitoring Compliance

The HR Team will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

Monitoring information will be published and reported as appropriate.

Should the monitoring uncover any shortfalls in the implementation of the policy, the HR team will work with the relevant management team to draw up an action plan for improvement. This action plan may include, for example:

• training for line managers

• A risk assessment

It is also anticipated that any issues in respect of the implementation of the policy may be identified as a result of staff exercising their right via the Grievance Policy.

## Staff Training

No essential (including mandatory) learning and development requirements have been identified for any staff groups, in order to fulfil the requirements stated within this policy.

Guidance can be sought from Human Resources team.

## Arrangements For Review

This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance and Documents

#### Associated Policies

* Annual Leave Policy
* Flexible Working Policy
* Absence Management Policy
* Maternity/Adoption Policy
* Hybrid Working Policy
* Organisational Change Policy
* Grievance Policy
* Disciplinary Policy

## References

* NHS Terms and Conditions of Service - any reference is to the latest edition.
* Carer’s Leave Act 2024

## Equality Impact Assessment

The EIA has identified no equality issues with this policy.

The EIA has been included as Appendix A.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Special Leave **Version number (if relevant):** 2.0 | **Directorate/Service**: People Services  |
| **Assessor’s Name and Job Title:** Julia Atigla, HR Business Partner  | **Date:** 27th February 2024 |

|  |
| --- |
| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff*  |
| The objective of this policy is to provide a fair and consistent framework to support staff at times of need through the provision of paid or unpaid leave because of urgent and/or unforeseen circumstances. The policy provides a mechanism for requesting and agreeing any special leave.  |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?*  |
| Relevant Trade Unions were consulted on the first policy and any comments will be taken into consideration when the policy is published. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| ProtectedGroup | Positiveoutcome | Negativeoutcome | Neutraloutcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | x |  |
| Disability(Physical and Mental/Learning) | x |  |  | Provision re reasonable adjustments.  |
| Religion or belief | x |  |  | Section on religious observance and celebrations  |
| Sex (Gender) |  |  | x |  |
| Sexual Orientation |  |  | x |  |
| Transgender / Gender Reassignment | x |  |  | Section on transgender transition.  |
| Race and ethnicity |  |  | x |  |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | x |  |
| Marriage or Civil Partnership |  |  | x |  |

|  |
| --- |
| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the implementation of the policy will be identified as a result of staff exercising their right via the ICB’sGrievance Procedure.  |

|  |
| --- |
| **REVIEW** |
| *How often will you review this policy / service?*  |
| This policy will be reviewed in 18 months or earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – Frequently Asked Questions

**Q1. Who decides if I can have time off and whether or not it is paid?**

It is a management responsibility to discuss with an employee any time off detailed under this policy. Your line manager has the authority to agree or decline your request. Whether leave is agreed and it is paid is dependent on the circumstances of the request, whether the allowance has been exceeded and, in some cases, the business needs. Please see the relevant section of this policy for further information. Where your request is not covered in the policy, please contact the HR department.

**Q2. Can a manager refuse Special leave? .**

Managers are required to provide a written reason/rationale when special leave is declined eg paid leave may be declined on the basis that the allowance would be exceeded. If an employee feels they have been treated unfairly, concerns can be raised with their line manager in the first instance. If the staff member remains dissatisfied with the decision, they can formally appeal.

**Q3. I am a Special Constable; can I have time off to attend Court?**

Special Constables can request special leave, with pay, to attend court cases to give evidence for up to a maximum of one working week per annum. A further period of unpaid leave is also available. However, you would be expected to use holidays or any flexi time should this become a regular occurrence.

**Q4. Can I have time off to stand for Parliament?**

Consideration will be given to any employee wishing to stand as a candidate in a parliamentary election. Any such leave would be unpaid.

**Q5. I have been asked to attend Jury Service, what do I do with the Loss of Earnings Certificate provided?**

You should complete the form and then give this to your manager to pass to payroll.

**Q6. I have exhausted my entitlement to paid Carers leave – am I allowed any unpaid time off work to care for a dependant?**

If you need further time off work to care for a dependent, then this may be granted as emergency annual leave or unpaid leave. If there is an ongoing requirement for you to support or provide care for your dependent, please request a meeting with your line manager and HR to talk through the options that may be available to you.

**Q7. Can I request Special Leave regarding my pets?**

If your pet requires to be urgently taken to a veterinary surgery eg accident/injury or sudden unexpected illness, please contact your line manager as annual leave can be granted in an emergency situation. Where all annual leave entitlement has been used, the manager can offer unpaid leave or TOIL.

There is no provision for paid leave for routine veterinary appointments or for attending birth.