



Stafford & Surrounds Clinical Commissioning Group

SPECIAL LEAVE POLICY

Agreed at Governing Body

Date: 01 April 2015

Signature: *Anna Maria Hender*

Designation: Chair Stafford & Surrounds CCG

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SPECIAL LEAVE

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1.0 PURPOSE

- 1.1 This policy sets out the approach to the handling of balancing the demands of domestic and work responsibilities.
- 1.2 The organisation is committed to providing a fair, consistent and compassionate approach to the handling of urgent or unforeseen need in relation to domestic, personal or family issues.
- 1.3 The organisation believes that due to the nature of special leave, each application for such leave should be considered on its own merits. Application is included at Appendix 2.
- 1.4 Special leave is provided to cover emergency and unforeseen situations and also prearranged public service duties. It is possible to supplement special leave with other types of leave where appropriate.

2.0 SCOPE

- 2.1 This policy applies to all individual employees irrespective of age, sex, gender reassignment, sexual orientation, race, religion or belief, disability, marriage and civil partnership or pregnancy and maternity, provided that the matter at issue is within the control of the organisation.
- 2.2 The policy will cover the following specific areas of special leave and family/dependant orientated leave:
 - a) Adoption leave
 - b) Maternity Support Leave (Paternity Leave) and Antenatal leave
 - c) Parental Leave
 - d) Special Leave
 - e) Leave and provision for carers
 - f) Medical/Dental leave
 - g) Leave for Civic and Public Duties

3.0 ADOPTION LEAVE

3.1 Conditions

- 3.1.1 Entitlement to this leave is open to male or female employees as long as they qualify to be considered as the “primary carer” of an adopted child.
- 3.1.2 The leave should cover official meetings in the adoption process as well as time after the adoption itself.
- 3.1.3 Applicants will be required to produce documentary evidence of their arrangements to adopt a child.
- 3.1.4 It will be open to an employee subject to agreement with his/her manager to arrange for the leave to commence prior to the date of “arrival” of the adopted child.
- 3.1.5 It will also be open to an employee subject to agreement with his/her manager to supplement this leave with either annual leave or periods of unpaid leave.

3.1.6 If the same employer employs both parents the period of leave and pay may be shared. If one parent is identified as the primary carer; then s/he should be entitled to the majority of the leave with the other person being entitled to the balance.

3.1.7 Employees will be required to give an undertaking to return to the employment of the CCG for a minimum of 3 months.

3.2 Entitlement

3.2.1 Where the child is below age 18 adoption leave and pay will be in line with the maternity leave and pay provisions which are set out in Part 3 Section 15 of the Agenda for Change Terms and Conditions of Service Handbook and outlined in the CCG's Maternity Leave/Pay Guidelines

3.2.2 The figure overleaf illustrates the entitlements employees have to both leave and pay.

Maternity Leave and Pay – A Guide to Entitlements

LENGTH OF SERVICE	RETURNING (FOR MINIMUM 3 MONTHS)	NOT RETURNING	DEFERRING DECISION
12 months or more continuous NHS service	39 weeks paid leave at: <ul style="list-style-type: none"> • 8 weeks full pay • 18 weeks half pay plus SMP • 13 weeks SMP • 13 weeks unpaid leave 	39 weeks paid leave: <ul style="list-style-type: none"> • 6 weeks at 90% of full pay • 33 weeks of SMP 	<ul style="list-style-type: none"> • 39 weeks paid leave initially at SMP rate. If you choose to return you will be paid any additional OMP entitlement due. • 13 weeks unpaid leave
Less than 12 months continuous NHS service but more than 26 weeks service on 15 th week before EWC	<ul style="list-style-type: none"> • 39 weeks paid leave at the SMP rate • 13 weeks unpaid leave. 	39 weeks paid leave at the SMP rate	<ul style="list-style-type: none"> • 39 weeks paid leave at the SMP rate. • 13 weeks unpaid leave
Less than 26 weeks service	Not eligible for SMP, but is eligible for 52 weeks maternity leave.	Not eligible for SMP, but is eligible for 52 weeks maternity leave.	Not eligible for SMP, but is eligible for 52 weeks maternity leave

Please note all employees will be entitled to take Ordinary and Additional Maternity Leave, irrelevant of length of service. However, this may be unpaid if a minimum of 26 weeks service is not achieved at the 15th weeks prior to the expected week of

confinement (EWC). In this case you will be entitled to Maternity Allowance via an SMP1 form provided by Payroll.

Note First 26 weeks = Ordinary Maternity Leave (OML)
Second 26 weeks = Additional Maternity Leave (AML)

4.0 Maternity Support Leave (Paternity Leave) and Antenatal Leave

4.1 Conditions

4.1.1 Open to employees whose partner gives birth, or who adopts a child – this applies to biological and adoptive fathers, nominated carers and same sex partners.

4.1.2 If requested, employees must produce a certificate of the expected date of confinement or date of adoption to their manager.

4.2 Entitlement/ Eligibility

4.2.1 Entitlement will be 2 weeks leave with **full pay** at the time of the birth/arrival of the adopted child. This leave must be taken within 56 days of the actual date of birth of the child, or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

4.2.2 This leave is available to staff who will have or expect to have responsibility for the child's upbringing, be the biological father **or** the mother's husband or partner and have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due.

4.2.3 If not entitled to full paid leave, employees may still be entitled to Statutory Paternity Pay. The rate is the same as the standard rate of Statutory Maternity Pay determined by the Department of Work and Pensions or 90% of average weekly earnings if this is less than determined legal amount.

4.2.4 Leave would normally be taken in one block, but may be split, subject to agreement with your manager and needs of the service.

4.2.5 An employee must give their employer a completed form SC3 (Becoming a Parent) at least 28 days before they want leave to start. The Form is available from Payroll Services.

4.2.6 Complete section 2 of attached form 28 days prior to date on which you wish leave to commence.

4.2.7 As of the 1st October 2014, an expectant father or the partner of a pregnant woman will be entitled to take time off work to accompany the woman to antenatal appointments. The Government's stated aim is to achieve greater involvement of both of the child's parents from the earliest stages of pregnancy.

Employees will be entitled to unpaid leave to attend up to 2 appointments with the maximum time capped at 6.5 hours each.

The CCG is not entitled to ask for evidence of an appointment, such as a hospital appointment card, as this is the property of the expectant mother attending the appointment. However, the CCG is entitled to ask that a written “declaration” stating the date and time of the appointment and the nature of the relationship between the individual and the expectant mother or child. The employee can also be asked to confirm that the appointment has been made on the recommendation of a medical professional (such as a doctor, midwife or nurse).

There is no qualifying period for employees, however, an employee who has a “qualifying relationship” with the pregnant woman or her expectant child will be entitled to time off. An employee will qualify if he or she is the woman’s husband or civil partner, lives with the woman in an ‘enduring family relationship’ or is the expected child’s father. Relatives of the pregnant woman will not qualify. Special rules apply to individuals involved in surrogacy arrangements.

Agency workers have the same rights as employees to time off, as long as they satisfy certain criteria. Essentially, the agency worker must have worked for 12 weeks for the same hirer with no breaks between or during assignments. It is important to note that the new legislation creates a right to ‘accompany’ the pregnant woman, not a right to actually attend the appointment. The pregnant woman may always decline to be accompanied.

An employee who is unreasonably denied time off can complain to an Employment Tribunal within a three month period. If the Tribunal upholds the complaint it must make a declaration and award twice the hourly rate of pay for each of the hours the employee would have taken off if the right had been respected.

Employees are also protected from any other detriment for seeking to exercise their right to time off. For example, it would be unlawful to deny an employee a promotion or training opportunity simply because he or she had sought to take time off.

5.0 Parental Leave

5.1 Conditions

- 5.1.1 Open to employees who have nominated caring responsibility for a child under the age of 5, or 18 in cases of adoption or disabled children.
- 5.1.2 The employee should have a minimum of one year’s continuous NHS service.
- 5.1.3 During parental leave all of your contractual rights are retained, except for remuneration, and you will be able to return to the same job after it. Pension rights and contributions shall be dealt with in accordance with NHS Superannuation Regulations. Periods of parental leave will be regarded as continuous service.

5.2 Entitlement

- 5.2.1 Up to 18 weeks. The leave is unpaid.
- 5.2.2 The leave may be taken in blocks of one week or more at any one time (except if the child is disabled in which case leave may be taken in days). Periods of leave of less than one week, will be aggregated together, and deducted from the total leave entitlement. This may be added to periods of maternity or paternity leave.
- 5.2.3 This entitlement is in addition to the Maternity Support / Paternity Leave entitlement.
- 5.2.4 Complete section 3 of attached form and submit to your manager 28 days prior to date you wish leave to commence.

6.0 Special Leave for Domestic, Personal or Family Reasons

The purpose of this leave is to allow time off with pay to cover a wide range of situations, many of which might be categorised as “urgent domestic distress”.

These situations may include the serious illness of a child, spouse, partner or elderly dependent relative, the sudden breakdown of normal carer arrangements, the making of arrangements for the longer term to cope with the problem. These situations will also include time off for employees to make necessary arrangements at the time of the death of close relatives.

It should be recognised that in any of these situations such leave is for immediate, short-term, “one-off” situations. It will be for managers to ensure that situations which are recurring or on-going are dealt with by alternative strategies, such as adjustments (temporary or permanent) to hours, periods of unpaid leave, annual leave or an extension of special leave.

6.1 Conditions

- 6.1.1 Open to all employees irrespective of length of service.
- 6.1.2 Employees will be required to complete the relevant form outlining the broad circumstances of the application for leave.

6.2 Entitlement

- 6.2.1 Normally it is anticipated that a period of up to 5 days leave should be sufficient to meet the needs of most situations which will arise under this category.
- 6.2.2 Subject to the discretion of the manager, further periods of unpaid leave or annual leave may be used to supplement the above leave.

7.0 **Shared Parental Leave**

For parents of children born or matched for adoption on or after the 5th April 2015 they will be able to choose how they share the care of their child during the first year after birth. Mothers will still take at least the initial two week following the birth, following that they can choose to end the maternity leave and the parents can opt to share the remaining leave as flexible parental leave.

Parents, wanting to apply for shared leave need to give 8 weeks' notice of intention, and fill out a form available from HR or their line manager. To be eligible to apply for shared leave the expectant pregnant woman needs to have a minimum proportion of shared paid leave. If an employee wishes to apply for shared leave they should inform their line manager, who will then seek HR guidance.

8.0 **Leave and Provisions for Carers**

It is recognised that many employees will have responsibilities as carers for dependant relative or partner. (The Agenda for Change Terms and Conditions Handbook defines a "dependant", as someone who is an employee's parent, wife, husband, partner, child, or is someone who relies on the employee in a particular emergency.)

It is recognised that situations may develop where this responsibility results in the need for the employee to have leave or to change their working arrangements to enable them to fulfil their carer responsibilities. It is further recognised that these needs may be short, medium or long term in their nature.

The following identifies the range of provisions which managers and employees may consider to meet these needs.

8.1 **Carer Leave**

8.1.1 Employees with primary carer responsibilities for a dependant relative or partner shall be entitled to Carer Leave, which matches the leave provided for employees with the nominated responsibility for the care of children under Parental Leave provisions.

8.1.2 As such this leave will be open to all employees who are the primary carer and undertake the primary responsibilities for a dependant relative or partner.

8.1.3 The employee should have a minimum of one year's continuous CCG or NHS service.

8.1.4 During carer leave all of contractual rights are retained, except for remuneration, and the employee will be able to return to the same job after it. Pension rights and contributions shall be dealt with in accordance with NHS Superannuation Regulations. Periods of carer leave will be regarded as continuous service.

8.1.5 The entitlement will be :

- Up to 18 weeks
- The leave is unpaid
- The leave may be taken in blocks of one week or more at any one time. Periods of leave of less than one week, will be aggregated together, and deducted from the total leave entitlement.

- Complete section 5 of attached form and submit to your manager 28 days prior to date you wish leave to commence.

8.2 Other Provisions for those with Carer Responsibility Needs:

In addition managers and employees may wish to consider the following provisions to enable the employee to meet their short - or long term carer responsibilities needs: -

8.2.1 Special Leave for Domestic, Personal or Family Reasons

- This leave is to cover immediate and short term needs. It covers situations of “urgent domestic distress”, which can include the serious illness of a child, spouse, partner or elderly dependent relative, the sudden breakdown of normal carer arrangements, the making of arrangements for the longer term to cope with the problem. The leave is paid and is for periods of up to 5 days.

9.0 Leave for Medical/Dental Appointments

9.1 Ante Natal Appointments

- 9.1.1 It should be noted that pregnant employees are entitled, in accordance with the Maternity Leave Policy, to time off **with pay** for the purposes of attending appointments for ante-natal care, where these arise during working hours. These can be a doctor’s appointment, or relaxation or parent craft classes.
- 9.1.2 The employee should produce, on request, an appointment card or some other document showing the appointment has been made, and should give her manager as much notice as possible to ensure that alternative staffing arrangements can be made, if necessary. Managers should also be flexible to the needs of employees to take time off to attend ante natal appointments with their partners.

9.2 Scheduled Hospital/Clinic Appointments

- 9.2.1 It is expected that employees who are required as part of the treatment or care they are receiving - (which arises from a referral by, or which is confirmed as clinically necessary and appropriate by, the employee’s GP) - to attend for a hospital or clinic appointment will seek to arrange such appointments either during their own time or alternatively at a time which minimises the effect on the service.
- 9.2.2 Where employees are required to attend such appointments during working hours’ time off with pay will normally be granted. A manager may however refuse a request to attend such an appointment at a specific time where such attendance would give rise to an unacceptable disruption to the service.
- 9.2.3 Such appointments will include programmed and one-off screening and health checks. The attendance of employees for such appointments is encouraged as the CCG recognise the value of screening. Again employees are encouraged where possible to arrange such appointments outside working hours, if this is not possible, then time off with pay will be granted.

9.3 Routine Dental Checks

It is expected that employees should seek to make arrangements to attend for their 6 monthly routine dental checks in their own time. Where this is not possible, they should be arranged for a time which minimises the disruption to the service, and time off with pay will be granted for the purpose of attending such appointments.

9.4 GP and other Medical/Dental/Ophthalmic Appointments

It is expected that employees who need to attend for GP or other Medical/Ophthalmic appointments will to arrange such appointments either during their own time or alternatively at a time which minimises the effect on the service. Where employees do attend such appointments during working hours' time off with pay will normally be granted. If the frequency or the number of attendances for such attendances is such that gives rises to an on-going adverse effect on the provision of the service the manager shall discuss arrangements for attendance for these appointments with the employee.

9.5 Blood Donation

Time off with pay will be granted to employees who are blood donors to attend Blood Transfusion Service blood-donation sessions, providing that the employees produce satisfactory proof of the appointment (e.g. invitation card) to their manager. Employees will also be expected to inform their manager of the expected time of the appointment, the likely length of the appointment and the expected time of return. Employees should also discuss their absence with their manager, giving sufficient notice to allow alternative staffing arrangements to be made where necessary.

10.0 Special Leave - Essential civic and public duties

- 10.1** In addition employees will be entitled to statutory reasonable time off work under the provisions of the Employment Rights Act 1996 for the purposes of undertaking essential civic and public duties. Employees will be entitled to paid time off to undertake such duties.
- 10.2** Employees should discuss their absence with their manager, giving as much notice as reasonably possible, to enable cover/appropriate alternative staffing arrangements to be made where necessary. Written requests for such leave should be accompanied by relevant supporting documentation.
- 10.3** Employees considering appointment as a justice of the peace, or to a relevant public body, under the heading of 'Public Duties', should discuss with their manager, in confidence, the potential requirements for time off and the practicalities of taking such time off from their work with the Trust. See Appendix 3 for advice on the calculation.

Recording Special Leave

Managers should monitor and record the taking of Special Leave in the same way as they do annual leave.

Appendix 1

Special Leave for 'essential civic and public duties'

SPECIAL LEAVE

1. Employing organisations shall make available special leave with pay to staff required to be absent from duty for essential civic and public duties of the kinds listed in Section 29 of the Employment Protection (Consolidation) Act 1978 and as required by other legislation. In determining the maximum amount of such paid leave employing authorities shall have regard to existing practice as informed by Section 29(4) of the Employment Protection (Consolidation) Act 1978. Examples of the duties listed in Section 29 of the Employment Protection (Consolidation) Act 1978 are attached in an Annex to this agreement.

2. In addition to those provision, special leave with pay shall be made available in the following circumstances:

- absence from duty following contact or infection with a case of notifiable disease;
- attendance at court as a witness;
- attendance at court as a juror
- training with the reserve and cadet forces;
- attendance as a witness at appeal hearings;
- attendance at meetings of community health councils or, in Scotland, local health councils;

3. Special leave for any other circumstance may be granted (with or without pay) at the discretion of the employing authority.

Procedures

4. Each organisation should provide clear guidelines in consultation with staff and local staff representatives on the length of special leave which would normally be available, whether it should be paid or unpaid and on the procedures for applying for such leave. The application of these guidelines will have to take account of the particular needs and circumstances of each individual.

Annex to Appendix 1:

Examples of the public duties for which special paid leave shall be given, under the terms of Section 29 of the Employment Protection (Consolidation) Act 1978 (as amended):

A: serving as a justice of the peace; (see guidance at Appendix 3)

B: membership of local authority;

C: membership of the Boards Authority;

D: membership of any statutory tribunal;

E: membership of a board of Prison Visitors (England & Wales or a prison visiting committee (Scotland));

F: membership of a National Health Service Trust, a Regional or, District Health Authority, or Family Health Services Authority or (in Scotland) a Health Board;

G: membership of, in England and Wales, the managing or governing body of an educational establishment maintained by a local education authority or, in Scotland, a school or college council or the governing body of a designated or central institution;

H: membership of the governing body of a grant-maintained school, further or higher education corporation or of a school board or board of management of a college of further education or self-governing school;

I: membership of, in England and Wales, the National Rivers Authority or, in Scotland, a river purification board.

For further details please see the text of the Acts.

APPLICATION FOR ADOPTION LEAVE

PATERNITY LEAVE, SPECIAL LEAVE

OR PARENTAL LEAVE

Notes: With the exception of applications for domestic, personal or family reasons (Section 4 below) applications for leave should be made by completion and submission of this form to your manager at least 28 days prior to the week in which the leave will commence, wherever possible.

Organisation: _____

Date: _____

Name: _____

Address: _____

Location/Base: _____

Post: _____

Contracted hours per week: _____

Date on which continuous NHS employment began: _____

Name of Previous Employing Authority: _____

(If Appropriate)

1 Adoption Leave

I intend to commence my adoption leave on: _____

I intend to return to duty on: _____

I confirm that I have made arrangements to adopt a child through a recognised adoption agency and attach relevant documentation/correspondence confirming these arrangements.

I declare that I will continue my employment for a minimum period of three months after the expiry of adoption leave. In the event of failure to return to duty, I will refund the amount paid or such part of it as may be determined by the CCG subject to my entitlement under the Employment Protection Act.

2 Partner/Paternity Leave

I confirm that I wish to apply for partner/paternity leave for the purpose of providing support and assistance to my partner in relation to the birth/adoption of a child.

I confirm that the expected date of confinement is: _____

The proposed dates of my partner/paternity leave are: _____

(Maximum 10 days paid leave)

In addition to completing this proforma, you must contact payroll IMMEDIATELY and request form SC3. To ensure that you receive full pay during your maternity Support/paternity leave you must complete form SC3 and return it to you line manager, who should forward it to payroll attached to the nominal roll. Failure to do so will result in non-payment of the statutory element of paternity pay.

3 Parental Leave

I confirm that I wish to apply for parental leave in respect of my child

_____ who was born on _____

I would wish to take the following periods of unpaid parental leave:

From : _____ To : _____

From : _____ To : _____

From : _____ To : _____

(Continue on separate sheet if necessary)

4 Leave for Special Domestic, Personal Or Family Reasons

I wish to apply for special compassionate leave from:

_____ To: _____ (Maximum 5 days paid leave) for the

purpose of _____

6 Carer Leave

I confirm that I wish to apply for carer leave in respect of my dependent

I would wish to take the following periods of unpaid carer leave:

From: _____ To : _____

From: _____ To : _____

From: _____ To : _____

(Continue on separate sheet if necessary)

7 Special Leave for Essential Civic or Public Duties

I wish to apply for special leave do undertake essential civic/public duties, from:

_____ to: _____

for the purpose of undertaking duties as : _____

Signed: _____

Date: _____

**On completion this form should be submitted to your
Manager/Head of Service for approval**

FOR COMPLETION BY MANAGER

I acknowledge receipt of the above application for paid/unpaid leave and confirm that this application for leave is approved.

Signed: _____

Date: _____

Appendix 3

Guidance on entitlements for time off as Justice of the Peace

Employees will be entitled to paid time off to undertake such duties on the basis of the following calculation:

That any member of staff who undertakes these duties is given an allocation per year in hours equal to 26 half days* (26 x 3hrs 45 minutes = 97.5 hours per year) but this will be pro-rata for part time workers:

i.e. member of staff working 18.5 hours per week = 0.49 (whole time equivalent, wte) therefore the entitlement would be $97.5 \times 0.49 = 47.75$ hours per year)

member of staff working 30 hours per week = 0.80 wte therefore the entitlement would be $97.5 \times 0.8 = 78$ hours per year)

* This is the minimum required of anyone applying to be a Justice of the Peace. In exceptional circumstances staff may request that this allowance is reviewed in the light of the requirements of their particular role as a JP.

Employees should discuss their absence with their manager, giving as much notice as reasonably possible, to enable cover/appropriate alternative staffing arrangements to be made where necessary. Written requests for such leave should be accompanied by relevant supporting documentation.

Employees considering appointment as a justice of the peace, or to a relevant public body, under the heading of 'Public Duties', should discuss with their manager, in confidence, the potential requirements for time off and the practicalities of taking such time off from their work with the Trust.

Employees who are considering appointment, or applying for appointment, as a magistrate, should discuss the potential commitment and implications with their line manager prior to making any final commitment to take on such a role.

Appendix 4 - Equality analysis initial assessment

Title of the change proposal or policy:

Special Leave

Brief description of the proposal:

To ensure that the policy meets the needs of a small employer, is legally compliant, complies with Agenda for Change and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:

Simon Morris, HR Business Partner, Staffordshire and Lancashire CSU

Date of assessment: 29th May 2013

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes, it will affect all CCG employees

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

From an assessment of this policy and consideration of employees with protected characteristics under the Equality Act 2010 there is no anticipated detrimental impact on any equality group. The policy makes all reasonable provision to ensure equity of access for all staff. There are no statements or conditions within this policy or requirements of this policy that disadvantage any particular group of people with a protected characteristic.