“NHS Organisation”

Special Leave Policy

Approved by: Welsh Partnership Forum Business Committee

Issue Date: 6th July 2011

Review Date: March 2013
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The NHS Organisation recognises that employees need to be able to balance the demands of domestic and work responsibilities at times of urgent and unforeseen need.


The NHS Organisation supports its employees, at times of urgent and unforeseen need, by consideration of the provision of additional leave according to circumstance.

The situations that this policy is intended to deal with are:

- Emergency carers and dependant leave
- Unexpected crisis leave
- Bereavement leave

**Leave granted under this policy is not intended for long term domestic and family situations, which may be provided for in other ways, e.g. annual leave, unpaid leave, reduced working hours etc.**

The policy will also consider the awarding of reasonable time off to staff to enable them to undertake civil and public duties requiring them to be away from the workplace in the following circumstances:

- Time off for public duties
- Jury service
- Reserve and cadet forces
- Attending interviews

(This list is not exhaustive)

2. **Introduction**

This policy sets out the approach of the *NHS Organisations* to special leave and the procedure for dealing with applications for leave.

This policy is intended to ensure that the *NHS Organisation* complies with section 57A of the Employment Rights Act 1996, as amended by the Employment Relations Act 1999, which came into effect on 15th December 1999. These regulations provide a right for employees to request a reasonable amount of time off work to deal with unexpected or sudden emergencies and to make any necessary long-term arrangements; together with section 50 of the Employment Rights Act 1996, these regulations ensure that employees are allowed reasonable time off work to perform certain public duties.
In line with the Equality Act 2010, the NHS Organisation is committed to implementing the policy in a way which promotes the fair and equal treatment of all employees and eliminates discrimination on the grounds of race, disability, gender, gender reassignment, age, sexual orientation, religion and belief, language and human rights. It is the responsibility of managers and employees to ensure that they implement this policy/procedure in a manner that recognises and respects the diversity of the workforce and the different needs of all employees.

The NHS Organisation recognises the right of all employees subject to this policy to be treated fairly and with dignity and respect.

The NHS Organisation also recognises it has a legal duty to make any reasonable adjustments to the workplace, or to the way work is done, to ensure that a disabled employee is not substantially disadvantaged.

The NHS Organisation attaches considerable importance to assisting employees in balancing the responsibilities of their work with their domestic and family responsibilities. This policy is not intended to deal with commitments which can be planned.

Special Leave is not an entitlement; however, requests for special leave will be considered sympathetically in the light of individual circumstances and may be granted at the discretion of the NHS Organisation. It is important for employees to consider the needs of the NHS Organisation and to make every effort to make alternative arrangements wherever possible.

3. **Scope**

This policy applies equally to all employees and aims to give clear guidelines to employees and managers when dealing with requests for paid and/or unpaid special leave. There is no minimum service requirement to make a request for special leave.

4. **Principles**

It is the NHS Organisation’s intention that managers should interpret the policy in a flexible and caring way. Managers will wherever possible and appropriate seek to grant requests for special and parental leave, within the scope of the policy, bearing in mind workplace demands.

Treating all employees in a caring manner, at such times, is good management practice, which can bring positive long-term benefits to the employment relationship, between the manager and the employee.

Employees will need to openly discuss with their manager the reasons and circumstances that have led to their special leave request. There should be an acknowledgment by the
employee that special leave may only be granted by the agreement of their manager, in consultation with their Workforce & OD department, if appropriate.

This policy includes the provision for staff to be granted a period of paid or unpaid leave, dependent upon the circumstances. It is also important to stress that it is not necessary for employees to use up their annual leave entitlement before they can apply for special leave.

All special leave must be applied for and granted consistently throughout the NHS Organisation to ensure that inappropriate precedents are not set.

5. Definitions

5.1 Definition of one week’s paid leave

One week means an employee’s normal working week, so that if, for example, an employee works part-time over three days per week, they will be entitled to up to three days special leave.

5.2 Definition of paid leave

The pay that an individual would normally have expected to receive for the shift(s) had they been in work.

5.3 Definition of Dependant

A spouse or civil partner
A child
A parent
A person who lives in the same household as the employee, otherwise than by reason of being their employee, tenant, lodger or boarder.

6. Different types of Special Leave

6.1 Times of unforeseen need

6.1.1 Emergency carers and dependant leave

This enables employees to take action, which is necessary to deal with an unexpected or sudden problem concerning a dependant and to make necessary long-term arrangements e.g.:

- if a dependant falls ill, or has been injured or assaulted.
- to make longer term care arrangements for a dependant who is ill or injured
• to deal with an unexpected disruption or breakdown of care arrangements for a dependant
• to deal with an unexpected incident involving a child during school hours.

It should be noted that this does not include any situations, which are pre-planned or where the employee has prior knowledge of the arrangements. In these instances special leave will not apply and the expectations will be for the employee to make alternative arrangements such as requesting annual leave.

Usually no more than 3 days may be granted per episode, or no more than 6 days in any rolling 12 month period, as other types of leave such as annual leave, flexi leave, parental leave or unpaid leave (if applicable) may be taken for longer periods. As an alternative or in addition to the above, “home working” may be an option in some circumstances, as is unpaid leave.

6.1.2 Unexpected crisis leave

There may be times when employees may need to deal with situations not mentioned in the policy but are nevertheless considered important enough to affect the ability of the employee to attend work and which may be resolved by limited time off. An example of such a situation may be the need to deal with urgent unexpected house repairs, or following a burglary or flood. Usually no more than 1 day will be granted to deal with the initial crisis. This type of leave is not meant for example to await delivery of a household item, or awaiting an engineer to call as these would not be regarded as emergencies.

6.1.3 Bereavement

An employee will be allowed to take a reasonable amount of time off, for bereavement, in the following circumstances:

• Death of an immediate family member or partner. Normally from the day of death up to and including the day of the funeral and/or interment. (In some circumstances this may be a significant period of time and in these circumstances discussions will need to be held between the employee and manager in a sensitive manner about the amount of leave required).
• Death of extended family member. Normally the day of the funeral but, dependent upon the circumstances of each individual case.
• Death of close friends; normally unpaid leave or alternatively annual leave or flexi-leave should be taken wherever possible.

6.1.4 Medical Appointment
Paid time off for medical appointments are covered in the All Wales Sickness Absence Policy.

6.2 Planned Time Off for Civic and Public Duties

6.2.1 Time off for public duties

Individuals have the right to paid time off work for certain public duties and services. These rights will vary depending on the type of work, and what the duty or service is. When contemplating undertaking such roles, staff should discuss this with their line manager and together they should consider the likely impact this will have on their work attendance.

Individuals are allowed reasonable time off work for public duties if they are one of the following:

- a magistrate, sometimes known as a justice of the peace
- a local councillor
- a school governor
- a member of a police authority
- a member of any statutory tribunal (e.g. an Employment Tribunal)
- a member of the managing or governing body of an educational establishment
- a member of the General Teaching Council for Wales
- a member of the Environment Agency
- a member of the prison independent monitoring boards

Individuals will be allowed a reasonable amount of time and in exceptional circumstances up to 18 days pro rata in a twelve month period, to go to meetings or to carry out their duties in relation to the above public duties.

Individuals requesting time off for public duties need to discuss these arrangements with their line manager in a timely manner.

6.2.2 Interviews

Requests for leave to attend interviews within or outside of the NHS will be given fair consideration. However, NHS organisations may insist that annual leave is taken to attend interviews outside of the NHS rather than special leave granted.

6.2.3 Jury Service
Individuals will continue to be paid by the NHS organisation for any period of jury service that they are required to undertake. However, the NHS organisation will endeavour to claim back the individual’s salary costs for the period of the jury service from the Court.

Individuals should provide documentary evidence of the request for jury service and discuss with their line manager in a timely manner.

Employees must be aware that if the court advises that they are not required for court service on any given day or if the court finishes early the employee must contact work and agree working arrangements for the period.

Alternative arrangements to cover this e.g. home working / annual leave may be agreed through discussion with their line manager.

6.2.4 Reserve and Cadet Forces

Staff must discuss any proposal to join the Territorial Army (TA) or Reserve Forces with their manager in order to establish the likely time commitment required and seek their agreement before doing so.

One week’s paid leave will be given for annual camp, which may be taken subject to the exigencies of the Service. Any additional leave required should be taken as special unpaid leave or as annual leave.

Employees who undertake TA or Reserve Forces duties will receive pay from the TA or Reserve Forces for training and any duties they perform. If the standard amounts of pay received from the TA or Reserve Forces are lower than the employee’s usual salary a request can be made to the Ministry of Defence to top this up within pre-determined limits.

Where staff who are volunteer members of the TA or Reserve Forces are “called up” on active military service unpaid leave will be granted. Employment will continue without pay. Staff wishing to preserve pension rights should contact the NHS Pensions Agency for clarification of their personal circumstances.

6.2.5 Wales for Africa

Requests for leave to attend initiatives as part of the “Wales for Africa” programme will be given fair consideration.

7. Responsibilities under the policy
7.1 Line Managers

Line managers are responsible for

- ensuring that employees are aware of the policy
- all requests for paid and unpaid special leave are made on the relevant application form
- decisions about special leave requests are made on the basis of the employee’s individual circumstances and are consistent with the policy
- monitor the usage of special leave and where refused identify what alternatives have been offered
- retaining relevant documentation within the employee’s personal file
- ensuring notification of any period of paid or unpaid special leave to payroll, including completion of the Electronic Staff Record (ESR) Managers Self Service if available.

7.2 Employees

Employees are responsible for:

- ensuring they are familiar with this policy
- ensuring they have relevant and appropriate arrangements, including contingency arrangements to allow them to fulfil their contractual obligations
- ensuring all requests for paid and unpaid special leave are made using the relevant special leave application form, having been discussed with their line manager.

7.3 Workforce and OD Department

The Workforce and OD department is responsible for:

- review on an annual basis with Heads of Service the number and percentage of special leave requests received, granted and refused to establish the consistency and application of the policy within their service area.

8. Appeals

An individual who considers the NHS Organisation has failed to comply with the provisions described previously in this policy should refer to the NHS Organisation’s grievance policy.

9. Training and awareness
All staff will be made aware of this policy upon commencement with the NHS Organisation. Copies can also be viewed on the NHS Organisation’s Intranet or obtained via the Workforce and OD department and/or line manager.

10. **Equality**

The NHS Organisation recognises and values the diversity of its workforce. Our aim is to provide a safe environment where all employees are treated fairly and equally and with dignity and respect. The NHS Organisation recognises that the promotion of equality and human rights is central to its work both as a provider of healthcare and as an employer. This policy has been impact assessed to ensure that it promotes equality and human rights. The assessment was undertaken using the toolkit of the NHS Centre for Equality and Human Rights and completed on (date). The equality impact assessment outcome report is available to download at ….

11. **Data Protection Act 1998**

All documents generated under this policy that relate to identifiable individuals are to be treated as confidential documents, in accordance with the NHS Organisation’s Data Protection Policy.

12. **Freedom of Information Act 2000**

All NHS Organisation’s records and documents, apart from certain limited exemptions, can be subject to disclosure under the Freedom of Information Act 2000. Records and documents exempt from disclosure would, under most circumstances, include those relating to identifiable individuals arising in a personnel or staff development context. Details of the application of the Freedom of Information Act within the NHS organisation may be found in the NHS Organisation’s publications scheme.

13. **Records management**

All documents generated under this policy are official records of the NHS Organisation and will be managed and stored and utilised in accordance with the NHS Organisation’s Records Management Policy.

14. **Monitoring**

An accurate record of all special leave requests should be maintained on the Electronic Staff Record (ESR), to enable the organisation to consider whether there any issues that may be contributing to unintended discrimination. This information must be capable of being disaggregated by each of the protected characteristics and routinely collected, analysed and reported on to ensure that disciplinary processes are fair and equitable for all individuals and groups, and to demonstrate that the “NHS organisation” is meeting its employment equality monitoring duties.
15. Review

This policy will be reviewed in two years time. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

Signed on behalf of the Staff Side

Signed: 
Name: 
Title: 
Date: 

Signed on behalf of the Management Side:

Signed: 
Name: 
Title: 
Date: 

Appendix A – Application for special leave

NHS Organisation
# Application for special leave

## Personal Details

<table>
<thead>
<tr>
<th><strong>Full name:</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employee number:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Position:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Organisation (Department):</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Work base:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Contact telephone number:</strong></td>
<td></td>
</tr>
</tbody>
</table>

## Circumstances of leave

| **Emergency carers & dependant leave – Section 6.1.1 of policy** (please give details) |  |
| **Unexpected crisis leave – Section 6.1.2 of policy** (please give details) |  |
| **Bereavement – Section 6.1.3 of policy** (please give details) |  |
| **Time off for public duties – Section 6.2.1 of policy** (please give details) |  |
| **Interviews – Section 6.2.2 of policy** (please give details) |  |
| **Jury service – Section 6.2.3 of policy** (please give details) |  |
| **Reserve and cadet forces- Section 6.2.4 of policy** (please give details) |  |
| **Other reason (please specify)** |  |

## Number of days requested

| **Total number of days requested:** |  |

Special Leave Policy – Version 13  
(08/06/11)  
12
| From (date): |  |
| To (date): |  |
| Signed: | Date: |

**To be completed by Line Manager**

| Special leave granted (this episode): | Yes / No |
| Is the special leave paid or unpaid?: | Paid / Unpaid |
| Number of days granted: |  |
| Number of days granted (in last 12 month period): |  |
| From (date): |  |
| To (date): |  |

If not granted, please give reason:

| Signed: | Date: |
| Name: |  |
| Position: |  |

**Copy to be forwarded to the Workforce and OD department**

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**Appendix B**

**Legislation**

Special Leave Policy – Version 13
(08/06/11)
The right to request Special Leave is covered by a raft of legislation including:

- Trade Union and Labour Relations (Consolidation) Act 1992
- Criminal Justice and Public Order Act 1994
- Employment Rights Act 1996
- Human Rights Act 1998
- Public Interest Disclosure Act 1998
- Employment Relations Act 1999
- The Gender Recognition Act 2004
- Crime and Disorder Act 1998
- Employment Act (Dispute Resolution) Regulations 2004
- The Equality Act 2010

The Equality Act 2010 provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The Equality Act brings together discrimination law introduced over the last four decades and replaces most of the previous discrimination legislation. Guidance on the relevant legislation for incidents which occurred before and after 1st October 2010 is available at [http://www.equalities.gov.uk/equality_act_2010/equality_act_2010_transitiona.aspx](http://www.equalities.gov.uk/equality_act_2010/equality_act_2010_transitiona.aspx)

It is expected that the Public Sector Equality Legislation Specific Duties for Wales will come into force on 6 April 2011.