Special Leave Policy

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<td>Staff Governance Committee</td>
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### CONSULTATION AND DISTRIBUTION RECORD

<table>
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### CHANGE RECORD

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<td>Geraldine Reilly</td>
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<tr>
<td>April `19</td>
<td>Head of HR – Policy &amp; Governance</td>
<td>Change of review date</td>
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1. **INTRODUCTION**

NHS Lanarkshire recognises that many staff balance the demands of work requirements with domestic responsibilities. While each member of staff is responsible for ensuring that they have appropriate care mechanisms in place to meet their personal responsibilities, NHS Lanarkshire endeavours to assist in circumstances where these arrangements have unavoidably broken down, or where additional pressures, outwith the norm, arise and for which time off work may be required. All requests from staff must be dealt with on a strictly confidential basis and no undue pressure will be exerted on staff to divulge details which might breach their personal privacy.

2. **AIM, PURPOSE AND OUTCOMES**

The purpose of this policy is to allow for an appropriate response to:

(a) the sudden and immediate need for a member of staff to provide care to a family member or dependent
(b) a family member or dependent of the employee suffering ill health;
(c) a family member or dependent of the employee suffering a bereavement;
(d) civic and public duties.

This could be where the normal arrangements break down without notice, or where an urgent and unforeseen situation arises.

Examples of this include:

- a family member or dependent of the employee falling ill, being involved in an accident, or being assaulted;
- the need to make longer term care arrangements for a family member or dependent who is ill or injured;
- dealing with the death of a family member or dependent e.g. making funeral arrangements, or attending a funeral;
- dealing with an unexpected disruption or breakdown in care arrangements for a family member or dependent e.g. when a childminder or nurse fails to turn up; or
- dealing with an incident involving the employee’s child during school hours e.g. if the child has been involved in a fight, or is being suspended from school.

NHS Lanarkshire recognises that the needs of staff that care for a family member or dependent who is elderly, disabled or suffers ill health are particularly important. It is recognised that people working in healthcare are often expected to do more than other family members when it comes to caring for a relative.

The provisions of this policy are applicable to all staff, irrespective of length of service, hours of work or grade and no employee will suffer any detriment as a result of making an application for time off under these provisions.

As always, the extent and duration of such leave must be balanced by service needs, accepting the urgent and unforeseen nature of requests, particularly in the early stages.
Special Leave Policy

3. **SCOPE**

The policy applies to all staff irrespective of age, sex, disability, ethnicity/race, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment.

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at www.nhslanarkshire.scot.nhs.uk or ask a member of staff for a copy of our Data Protection Notice.

3.1 **Who are the Stakeholders**

All directly employed staff of NHS Lanarkshire.

4. **PRINCIPAL CONTENT**

**Legal Framework**

(i) **The Employment Relations Act, 1999**

All employees are provided with the right to take a reasonable period of unpaid time off work to deal with an emergency involving a dependant and not to be dismissed, or victimised, for doing so. For these purposes, a dependant is defined as someone who lives in the same home as the member of staff and who is a spouse, partner, child, parent, grandparent, or other relative or person living in the same house, with whom the member of staff has a similar relationship. This legislation does not provide a set amount of time off which can be taken but it is widely regarded that, in most cases, the amount of leave will be limited to one or two days at the most.

(ii) **The Employment Act, 2002**

Parents of children aged under 6 and of disabled children aged under 18, are provided with the right to apply to work flexibly and their employers have a duty to consider requests seriously. This legislative right does not apply in the case of any other category of dependant.

**Time Off**

The provisions for time off are as follows:

(i) **Serious illness/Bereavement Leave**

Up to one working week’s paid leave in the event of the serious illness, acute need or death of a family member or dependent. This can be extended by up to a further working week and it will be at the discretion of the manager whether this is paid or unpaid.

(ii) **Domestic Emergencies**

Up to one working week can be allocated as paid leave to deal with urgent and predominately unforeseen circumstances to which sick leave, annual leave, or any other form of specified leave is not applicable. This can be extended by up to a working further
Special Leave Policy

A week and it will be at the discretion of the manager, taking into account the circumstances of the specific case, whether this is paid or unpaid.

(iii) **Carer Leave – Short & Long Term**
This provision is primarily for those who are required to provide care for a dependant.

- **Short Term Carer Leave** allows for up to one working week’s paid leave, which can be extended by up to a further working week of paid or unpaid leave, to deal with urgent unforeseen care needs. Thereafter and depending on the specific circumstances, a manager may agree a period of annual leave, or unpaid leave.

- **Long Term Carer Leave** allows for the possibility of altering contractual work patterns to enable the employee’s family life and work requirements to be balanced for an appropriate period.

**Note:** The references above to a “working week” mean the number of hours that an individual member of staff is contracted to work. For example, the working week of a member of staff contracted to work 37½ hours per week, is 37½ hours, while the working week for a member of staff contracted to work 20 hours per week, is 20 hours.

**Serious Illness/Bereavement Leave**

**Definition**
To provide reasonable support to members of staff at times of distress due to the unforeseen serious illness or the death of a family member or dependent.

**Entitlement**
Managers have the discretion to award paid leave of up to one working week in each occurrence of serious difficulty. In particularly distressing circumstances, the manager, in discussion with an appropriate member of the HR team, may extend this by up to a further week of paid or unpaid leave.

**Duration Criteria**
In considering the amount of leave, the manager should take into account the specific circumstances e.g. the relationship between the member of staff and the person in question, whether the member of staff has a responsibility for the estate of the deceased, the availability of other relatives or friends and the distance to be travelled in dealing with such matters.

**Consistency**
Managers should aim to be fair, consistent and sympathetic in applying this policy.

**Notification**
Members of staff must make their manager aware of the potential need for leave at the earliest opportunity and should keep in regular contact throughout that period.

**Record Keeping**
Special Leave Policy

Leave should be recorded on the appropriate record card for future reference and to enable monitoring of its fair application throughout NHS Lanarkshire. It must also be notified to Payroll Department to ensure appropriate payment and recording.

Domestic Emergencies

**Definition**
Leave under this heading can be defined as arrangements granted when members of staff need to be absent from work under circumstances not covered by sick leave, annual leave, bereavement leave, maternity leave, paternity leave, parental leave, adoption and fostering leave, or flexible working arrangements.

This leave is provided as a short-term solution to help members of staff to balance the demands of their work and home responsibilities.

**Entitlement**
- Up to one working week can be allocated as paid leave by the manager, taking into consideration the amount of the time reasonably required to attend to the situation which has arisen.
- In cases of exceptional difficulty, the manager can extend this period for up to a further working week and, in discussion with an appropriate member of the HR team, has the discretion to determine whether this should be on a paid or unpaid basis. It may, however, be considered appropriate for the member of staff to utilise annual leave under circumstances where the situation, while still important, has ceased to be an emergency.
- In exceptional circumstances, a member of staff may be faced with long-term difficulties and the manager, in discussion with an appropriate member of the HR team, should consider other options to assist in the situation. This may include a reduction in hours, an alteration to the employee's shift pattern, a move to another post etc.
- There should be no requirement for the approved number of days to be taken in one block.

**Notification**
Members of staff must make their manager aware of their potential need for leave at the earliest opportunity and should keep in regular contact throughout this period.

**Record Keeping**
Leave must be recorded in the appropriate record card for future reference and to enable monitoring of its fair application throughout NHS Lanarkshire. It must also be notified to Payroll Department to ensure appropriate payment and recording.

Carer Leave

**Definition**
Where members of staff are responsible for caring for a family member or dependent, work and home life can cause conflicting pressures. Carer leave is designed to encourage managers to adopt flexible working practices at times when employees need assistance to balance their caring responsibilities with their work commitments.
As described in 4 (iii), short-term Carer Leave allows for up to one working week’s paid leave, which can be extended by up to a further working week of paid or unpaid leave, to deal with urgent unforeseen care needs. Thereafter and depending on the specific circumstances, a manager may agree a period of annual leave, or unpaid leave.

Local arrangements
The needs of staff who care for family members or dependants can often be very simple e.g. knowing that they will be able to leave work on time each day, or being able to make a telephone call home during the day to check that all is well. Alternatively, a variation in the working pattern, such as altered shifts, or earlier/later starting and stopping times, may provide an adequate solution.

Needs such as these may be relatively easy to satisfy and it is expected that the individual’s manager will provide sympathetic support and strive to reach a mutually acceptable solution to the employee’s requirements.

Short periods of time off
There may be circumstances when an employee needs a short period of time off e.g. to deal with an emergency situation etc. In these circumstances, one of the arrangements shown in Section 4 can be utilised to allow the employee time off.

Long-term arrangements
There may, however, be times when the caring demands on the employee are such that s/he is forced to consider more extreme measures, such as a long term reduction in working hours, in order to meet their caring commitments.

While each case must be judged on its individual merits, NHS Lanarkshire is committed to ensuring that where the reason for an employee requesting a reduction in contracted hours is for the provision of care, his/her case will be considered sympathetically and will not be unreasonably denied.

Employees with caring responsibilities, who recognise the need to alter their contracted working hours on a long term basis, should discuss the matter with their manager in the first instance. It may be considered appropriate for a member of the HR team to be involved in these discussions.

Where the manager feels unable, because of the needs of the service, to agree to the employee’s request, the employee should contact an appropriate member of the HR team order to investigate other alternatives e.g. secondment, redeployment etc. Under circumstances where it is agreed that redeployment is an option, the employee concerned will be entitled to the full range of provisions available under NHS Lanarkshire’s Redeployment Policy.

Other assistance
Employees with caring responsibilities are encouraged to take advantage of other facilities which already exist within NHS Lanarkshire and which may provide them with support or access to coping mechanisms e.g. stress management initiatives, the Occupational Health Service or Employee Counselling Service.
Other types of Special Leave

**Definition**
Other types of special leave include paid special leave for staff to perform ‘essential civic and public duties’.

The legislation requirement for this is contained within the Employment Rights Act, 1996 and covers a wide range of circumstances, a number of which are given below as examples:

- Justice of the Peace
- Attendance at court as a witness
- Members of a variety of public bodies including Children’s Panels
- Jury Service
- Training with Volunteer Rescue Forces

This list is illustrative, not exhaustive.

**Entitlement**
Up to one working week per year can be allocated as paid leave by the manager taking into consideration the amount of time reasonably required to devote to the issue.

In exceptional circumstances the manager can extend this period for up to a further working week and in discussion with an appropriate member of the HR team, has the discretion to determine whether this should be on a paid or unpaid basis. It may however be considered appropriate for the member of staff to utilise annual or unpaid leave.

NHSScotland is pleased to support employees who are members of, or wish to join, the Volunteer Reserve Forces. The training undertaken by Reservists enables them to develop skills and abilities that can be of benefit not just to the armed forces, but also to the NHS patients they serve. The NHSScotland Reserve Forces Training & Mobilisation Policy has been developed, in line with legislation, to enable NHSScotland and its employees to get the maximum benefit from time spent in the Reserve Forces.

http://www.sehd.scot.nhs.uk/mels/CEL2009_42.pdf

**Notification**
Members of staff must make their managers aware of the potential need for leave at the earliest opportunity and, where appropriate should keep in regular contact throughout the period.

**Record Keeping**
Leave should be recorded on the appropriate record card for future reference and to enable monitoring of its fair application throughout NHS Lanarkshire. It must also be notified to Payroll to ensure appropriate payment and recording.

**Resolution of Disputes**
Special Leave Policy

No request for leave under this policy will be unreasonably withheld. Should a disagreement arise, the individual has the right to raise a formal grievance. It may be preferable in such circumstances, however, for the manager to seek advice on resolving the matter from an appropriate member of the HR team and a Staff Side Representative.

5. ROLES AND RESPONSIBILITIES

Employees must
- Ensure they are familiar with the policy and procedures
- Comply with the policy
- Attend training as necessary

Managers must
- Ensure they communicate with staff about the policy
- Consistently implement the policy at their local level
- Keep accurate records

Staff Side Representatives must
- Support the principles and procedures in the policy
- Act in accordance with NHS Lanarkshire’s Partnership Agreement
- Undertake training as appropriate

Human Resources Staff must
- Provide awareness training as appropriate
- Provide expert advice and support on the application of the policy
- Monitor and review the policy

6. RESOURCE IMPLICATIONS

Significant resources are required where special leave is backfilled

7. COMMUNICATION PLAN

This policy will be launched using the weekly staff briefing and it will be available on Firstport.

This policy will also be discussed at the appropriate management team meetings and local partnership fora.

8. QUALITY IMPROVEMENT – Monitoring and Review

This policy will be reviewed every 3 years by the Joint Policy Forum

9. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

This policy meets NHS Lanarkshire’s EDIA

10. SUMMARY
Special Leave Policy
This policy provides advice and guidance in relation to the circumstances in which special leave can be granted and the expectations of the parties involved.

11. REFERENCES

The Employment Relations Act, 1999
The Employment Act, 2002
Work Life Balance
General Data Protection Regulations 2018