



**Sheffield Health  
and Social Care**  
NHS Foundation Trust

# Policy:

## HR 028 Leave

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### Summary of Policy

This document provides detailed guidance on the Trust's provisions for all forms of leave not covered by existing policies relating to Study Leave, Parenting Leave and the Career Break Scheme.

The changes made to this version of the policy are summarised on page 4 (amendment log).

<b>Target Audience</b>	All SHSC employees
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<b>Keywords</b>	Annual leave, Additional Annual Leave, Civic and Public duties, Jury Service, Territorial Army / Reserve Forces, Carer Leave. Compassionate Leave, bereavement.
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### Storage

This is Version 4 and is stored and available through the SHSC Intranet/Internet.

This version supersedes the previous Version 3 [July 2019].

Any copies of the previous policy held separately should be destroyed and replaced with this version.

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## Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
0.1 1.0	New draft policy created	March 2013	New policy commissioned by EDG on approval of a Case for Need.
	Ratification and issue	March 2013	<ul style="list-style-type: none"> <li>Amendments made during consultation, prior to ratification.</li> </ul>
1.1 2.0	Current policy updated into new format	Sept 2016	Review undertaken to transfer the policy to approved policy format, and to update any policy or process references only. Finalised and issued.
	Ratified /finalised / issued	Nov 2016	
3.0	Policy updated	2018 to July 2019	Review undertaken to update arrangements around annual leave for Bank Staff, to improve arrangements for leave for Reserve Forces employees, to update arrangements around Compassionate Leave in line with new UK legislation making provisions around bereavement, and to amend some references in the Policy's contents. Further clarity provided in relation to carry-over of annual leave.
4.0	Policy updated	May 2020	<p>Further updates around final version of new UK legislation to support bereaved parents, updates to names and terminology (e.g. pay services) and to policy format. Also updated processes to include electronic versions of forms and documents.</p> <p>Key Changes are:</p> <ul style="list-style-type: none"> <li>removal of stipulation that time off is consecutive weeks for bereavement</li> <li>updates to names and terminology (e.g. Pay and Employee Services)</li> <li>new policy format</li> <li>updated process for notification of intention to retire</li> <li>update to notification process for paid and unpaid Carer and Compassionate leave</li> </ul>

## 1. Introduction

While Agenda for Change provides specific information on terms and conditions relating to leave, this document provides detailed guidance on the Trust's provisions for all forms of leave not covered by existing policies relating to Study Leave, Parenting Leave, and the Career Break Scheme.

The Trust is committed to developing and maintaining working arrangements which enable employees to achieve a suitable work-life balance. The Trust recognises that a break from work in the form of paid annual holiday is important in helping employees achieve this balance, and also that there may be special circumstances in which staff may need to take time off from work, including for unexpected events and for the community and other duties for which the Trust has a legal duty to provide paid or unpaid leave.

(For time off for trade union duties, see the Recognition Agreement located on the Trust intranet in the Human Resources widget).

## 2. Scope

This Policy applies to all Trust employees, unless there are specific other relevant provisions such as those relating to Medical staff.

## 3. Purpose

This policy outlines the arrangements in place for annual leave as well as defining and distinguishing between the other different types of leave which may be authorised under alternative leave provisions.

The key purpose of a Leave Policy is to ensure all staff have the opportunity to take the relevant time off work to which they are entitled consistent with Trust policies, and to outline situations in which managers may agree leave at their discretion. The provisions contained within this Policy are intended to assist managers and staff to plan leave to ensure sufficient staffing levels are available to meet service needs.

## 4. Definitions

### Public Holiday

For pay and leave purposes, a public holiday is defined as one of the days below, and includes any 'bank' holidays:

New Year's Day – January 1st (or substitute day if this falls on a weekend)

Good Friday

Easter Monday

May Day

Spring Bank Holiday Monday

August Bank Holiday Monday

Christmas Day - December 25th (or substitute day if this falls on a weekend)

Boxing Day - December 26th (or substitute day if this falls on a weekend).

Public holidays are further defined as within the period of 24 hours from midnight to midnight.

### Annual Leave Year

The annual leave year is from 1st April to 31st March each year.

### Dependant

For the purposes of this Policy, a dependant is defined as:

Husband/Wife/Civil partner/Partner	Brother/Sister
Child/Grandchild/ Ward	Parent/Grandparent
Parent of Husband/Wife/Civil partner/Partner	Guardian

### Parent

A biological parent and/or a person who is/was directly responsible for the care and raising of a person whilst they are/were a child.

## **5. Detail of the policy**

This is as outlined below.

## **6. Duties**

### Managers

The role of the line manager is important in ensuring that all forms of leave are taken by their staff in a way that maintains appropriate service cover.

Line Managers will (for employees they manage):

- ensure awareness of this Policy and procedure
- keep up to date records of all forms of leave taken
- be fair and consistent with allocation of leave during periods of excessive demand.

### Employees

Employees have a duty to inform their line manager at the earliest opportunity of any requests they may have for time off work.

Employees have a duty to ensure that they inform their manager of any ongoing commitments they may have in terms of community responsibilities (e.g. civic or public duties) so that agreement may be reached about whether there is a need for reasonable time off work to be granted.

There are also specific duties and responsibilities in terms of annual leave which are covered in Section 7.

### Human Resources

Human Resources will provide advice and guidance on this policy and its implementation.

## **7. Procedure**

### **7.1 Annual leave**

#### **7.1.1 General Responsibilities:**

##### The Trust

The Trust will endeavour to ensure a uniform and equitable approach to the calculation and allocation of annual leave and general public holiday entitlements which takes into account NHS Terms and Conditions of Service (Section 13 of the NHS Agenda for Change Terms and Conditions of Service Handbook).

The Trust is committed to ensuring that employees who work on a part-time, part-year or job share basis are not treated less favourably than comparable full-time employees, in accordance with the Part-Time Workers Regulations 2000.

The Trust provides an Annual Leave Calculator, available on the Human Resources section of the intranet.

##### Line Managers

The role of the line manager is important in ensuring that annual leave is taken by their staff in a way that maintains appropriate service cover.

Line Managers will (for employees they manage):

- Ensure that all arrangements with regard to annual leave are made clear to all their staff, and include them in the local induction for any new staff member
- Ensure an equitable allocation of annual leave throughout the year, i.e. employees will be encouraged not to excessively over or undertake their annual leave allocation in proportion to the amount of completed months of service within the annual leave year;
- Keep up to date records of annual leave taken;
- Be fair and consistent with allocation of annual leave during periods of excessive demand.

Managers provide guidance for the maximum number of staff who may be absent from work on annual leave at any one time.

Managers approving annual leave requests should confirm whether approval has been given at the earliest opportunity. Generally, this should be no later than a week after receipt of the request where an employee has observed the conditions set out in Section 7.1.3 below.

##### Employees

Employees have responsibility for ensuring that, where possible, they take their annual leave entitlement.

Employees will:

- Ensure that they book annual leave with their Line Manager according to any local arrangements regarding notice of annual leave and before making a holiday booking, for example where staff rotas need to be planned in advance. Where no local arrangements exist, annual leave should be booked well in advance of the due period, and as a general rule, normally provide a minimum period of notice to the employee's designated manager of 14 calendar days, and for periods of leave of 2 weeks or

longer, a minimum of 4 calendar weeks' notice will generally be required. However, any local arrangements providing for notification shall override this requirement.

- Where they are working on a rota according to the Rostering Policy, ensure that leave is booked and taken in accordance with the provisions of that policy.

### 7.1.2 Notification of Annual Leave

Applications to take paid annual leave must be approved by the manager, or person designated to approve such applications, prior to the leave being taken and - subject to the requirements of the service - such requests should not unreasonably be refused.

Applications should not be taken as having been agreed, unless the manager or person designated to approve such applications has signified their acceptance in writing.

Applications for annual leave should be made in a locally agreed format, normally by using an individual Annual Leave Record (available on the Trust intranet).

Approval of applications for annual leave at short notice will be at the discretion of the manager - however, regular requests for annual leave at short notice may be refused and the manager should consider seeking HR advice. What counts as short notice may be dependent on the expectations and requirements of the service in which the employee works.

### 7.1.3 Annual Leave and Public Holiday Entitlement

#### Substantive Employees

In a full annual leave year, substantive employees are entitled to annual leave as specified below. All annual leave is granted subject to the needs of the service based on a fair allocation of leave during periods of excessive demand.

Annual leave entitlement is based on the following length of reckonable service for all NHS staff on Agenda for Change contracts:

Length of Service	On appointment	After 5 years service	After 10 years service
<b>Annual Leave</b>	27 days (202.5 hours based on 37.5 hours per week)	29 days (217.5 hours based on 37.5 hours per week)	33 days (247.5 hours based on 37.5 hours per week)
<b>+ Public Holiday Entitlement</b>	+ 8 days (60 hours based on 37.5 hours per week)	+ 8 days (60 hours based on 37.5 hours per week)	+ 8 days (60 hours based on 37.5 hours per week)

**N.B.** Annual leave entitlements are pro rata for part-time staff.

For extra provisions relating to volunteer members of the non-regular forces, please see Section 7.3.



Any employee of the Trust whose employment commences after the start of the leave year, or whose employment ceases prior to the end of the leave year, shall receive an amount of paid annual leave, adjusted proportionate to his/her completed months of service in the leave year.

Where an employee's entitlement to annual leave increases due to length of service during the year, the additional *pro rata* entitlement for the leave year will become effective from the first of the month following the date of the increased entitlement.

## **Bank staff**

### Bank Only Staff

The Trust allows an accrual rate of 1 hour of leave for every 8 hours worked on Bank. For Bank only staff, this allows up to a maximum of 217.5 hours (29 days) annual leave (including Bank Holidays) for work undertaken on Bank on a pro rata basis.

### Employees With Part-Time Substantive Contracts

Part time substantive employees who also hold Bank contracts retain their current annual leave entitlement for their substantive post, but may also accrue additional leave by working on Bank. For such an employee, their annual leave within their substantive post will be unaffected, but the maximum additional amount of leave that can be accrued on Bank is dependent on their substantive hours. This is worked out in the following way:

As there is a maximum set of 217.5 hours annual leave to accrue for Bank work, whatever the part time employee's substantive contract hours, the Bank annual leave is limited to the remainder that would make their annual leave up the equivalent allowed for 1 standard WTE.

For example, an employee with a 0.5 WTE (18.75 hours) substantive contract can accrue up to a further 0.5 of 217.5 hours annual leave through their Bank contract (so a maximum of 108.75 hours additional annual leave).

$$0.5 + 0.5 = 1 \text{ WTE}$$

Or, an employee with a 0.8 WTE (30 hours) substantive contract can accrue up to a further 0.2 x 217.5 hours annual leave through their Bank contract (so a maximum of 43.5 additional hours annual leave).

$$0.8 + 0.2 = 1 \text{ WTE.}$$

### Employees With Full Time Substantive Contracts

Full time substantive employees who also hold Bank contracts have their full leave entitlement already within their substantive post, and do not accrue further annual leave through Bank hours.

### Managing annual leave accrued through Bank work

Bank staff can 'claim' annual leave through their employee online functions of the eRostering system and this will be ratified and maintained by the Bank office.

Whilst there does need to be an administrative process to endorse the leave taken and ensure this is recorded on the system, annual leave approval in the traditional sense is not required for Bank leave as there is no set working pattern. This gives Bank staff maximum flexibility in choosing when they wish to take their annual leave and they are in a position to do so at times when they do not plan to undertake work on Bank.

#### Claims For Annual Leave Through The Bank System

Bank leave will be entered and finalised on the system by the Bank office. Once finalised, this will normally be paid at the end of the following month.

Payment will be made at the standard rate of pay for annual leave, based on average hourly pay rate. Bank leave will be taken in hours rather than whole days because there is no set working pattern for Bank work.

#### When to claim payment for annual leave accrued for Bank work

It is not possible to claim a payment for a Bank shift and be paid for Bank annual leave at the same time. Anyone claiming a payment for Bank leave should ensure that this payment is claimed for times when they are not planning to work.

Similarly, part time substantive staff who have accrued Bank leave will not be able to work on Bank shifts when they are on leave from Bank. However, it will be possible for such staff to work substantively whilst on leave from Bank. This is because it would not be appropriate for Bank leave to interfere with the working patterns of staff in their substantive post.

#### Annual Leave Carry Over And Bank Work

Bank Staff are free to take annual leave at a time of their choosing. They therefore have significant flexibility as to when annual leave can be taken. Bank annual leave cannot be carried over except for annual leave accrued through Bank work undertaken in March. This is because annual leave cannot be taken before it is accrued.

#### Bank Work Outside Of eRostering

The majority of work undertaken on Bank will be administered via the eRostering system. However, there may still be some Bank work undertaken outside of eRostering (e.g. Admin work on Bank, Bank work in units that do not use eRostering). Where these take place they are currently paid via ESR12 forms. The current 12.5% uplift payment in lieu of annual leave will continue to apply.

### **7.1.4 Calculation Of Annual Leave And Public Holidays**

To ensure equality for those who work variable hours or shifts, annual leave and public holiday entitlement will be calculated in hours, not days.

To calculate entitlements to both annual leave and public holidays, please refer to the Annual Leave Calculator (available in the HR widget on the intranet).

Annual leave should not normally be taken in periods of less than half a standard day (so not less than 3.75 hours).

### **7.1.5 Pay in lieu of annual leave**

Entitlement to pay in lieu of annual leave arises only upon termination of employment, and managers should seek to ensure, where possible, that employees take their allocated annual leave prior to the termination of their employment.

### **7.1.6 Reckonable Service**

Continuous previous service with an NHS employer will count as reckonable service for annual leave purposes. In addition, aggregated NHS service (i.e. any period of time that has been worked in the NHS regardless of whether there has been a break), will count as reckonable service. This includes GP practices which are part of a Trust (e.g. Clover Group). Work undertaken under a Bank contract does not count as reckonable service.

For the purposes of reckonable service, time spent in a relevant role in organisations other than the NHS may, at the discretion of an Associate Director, and with advice from Human Resources, be counted. (N.B. Locum agency service does not count.) Where this is agreed, this should be recorded in the employee's personal file.

Employees are required to provide formal documentary evidence of any reckonable service.

For the definition of reckonable service, and information relating to continuous service calculations after transferring out and back into NHS employment, please see Section 12 of the NHS Agenda for Change Terms and Conditions of Service Handbook.

### **7.1.7 Public Holidays**

#### Entitlement to Public Holidays

All whole-time employees are entitled to leave in respect of 8 public holidays in the leave year. Part-time employees are entitled to a proportionate number of public holidays based on their weekly contracted hours. Managers should record time taken for public holidays separately to annual leave.

Staff required to work or to be on-call on a public holiday are entitled to equivalent time off in lieu at plain time rates in addition to the appropriate payment for the duties undertaken, as specified in the NHS terms and conditions of service handbook.

#### Rota Provisions

Employees are required to work on public holidays in accordance with the rota. In departments that normally close on public holidays, employees shall take 'Public Holiday' leave on those days.

### **7.1.8 New Employees**

All new members of staff will be entitled to annual leave plus public holidays in the year of joining the Trust on a *pro rata* basis.

Entitlement in the first year is dependent on the number of completed calendar months worked after the date of joining, and before the end of the annual leave year.

Annual leave should be calculated using the Annual Leave calculator, and part years should be based on 1/12<sup>th</sup> of the annual leave entitlement for each complete calendar month.

For full time staff, public holiday entitlement will be based on the number of public holidays remaining in the current leave year from the date of joining. Part-time staff will be entitled to a pro rata proportion of hours based upon the remaining number of full calendar months in the annual leave year, regardless of the number of actual public holidays remaining in the year.

#### **7.1.9 Changing Contracted Hours/ Increasing Leave Entitlement**

Where an employee changes their contracted hours or their annual leave entitlement increases due to service part way through the year, annual leave entitlement will need to be recalculated using the Annual Leave calculator.

#### **7.1.10 Entitlements On Leaving The Trust**

Employees leaving the Trust shall be entitled, in the year of leaving, to annual leave proportionate to the number of completed months of service during that year. Employees will be paid in lieu of annual leave entitlement accrued in that leave year but not taken at the time of termination of employment. This will not apply when an employee is summarily dismissed for disciplinary reasons, where no annual leave entitlement will be paid.

Employees leaving the service who have over taken annual leave (based on the number of months they have worked in the leave year to the date of leaving) shall have an appropriate deduction made from their final salary, i.e. the excess leave shall be treated as leave without pay. This shall not apply where an employee dies in service, in which case no deduction will be made from any monies outstanding.

Please also refer to the Staff Leaving the Trust Policy, available on the intranet.

#### **7.1.11 Carry Over Of Annual Leave**

All annual leave should be taken in the leave year that it is allocated and may only be carried forward in exceptional circumstances, with the agreement of the employee's line manager.

Carry over of annual leave is not a right except where the stipulations relating to statutory entitlement as outlined in Section 7.1.12 are met. In all other cases, and subject to the agreement of the line manager, a maximum equivalent of 5 days annual leave pro rata may be carried forward on application, and taken as soon as possible in the following year. This is *pro rata* for part-time employees.

#### **7.1.12 Sickness Absence And Annual Leave/Public Holidays**

##### Sickness Absence And Carry Over Of Annual Leave

Employees who return from sickness absence in the same leave year and are able to take their holiday entitlement in the remainder of that year should do so.

Employees who are unable to take such leave are able to carry over the number of days of accrued statutory entitlement, even if this exceeds the normal maximum carry over allowance of 5 days.

Statutory leave entitlement is 28 days for a full-time employee, inclusive of the 8 public holidays.

The amount of statutory leave that can be carried over will be calculated by subtracting any leave already taken, including public holidays when the employee was not sick, during the relevant leave year from the statutory entitlement for that year, i.e.

Statutory Entitlement	= 28 days (inclusive of public holidays)
Leave taken	= annual leave taken + public holidays taken + any public holidays which occur during sickness absence (e.g. 18 days annual leave + 7 public holidays taken + 1 public holiday which occurred during sickness absence: Total - 26 days)
Carry-over	= Statutory Entitlement minus Leave taken (28 – 26) = 2 days to carry over.

The calculation of an amount of statutory leave to carry over as a result of sickness absence is not in addition to the normal arrangement that employees may carry forward up to 5 days of annual leave with the agreement of their manager. It replaces the normal arrangement only when the carry-over is greater than 5 days.

#### Sickness Absence And Bank Holidays

In line with Agenda for Change, employees will **not** be entitled to an additional day off if they are absent from work due to sickness on a public holiday. If an employee is on sickness absence during a general public holiday, the manager should deduct this from the annual general public holiday entitlement for that individual.

Therefore, in the above circumstances, for staff with an inclusive holiday entitlement (or where a bank holiday entitlement has been manually calculated and added to the annual leave entitlement), one day's leave per bank holiday (*pro rata* based on contracted hours) will need to be deducted from their overall holiday/bank holiday entitlement.

#### Sickness Absence And Taking Annual Leave

Leave can be taken during sickness absence at the request of the employee, subject to agreement by the line manager. If leave is granted this counts as leave rather than sickness absence for the purposes of payment, but does not affect the procedure for managing long term sickness absence. Such requests for leave during sickness absence must be made in writing.

Please refer to the Promoting Attendance and Managing Sickness Absence Policy, available on the Policies section of the Trust intranet.

#### Sickness Absence And Replacement Leave Days

Employees will be entitled to a replacement leave day off if they are sick when on annual leave only where:

- (i) They provide a medical certificate relating to their sickness; and
- (ii) The replacement leave is necessary in order to ensure they receive their statutory annual leave entitlement under the Working Time Regulations, e.g. for a full-time employee this would mean that the replacement leave would apply if the employee would otherwise receive fewer than 28 days leave over the annual leave year. (This entitlement is *pro rata* for part-time staff.)

Nothing in the above paragraph will supersede the provisions of Section 14, para 14.9 of the NHS Terms and Conditions handbook which states that “Employees will not be entitled to an additional day off if sick on a statutory holiday.

#### **7.1.13 Accrual Of Annual Leave During Unpaid Leave**

Annual leave entitlement only accrues during periods of unpaid leave relating to sickness absence and maternity leave (see the Parenting Leave policy). Where extended unpaid leave has been granted for a period of between 1 and 3 months, such an entitlement does not accrue (see Section 7.4). For provisions relating to Career Break, see the Career Break Scheme Policy. The provisions in Section 7.1.11 relating to carry over of leave should also be noted.

#### **7.1.14 Additional Annual Leave Scheme**

The Trust makes annual provision for purchasing additional annual leave up to a maximum of 30 days per year. For details of this scheme, please see the Staff Benefits section in the Human Resources widget on the intranet.

#### **7.1.15 Annual Leave And Suspension Under The Disciplinary Policy**

The Trust has specific provisions for an employee who wishes to take annual leave whilst suspended under the Disciplinary Policy. (Please see section 6.3.9 of the Disciplinary Policy).

### **7.2 Other Types Of Leave**

This section outlines the leave provisions within the Trust for special circumstances which may occur from time to time.

The employee should contact their line manager to obtain approval prior to any absence which may qualify for this leave provision. In exceptional circumstances, this may not be possible (in the event of the sudden death of a relative or an accident happening to a dependant, for example), in which case the employee should notify their manager as soon as is reasonably practicable to give the reason for the absence, discuss its likely duration and agree what provisions for leave may apply.

#### **7.2.1 Limits To Paid Carer Or Compassionate Leave**

Paid and unpaid Carer leave and Compassionate leave (see section 7.2.2) should be granted following full and careful consideration of the merits and circumstances surrounding the request in discussion with the individual Line Managers, who have the discretion to grant up to:

9 days paid leave in any leave year in total for Carer and Compassionate leave combined (calculated *pro rata* to days worked by part-time staff), except in the case of Bereavement, (see s.7.2.4 below.) and with any further unpaid leave at the Line Manager's discretion.

For example, a staff member may request and be granted 5 days paid Compassionate leave in response to a bereavement, but then be granted a further 4 days within the same leave year for Carer leave. If they then request a 5th day in the same leave year for Carer leave, this could not be granted as paid Carer leave, but other alternative provisions for leave may be discussed with their Line Manager.

### Application For Carer Or Compassionate Leave

Application for Carer or Compassionate leave should be made using Carer leave application e-form (ESR14) which is found on the intranet in the e-forms widget, or through direct contact with your line manager.

## **7.2.2 Carer Leave**

### General Points

Carer leave may be applied for when there is an emergency or unplanned need for time off work, either paid and/or unpaid, to assist or look after dependants, and it is essentially of a very short-term nature.

Other cases relating to domestic, personal and family problems including bereavement should be dealt with by considering alternative provisions for time off work (but see section 7.2.3 on bereavement in respect of a child). The Trust also has provisions in place to allow for up to 18 weeks unpaid Parental Leave to take care of a child or to make arrangements for a child's welfare – please see Section 10 of the Parenting Leave policy.

The operation of these provisions requires co-operation, understanding and flexibility on the part of both managers and staff to ensure that the spirit and intent of the agreement is fulfilled.

Carer leave is not for planned events, and it will not be approved in respect of planned industrial action where this affects childcare provisions.

The granting of Carer leave will be at the discretion of the Line Manager and it is not an automatic right or entitlement.

### Management Guidance

The following guidelines are designed to help line managers deal in a fair and consistent manner with employees' requests for Carer leave. Human Resources advice should be sought if required.

Managers are expected to take into account the individual circumstances and merits of each case, and to adopt a flexible and understanding approach.

### Common Issues

It would be impossible to give a comprehensive list of circumstances which might merit Carer leave, and managers should use their discretion in deciding whether individual cases merit consideration. Where more than one Carer is employed by the Trust, both employees will have entitlement under this scheme. Below are examples of a few of the more common issues:

- i. Incapacitation of dependant or immediate family member due to illness or accident.
- ii. Breakdown of existing Carer arrangements.
- iii. Time needed at short notice to arrange longer-term cover for caring problem.
- iv. Accompanying a dependant for urgent health care treatment.

v. Other urgent or private family business.

### Key Considerations

In reaching a decision as to whether an issue merits Carer leave, managers should consider the following:

1. The urgency of the need – can it be described as an unforeseen urgent domestic crisis involving a caring responsibility on the part of the employee?
2. The type of need and the circumstances surrounding the request - for example, careful consideration will need to be given to the nature of the relationship between the employee and the person in need of care. Managers should not necessarily preclude leave if the person in need of care is not an immediate family member.
3. The employee's personal employment circumstances, e.g. part time, shift pattern, etc. Managers will need to consider not only the need, but also the timing of leave in relation to the employee's existing arrangements for days off work.
4. Whether the person being cared for has a disability, as carers are covered by the Equality Act 2010 by association with a disabled person. Please contact Human Resources for guidance.
5. Whether the employee has attempted to make other arrangements, i.e. is he/she prepared to be flexible in working around the situation?
6. Previous requests for Carer leave provisions.
7. The suitability of the Carer leave provisions in the case, and whether it may be more appropriate to use annual leave, lieu time, flexi time or other methods to release the individual.
8. Service needs and cover arrangements.

Managers should note that it is not a requirement that employees should exhaust their annual leave entitlement before becoming eligible for Carer leave.

Having established the nature of the request (this is best achieved through confidential discussion with the individual concerned, taking into account the factors listed above) the manager will need to make an assessment of the amount of time reasonable in the circumstances, and whether leave should be granted as paid and/or unpaid. Agreement of Carer leave arrangements should then be discussed with the employee.

### Notification

Managers should inform individuals of their decision to grant Carer leave as quickly as possible, and also notify employees of their right to discuss the decision with the manager's Line Manager if they feel unfairly treated.

**It should be noted that periods of unpaid Carer leave may affect superannuation entitlement. Please contact Pay and Employee Services for advice.**

### Annual leave accrual

Annual leave will accrue as normal through periods of paid or unpaid Carer leave.



### Monitoring

All requests for Carer leave should be recorded, and should include:

- i. The reasons for the request.
- ii. The circumstances surrounding the request.
- iii. The manager's decisions as to the time allowed and whether paid or unpaid.
  - Paid Carer leave should be notified to Pay and Employee Service using the ESR14 e-form.
  - Unpaid Carer Leave should be notified to Pay and Employee Services via a copy of the ESR12 e-form.
- iv. Where requests are refused, the reasons for this refusal.

### **7.2.3 Compassionate Leave**

#### General Points

The Trust recognises that the death or sudden illness of a close friend, relative, partner or dependant may affect each individual in a different way. The personal circumstances surrounding such an event must therefore be taken into account.

Employees may be granted paid leave to attend a funeral or to attend to urgent family affairs in circumstances such as the sudden illness of a close relative or a dependant. The Manager should ensure that requests are dealt with sensitively and that such leave is granted consistently within their team. The manager, in making their decision, should give careful consideration to the nature of the relationship between the employee and the deceased person. Managers should not necessarily preclude leave if the deceased person is not an immediate family member.

If appropriate, further unpaid leave may be granted on compassionate grounds at the discretion of the manager. It is expected that further requests for leave after 5 days will be unpaid, or favourable consideration will be given to annual leave requests.

Paid Carer leave should be notified to Pay and Employee Service using the ESR14 e-form.

Unpaid Compassionate leave should be notified to Pay and Employee Services using the ESR12 e-form.

**It should be noted that periods of unpaid leave may affect superannuation entitlement. Please contact Pay and Employee Services for advice.**

#### Bereavement in respect of a child

The Trust recognises that coping with grief following the loss of a child is an extremely personal issue, and that people may deal with this in different ways.

Some people will require time off work immediately, whilst others may wish to carry on working. To allow managers to be as flexible as possible in the support they give to employees at this difficult time, the following provisions apply:

a) Where an employee is a bereaved parent and is an employee who has had 26 continuous weeks of service before the bereavement, the Trust will grant a period of two weeks paid leave, to be taken in separate blocks of 1 week or as two consecutive weeks within 56 days of the date of the child's death.

b) This entitlement will also apply to a parent of a child who was stillborn after 24 weeks of pregnancy.

c) No notice will be required for this period of leave to be taken if it is taken within 56 days of the loss that has been experienced, but the employee must inform their manager of their circumstances.

d) When this period of paid leave is exhausted, consideration should be given to other ways of supporting the employee through annual leave or unpaid leave where appropriate. Careful consideration may also need to be given to the expectations placed on individuals in relation to funeral arrangements, along with such considerations as location of family and the need to travel, for example.

**It should be noted that periods of unpaid leave may affect superannuation entitlement. Please contact Pay and Employee Services for advice.**

#### Annual leave

Annual leave will accrue as normal through periods of paid or unpaid Compassionate or leave.

### **7.2.4 Medical and Dental Appointments**

#### Routine GP and Dentist Appointments

All employees of the Trust should, wherever possible, arrange for routine medical appointments, including dental/optician, to take place outside their normal working hours.

Where a manager is satisfied that a routine appointment cannot be arranged outside the employee's normal working hours, time off should be granted. The manager may request evidence of the appointment. In all such cases the employee should wherever possible work the time back. Managers retain the discretion to grant paid time off where this is not possible, but should be consistent in their approach.

#### Non-Routine Appointments

For all non-routine appointments, such as hospital and Consultant appointments, the employee should be granted reasonable paid time off to attend. Evidence of the appointment date and time should normally be supplied to the manager.

#### Disability Leave

For time off for treatment relating to a disability as defined under the Equality Act 2010, please discuss with one of the Human Resources Advisors.

### **7.2.5 Attending Interviews**

#### Interviews Within The Trust

Reasonable time off with pay will be given for employees to attend interviews for other positions within the Trust.

#### Interviews Outside The Trust

An interview at another NHS organisation or body should be treated the same as an interview within the Trust, and reasonable time off with pay should be given for the employee to be able to attend. This also includes time off for interviews for Local Government posts, e.g. Social Services.

Time off for interviews with non-NHS employers will need to be taken from annual leave entitlement, or unpaid leave will be granted at the manager's discretion, except

in times of organisational change where an individual may be at risk of redundancy. In this situation, reasonable paid time off to attend interviews will be granted. (Please refer to Section 6.6 of the Redundancy Policy.)

### **7.3 Civic and Public Duties**

The Trust recognises the wider contribution of an employee undertaking civic and public duties, and allows reasonable time off for the fulfilment of those duties.

#### **7.3.1 Civic Duties**

##### **Jury Service/Witness Summons**

###### Notification

Any employee who is called for Jury Service or as a witness in a trial should forward their written notification (Confirmation of Jury Service letter or Witness Summons) to their Line Manager as soon as it is received. The Line Manager should keep a copy for the employee's file and then send the written notification to Human Resources.

###### Reasonable Time Off

The employee will be allowed reasonable time off to be part of a Jury or to attend court as a witness.

Jury Service normally lasts for approximately 2 weeks. An employee called to Jury Service may have the option to request not to be on a jury where the trial is likely to last more than two weeks. In the event of Jury Service on a longer trial being proposed it is expected that the employee will notify the Court and request that they are not away from work for longer than two weeks if possible.

###### Pay

The Trust will not grant fully paid leave for an employee to attend Court for either Jury service or as a witness during a trial. As the employee will normally receive a pro-forma from the Court with which they can claim loss of earnings, subsistence allowance and travelling expenses, the Trust will pay the employee the difference between the daily loss of earnings paid to the employee by the Court, and the basic daily rate of pay for the period in question.

The Court will supply a Certificate of Loss of Earnings form to the employee to give to the Line Manager. Upon receiving the written notification (Confirmation of Jury Service letter or Witness Summons) from the employee, the Line Manager should immediately clarify with Pay and Employee Services the amount of gross average earnings per day for that employee and then forward this information, with the Certificate of Loss of Earnings form (if available), to Human Resources to be completed and sent to Pay and Employee Services.

The Line Manager must also discuss with Human Resources the exact amount that can be deducted from the employee's wages, before filling out the Pro-forma for Jury Service/Witness Summons (available on the intranet) with the employee to agree the deduction from their salary during the time spent on Jury Service/in Court as a witness. It is important that the deduction from salary coincides with the time required by Court.

For full time staff the amount of this deduction will normally be the maximum paid by the Court for attendance over 4 hours for the first 10 days of Jury Service [£64.95 as at May

2020] or for absence from work exceeding 4 hours as a witness [£67.00 as at May 2020]. Where the maximum paid by the Court will exceed the employee's gross average earnings per working day, Human Resources will discuss a suitable deduction amount with the Line Manager. NB: under normal circumstances, this amount will match the amount paid by the Court.

The Pro forma for Jury Service/Witness summons must be completed and sent to Pay and Employee Services to confirm the amount and duration of the deduction as soon as possible to give time for the form to be processed. A copy of the form must also be sent to Human Resources.

After their time attending Court, the staff member must send to their Line Manager the evidence they receive from the Court of receiving payment for loss of earnings from the Court. The Line Manager must then submit these directly to Human Resources. If the loss of earnings paid by the Court are in fact less than the amount that has been deducted from basic pay, the Trust will top up the employee's wages back to the basic pay level for that period of time.

Time spent on Jury Service or as a witness in Court will be recorded as Special leave, and will not affect Pension contributions, which will be paid as normal based on the employee's salary prior to the time taken off for Jury Service.

#### Annual Leave

Annual leave will accrue as normal through periods of Jury Service or whilst attending Court as a witness in a trial.

#### **Territorial Army/Reserve Forces**

All requests for leave under this provision should be referred to the Human Resources Department.

#### Active Duty

Employees called up for compulsory military service under the Reserve Forces Act (1996) should receive two weeks' notice and receive a letter with their mobilisation papers which they should then supply to their line manager.

Whilst the Trust is not able prevent an employee who is called up for active duty from attending military service, it may appeal against the decision if it is felt that the employee's absence will cause serious problems to the organisation.

An employee who is called up for active duty has the right to be re-employed at any time during a 6 month period after the end of the military service. They are entitled to return to the same position under the same terms and conditions or, where it is not possible for them to continue in the same role, they should be offered a post with equivalent terms and conditions of employment. Please discuss with Human Resources as soon as possible if you are a manager whose employee has been mobilised for active duty.

#### Training

It is understood that volunteers may be required to attend an upgrade course OR summer camp, for 15 days each year (comprising two consecutive weeks and an additional day) and undertake a number of additional days of training, normally scheduled on Saturdays and Sundays. Where this training falls on a normal working day and the employee is unable to reschedule the event, paid leave should be granted

for a maximum of two consecutive weeks per year. Any further days taken off work for this training will be taken from the employee's annual leave entitlement.

#### Annual Leave

Contractual annual leave will accrue as normal during active service in the Territorial Army or Reserve Forces.

### **7.3.2 Public Duties**

#### Intention To Take Up Public Duties

All employees intending to become involved in public duties which will require leave must obtain the agreement of their line manager before they agree to accept the position.

#### Existing Public Duties

Where an employee already holds a public office or public position, it is the Trust's duty to grant a reasonable amount of time off work so that the employee can perform the duties associated with that position. Circumstances where this form of leave normally applies are where the employee is one of the following:

- A Magistrate (also sometimes called 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 a school council or board in Scotland
- a member of the General Teaching Councils for England and Wales
- a member of the Environment Agency or the Scottish Environment Protection agency
- in England and Wales, a member of the prison independent monitoring boards or in Scotland, a member of the prison visiting committees
- a member of Scottish Water or a Water Customer Consultation Panel

#### Notification

Employees should provide written notification to their line manager of any dates on which they wish to take time off work for public duties, stating the expected length of time of absence. This notification should be received as far in advance as possible.

#### Trust's right to refuse further time off

Where the amount of time taken to perform public duties is unreasonable, i.e. it becomes excessive, or begins to cause operational difficulties, the Trust reserves the right to refuse the employee further time off in respect of these duties in the immediate future.

Whether your time off is classed as reasonable will depend on:

- what your duties are;
- the time you need to carry them out;
- the operational difficulties your absence causes to your division;
- how much time off you have already had for public duties or trade union duties.

#### Pay

Time off for public duties will normally be unpaid. However, at the discretion of the manager, an employee may continue to be paid at their normal rate of pay during periods

of time off for public duties. This is subject to the deduction of the equivalent of any monies received from the relevant authority in respect of the duties performed, which the employee must declare. Alternatively, the employee may be permitted to take time out of their annual leave entitlement for this purpose.

Unpaid leave should be notified to Pay and Employee Services via a copy of the 'Application for Leave in Special Circumstances' form (available at Appendix C).

**Unpaid leave is not counted as pensionable service and may affect superannuation entitlement. Please contact Pay and Employee Services for advice.**

#### Annual Leave

Annual leave accrues as normal during periods of time off for public duties.

## **7.4 Unpaid Leave**

### **7.4.1 Applying For Unpaid Leave**

If an employee wishes to take unpaid leave, they should apply to their manager. Granting unpaid leave is at the discretion of the manager, and is subject to operational requirements.

Employees should put the request for extended unpaid leave in writing to their line manager, giving as much notice as possible. The manager should confirm the outcome in writing and if successful, the manager should notify Pay and Employee Services of the period of unpaid leave using the ESR12 e-form.

If the request is rejected a right of appeal may be lodged to the manager's line manager.

In some circumstances, unpaid leave may not be the most appropriate arrangement for the employee, and in such a case alternative and more appropriate arrangements may be agreed between the line manager and the employee.

### **7.4.2 Extended Unpaid Leave**

An extended period of unpaid leave is where an employee may request to take a break from work for between one and three months without pay. Reasons may include childcare issues, caring responsibilities, study leave. During an agreed period of extended unpaid leave, annual leave, bank holidays and pension contributions do not accrue.

If the period of unpaid leave requested is greater than 3 months, the employee should apply for time off using the Career Break Policy (available on the intranet). Human Resources should be notified where such leave is granted, to assist with the completion of necessary forms and administrative procedures.

### **7.4.3 Conditions Of Service During Unpaid Leave**

The period of unpaid leave will count as continuous service.

For annual leave accrual during unpaid leave, see Section 7.1.13.

As the period of unpaid leave is used in calculations of continuous service, an employee may return to increased annual leave entitlement according to length of service.

Incremental salary progression will continue during a period of unpaid leave.

**Unpaid leave is not counted as pensionable service and may affect superannuation entitlement. Please contact Pay and Employee Services for advice.**

An employee must notify and seek the consent of the Trust if they intend to take any paid employment during a period of unpaid leave, in order to avoid any conflict of interest. Such consent must not be unreasonably withheld.

Employees who take unpaid leave will be entitled to return to the same position under the same terms and conditions except in the situation that their post is made redundant whilst they are on leave. In this case, they will be offered suitable alternative work if this is available.

The new role that they are offered must be both suitable and appropriate for them to do in the circumstances taking into account the capacity and the place in which they were formerly employed, and the terms and conditions of employment must be no less favourable than those of their previous role.

## **7.5 Notifiable Infectious Disease**

### Contact

Following contact with an infectious disease (please refer to the Trust's Infection Control Policy), staff and their managers should promptly seek advice from the Occupational Health service.

### Recording absence

Where an employee is excluded from work due to restrictions placed on them following contact with an infectious disease (as detailed in the Infection Control Policy), their absence will be recorded as sickness absence. However, managers should take advice from a member of the Human Resources team before any formal management action is taken in relation to sickness absence triggers where some of the absence is as a result of a notifiable infectious disease.

### Restriction placed on attending work

Staff who have had diarrhoea or suspected symptoms of Norovirus, and have been restricted from attending work for a further 48 hours after symptoms have subsided, will have their actual absence recorded as sickness absence and be included within their overall sickness absence record for the purposes of absence management.

Any period of enforced absence, however, will be recorded as paid leave under this Policy.

## **7.6 Unauthorised Absence**

All Trust employees should be aware that where absence occurs that is not suitably notified to, or agreed with, the relevant manager, this may be classified as unauthorised absence, and will result in pay being withheld for that period of time and may also result in disciplinary action.

Please refer to the Promoting Attendance and Managing Sickness Absence Policy for information on the requirements for notification and certification in relation to sickness absence. If GP fit notes are not provided in a timely manner, this may result in absence being classed as unauthorised, which can result in pay being withheld. It could also potentially lead to disciplinary action.

To avoid absence being classified as unauthorised:

- Where planned time off work is taken for one of the reasons outlined above, this must be discussed and the relevant leave provisions should be agreed with the line manager;
- Where unexpected events or domestic crises have occurred, these must be notified to the manager at the earliest opportunity and the relevant leave provisions should then be discussed and agreed with the line manager as soon as is reasonably practicable.
- Sickness absence certification should be provided in a timely manner.

## **8. Development, Consultation And Approval**

This version of the Leave Policy takes into account minor changes to the content of the policy including updated names for Pay and Employee Services, references to online documents, final changes to provisions with regard to bereavement in line with UK legislation, and version/date/reference updates.

The policy was sent to staff side for comment on 12th May 2020 and proposed amendments discussed with HR colleagues and other relevant parties from February to May 2020.



## 9. Audit, Monitoring and Review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
To be reviewed in line with relevant employment legislation changes	Review policy, review employment legislation changes	Human Resources Senior Management Team	4 yearly, or before to meet regulatory or statutory requirements.	Human Resources Senior Management Team	Human Resources Senior Management Team	Human Resources Senior Management Team

The policy review date is 31 May 2024.

## 10. Implementation Plan

Action / Task	Responsible Person	Deadline	Progress update
Accountability for HR Policies	Executive Director of HR / Acting Director of HR	N/A	N/A
New policy to be replaced on the Intranet and Trust website.	Director of Corporate Governance via the Communications Team	Within 5 working days of finalisation	July 2020
A communication will be issued to all staff via Connect.		Within 5 working days of issue	2/07/2020

## 11. Dissemination, Storage And Archiving (Version Control)

<b>Version</b>	<b>Date on website (intranet and internet)</b>	<b>Date of entry in Connect (all staff communication)</b>	<b>Any other promotion/ dissemination (include dates)</b>
1.0	April 2013	-	-
2.0	Nov 2016	-	-
3.0	July 2019	-	-
4.0	July 2020	July 2020	

This is Version 4 and is stored and available through the SHSC Intranet/Internet.

This version supersedes the previous Version 3 [July 2019].

Any copies of the previous policy held separately should be destroyed and replaced with this version.

All versions of HR policies are stored on the HR Shared Drive by the policy author and the PA to the Director of Human Resources.

Word copies of final versions of policies can be obtained from Policy Governance via the PA to the Director of Human Resources.

## 12. Training And Other Resource Implications

The Human Resources department offers training and support to managers in the implementation of Human Resources policies.

## 13. Links To Other Policies, Standards, References, Legislation (Associated Documents) And National Guidance

Working Time Regulations

Part Time Workers Regulations 2000

Employment Relations Act 1999

Equality Act 2010

NHS Terms and Conditions of Service handbook

Reserve Forces Act 1996

Reserve Forces (Safeguard of Employment) Act 1985

Regulation 13 of the Working Time Regulations 1998

Parental Bereavement (Leave and Pay Act) 2018

Employment Rights Act 1996

Leaver Guidance

Career Break Scheme

Parenting Leave Policy

Promoting Attendance and Managing Sickness Absence Policy

Infection Control Policy

Recognition Agreement

Equal Opportunities and Dignity at Work Policy

Rostering Policy

Redundancy Policy

Disciplinary Policy

Additional Annual Leave Scheme

## 14. Contact Details

<b>Job Title</b>	<b>Name</b>	<b>Phone</b>	<b>Email</b>
Executive Director of Human Resources	Dean Wilson	0114 2263960	<a href="mailto:dean.wilson@shsc.nhs.uk">dean.wilson@shsc.nhs.uk</a>
Acting Director of Human Resources	Caroline Parry	0114 2263960	<a href="mailto:caroline.parry@shsc.nhs.uk">caroline.parry@shsc.nhs.uk</a>
HR Adviser	Sharon Booth	0114 2716753	<a href="mailto:sharon.booth@shsc.nhs.uk">sharon.booth@shsc.nhs.uk</a>
Human Resources Senior Management Team	HR Helpline	0114 2263301	
Pay and Employee Services		0114 3052220	

## Equality Impact Assessment Process and Record for Written Policies

**Stage 1 – Relevance** - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? This should be considered as part of the Case of Need for new policies.

**NO** – No further action is required – please sign and date the following statement.  
**I confirm that this policy does not impact on staff, patients or the public.**

***I confirm that this policy does not impact on staff, patients or the public.***

Name/Date: Sharon Booth May 2020

**YES, Go  
to Stage 2**

**Stage 2 Policy Screening and Drafting Policy** - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

**Stage 3 – Policy Revision** - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	No	N/A	N/A
Disability	No	N/A	N/A
Gender Reassignment	No	N/A	N/A
Pregnancy and Maternity	No	N/A	N/A
Race	No	N/A	N/A

<b>Religion or Belief</b>	No	N/A	N/A
<b>Sex</b>	No	N/A	N/A
<b>Sexual Orientation</b>	No	N/A	N/A
<b>Marriage or Civil Partnership</b>	No		

Please delete as appropriate: - Policy Amended / Action Identified (see Implementation Plan) / no changes made.

Impact Assessment Completed by: Sharon Booth May 2020  
Name /Date

**LEAVE MATRIX**

<b>Type of leave</b>	<b>Paid or unpaid</b>	<b>Entitlement to accrued annual leave</b>	<b>Maximum paid days per year</b>
Carer leave	either	Yes	9 in total
Compassionate leave	either	Yes	
Bereavement leave (parent)	paid	Yes	2 weeks
Jury service/ witness summons	unpaid	Yes	N/A
Territorial army/ Reserve Forces	either	Yes	2 consecutive weeks (10 days)
Medical or Dental appointments	varies	Yes	N/A
Attending interviews	varies	Yes	N/A
Public Duties	varies	Yes	By agreement

**Application for Leave in Special Circumstances**

This form is not to be used for requesting Annual Leave, Compassionate leave or Carer leave – separate forms exist for these processes.

**\*Please ensure that Pay and Employee Services are notified of any UNPAID leave taken using form ESR14.**

**A copy of this form should be placed on the employee's personal file.**

**Part A: Employee details**

Name	
Address	
National Insurance Number	
Employee number	
Role	
Base/Department	
Number of days worked per week	
Number of hours worked per week	

**Part B: Details of type of leave requested**

I wish to apply for leave from..... to.....
Type of leave requested: Reasons for request: ..... ..... ..... .....
Employee's signature:..... Date.....

**Part C: Authorisation**

Documentary evidence supplied (if relevant): ..... ..... .....
I authorise the above named member of staff to take <b>PAID</b> leave from ..... to ..... Total number of days/hours .....
I authorise the above named member of staff to take <b>UNPAID*</b> Leave from ..... to ..... Total number of days/hours .....
Manager's signature..... Date.....

**Part D: Application Denied**

I do not authorise the leave requested because (please give reasons): ..... ..... ..... .....
Manager's signature .....