

All Wales

Velindre University NHS Trust

Special Leave Policy

GIG CYMRU NHS WALES

Sections

01

Special Leave Policy

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Appendix A: Application for Special Leave

01

Special Leave Policy

Approved by: Welsh Partnership Forum

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01 Special Leave Policy

1. Policy Statement

The Core Principles of NHS Wales are:

- **We put patients and users of our services first:** We work with the public and patients/service users through co-production, doing only what is needed, no more, no less and trying to avoid harm. We are honest, open, empathetic and compassionate. We ensure quality and safety above all else by providing the best care at all times.
- **We seek to improve our care:** We care for those with the greatest health need first, making the most effective use of all skills and resources and constantly seeking to fit the care and services we provide to users' needs. We integrate improvement into everyday working, by being open to change in all that we do, which also reduces harm and waste.
- **We focus on wellbeing and prevention:** We strive to improve health and remove inequities by working together with the people of Wales so as to ensure their wellbeing now and in future years and generations.
- **We reflect on our experiences and learn:** We invest in our learning and development. We make decisions that benefit patients and users of our services by appropriate use of the tools, systems and environments which enable us to work competently, safely and effectively. We actively innovate, adapt and reduce inappropriate variation whilst being mindful of the appropriate evidence base to guide us.
- **We work in partnership and as a team:** We work with individuals including patients, colleagues, and other organisations; taking pride in all that we do, valuing and respecting each other, being honest and open and listening to the contribution of others. We aim to resolve disagreements effectively and promptly and we have a zero tolerance of bullying or victimization of any patient, service user or member of staff.
- **We value all who work for the NHS:** We support all our colleagues in doing the jobs they have agreed to do. We will regularly ask about what they need to do their work better and seek to provide the facilities they need to excel in the care they give. We will listen to our colleagues and act on their feedback and concerns.

They have been developed to help and support staff working in NHS Wales.

NHS Wales is about people, working with people, to care for people. These Core Principles describe how we can work together to make sure that what we do and how we do it is underpinned by a strong common sense of purpose which we all share and understand.

The NHS is continually under pressure to deliver more services, with better outcomes and maintain and increase quality against the backdrop of significant financial challenge, high levels of public expectation and with a population which is getting older and with increased levels of chronic conditions.

These principles have been developed to help address some of the pressures felt by staff in responding to these demands. They will re-balance the way we work together so we are less reliant on process and are supported to do the right thing by being guided by these principles when applying policies and procedures to the workforce.

As people working within the health service, we will all use them to support us to carry out our work with continued

dedicated commitment to those using our services, during times of constant change.

The Principles are part of an ongoing commitment to strengthen the national and local values and behaviour frameworks already established across Health Boards and Trusts.

They have been developed in partnership with representatives from employers and staff side.

The Principles will be used to create a simpler and consistent approach when it comes to managing workplace employment issues.

2. Introduction

This policy sets out the approach of the **NHS Wales Shared Services Partnership** to special leave and the procedure for dealing with applications for special leave.

This policy is intended to ensure that the **NHS Wales Shared Services Partnership** complies with section 57A of the Employment Rights Act 1996, as amended by the Employment Relations Act 1999, and the Civil Partnership Act 2004. This legislation provides a right for employees to request a reasonable amount of time off work to deal with unexpected or sudden emergencies and to make any necessary long-term arrangements; section 50 of the Employment Rights Act 1996, ensures that employees are allowed reasonable time off work to perform certain public duties.

In line with the Equality Act 2010, the **NHS Wales Shared Services Partnership** is committed to implementing the policy in a way which promotes the fair and equal treatment of all employees and eliminates discrimination on the grounds of race, disability, gender, gender reassignment, marriage and civil partnership, age, sexual orientation, religion or belief, language and human rights. It is the responsibility of managers and employees to ensure that they implement this policy/procedure in a manner that recognises and respects the diversity of the workforce and the different needs of all employees.

NHS Wales Shared Services Partnership recognises the right of all employees subject to this policy to be treated fairly and with dignity and respect.

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

NHS Wales Shared Services Partnership attaches considerable importance to assisting employees in balancing the responsibilities of their work with their domestic and family responsibilities. It is recognised that in the majority of instances these commitments can be planned and are therefore outside of the remit of this policy.

NHS Wales Shared Services Partnership supports its employees, at times of urgent and unforeseen need, by consideration of the provision of additional leave according to circumstance.

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

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

Leave granted under this policy is not intended for long term or foreseeable domestic and family situations, which may be provided for in other ways, e.g. annual leave, unpaid leave, reduced working hours etc.
The policy will also consider the awarding of reasonable time off to staff to enable them to undertake civil and public duties requiring them to be away from the

workplace in the following circumstances:

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

(This list is not exhaustive)

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

3. Scope of Policy

This policy applies equally to all employees and aims to give clear guidelines to employees and managers when dealing with requests for paid and/or unpaid special leave.

There is no minimum service requirement to make a request for special leave.

This policy recognises that there are 2 types of special leave; unforeseen/unplanned need for personal reasons; and time off to perform public duties. Section 7 of the policy looks at the differential between the two distinct types of leave in detail.

4. Principles

Managers should interpret the policy in a flexible and caring way. Managers will wherever possible and appropriate seek to grant requests for special leave, within the scope of the policy, bearing in mind workplace demands in the case of planned leave (see section 7.2). An underlying principle of the approach of the policy is that managers should "know their employees" and be familiar with any issues that the employee may have and be aware of needs of their employees. The manager in "knowing their employee", has the ability to apply discretion in the application of the policy.

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

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

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

All special leave must be applied for and granted consistently throughout the NHS Wales Shared Services Partnership

5. Responsibilities under the policy

5.1 Line Managers

Line managers are responsible for:

- ensuring that employees are aware of the policy;
- all requests for paid and unpaid special leave are made on the relevant application form (appendix A);

• decisions about special leave requests are made on the basis of the employee's individual circumstances and are consistent with the policy;
• considering flexible working, in consultation with the employee, if there is pattern emerging of utilising leave, sickness and special leave to cover short-term issues
• monitor the usage of special leave and where refused identify what alternatives have been offered;
• retaining relevant documentation within the employee's personal file;
• ensuring notification of any period of paid or unpaid special leave to payroll, including completion of the Electronic Staff Record (ESR) on Self Service where available;
• maintaining regular contact where appropriate with individual staff members;
• offering/signposting counselling as appropriate.

5.2 Employees

Employees are responsible for:

• ensuring they are familiar with this policy;
• ensuring they have relevant and appropriate arrangements, including contingency arrangements to allow them to fulfil their contractual obligations;
• ensuring that they tell their employer as soon as possible the reason for their absence and how long they expect to be absent;
• ensuring all requests for paid and unpaid special leave are made using the relevant special leave application form (appendix A), having been discussed with their line manager.

6. Types of Leave

6.1 Definition of paid leave

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

6.2 Unpaid leave

Leave taken when an employee's time off from work is not covered by existing benefits such as sick leave, annual leave and is not remunerated.

6.3 Time off in lieu

Time that an employee who has worked additional hours (unpaid not overtime) over and above their contacted hours may take off from work with the agreement of their employer.

6.4 Annual leave

Annual leave is paid time off from work granted by employers to employees to be used for whatever reason the employee wishes (see NHS Terms and Conditions of Service – Section 13 and Terms and Conditions of Service – Specialty Doctor (Wales), Terms and Conditions – Associate Specialist (Wales) and National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service (England and Wales) Terms and Conditions of Service as amended).

6.5 Flexitime leave

Leave to be taken from time built up as part of a formal or informal flexitime arrangement.

6.6 Parental leave

Leave for eligible employees for the purpose of caring for their child (see NHS Terms and Conditions of Service Section 33 and Terms and Conditions of Service – Specialty Doctor (Wales), Terms and Conditions – Associate Specialist (Wales)

Conditions - Associate Specialist (Wales) and National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service (England and Wales) Terms and Conditions of Service as amended).

7. Different types of Special Leave

7.1 Unplanned/Times of unforeseen need

7.1.1 Emergency carers and dependant leave

An employee has a right to take a reasonable amount of time off work when it is necessary to:

(a)provide assistance when a dependant falls ill, gives birth, is injured or assaulted;
(b)make longer-term care arrangements for a dependant who is ill or injured;
(c)take action required in consequence of the death of a dependant;
(d)deal with the unexpected disruption, termination or breakdown of arrangements for the care of a dependant (such as a child-minder falling ill); and/or
(e)deal with an unexpected incident involving their child while a school or another educational establishment is responsible for them.

A **dependant** is:

(a)the employee's spouse, civil partner, parent or child;
(b)a person who lives in the same household as the employee, but who is not their tenant, lodger, boarder or employee; or
(c)anyone else who reasonably relies on the employee to provide assistance, make arrangements or take action of the kind referred to above
(see NHS Terms and Conditions of Service Section 33).

A **carer** is:
someone who provides unpaid help and support to a relative, friend or neighbour who could not manage on their own, due to chronic or life limiting illness, disability, frailty, physical impairment, mental ill health or substance misuse.

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

Usually no more than 3 days may be granted per episode, or no more than 6 days paid leave pro rata in any rolling 12-month period, as other types of leave may be taken to extend the period of absence. As an alternative or in addition to the above, "home working" may be an option in some circumstances.

7.1.2 Unexpected crisis leave

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

7.1.3 Bereavement

An employee will be allowed to take a reasonable amount of time off, for

bereavement, as follows:-

- For bereavement purposes, individual, social, cultural, religious and geographical circumstances should be considered when granting special leave. Depending on these circumstances managers are able to grant either:
  - Special leave for the period up to and including the day after the funeral (if there are specific religious and/or cultural requirements for example in some religions/cultures individuals may be buried within 24 hours, discretion should be used when considering the amount of time required);
  - Special leave for the day of the funeral and/or the day of/after bereavement;
  - Annual leave, flexi-leave or unpaid leave for the day of the funeral.

It is recognised that grieving can go on for much longer than the initial bereavement and therefore the use of the managing attendance at work policy, annual leave, flexible working and unpaid leave should be considered.

- Death of a child, in respect of which the employee is the child's parent or for which an employee has had primary caring responsibility. Section 23 of the NHS Terms and Conditions of Service Handbook provides for two weeks paid leave. In line with the bullet point above, a significant period of time off in excess of two weeks may be required and appropriate conversations will need to be held on an ongoing basis between the employee and manager in a sensitive manner about the amount of ongoing special leave required and flexibility and support for the employee on their return to work. Section 23 also provides further detail regarding the wider provisions of support for employees in such difficult circumstances.

- The provisions equivalent to those contained in section 23 will apply to medical and dental staff.

7.1.4 Staff Experiencing Domestic Abuse

The effect of domestic abuse is wide ranging. Members of staff may need time off work to access legal or financial advice, to arrange child care or alternative accommodation and to seek medical advice. Managers should be flexible when supporting a member of staff who is experiencing domestic abuse and treat each instance sensitively and individually. Members of staff should not be expected to provide proof of their circumstances. Generally, up to 3 days may be granted for each required leave period with up to 10 days paid leave pro rata in any rolling 12-month period. Other types of leave may be taken to extend the period of absence

7.1.5 Medical Appointment

Reasonable time off for medical and dental appointments is covered in the All Wales Managing Attendance at Work Policy.

7.2 Planned Time Off

7.2.1 Time off for public duties

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

Individuals are allowed reasonable time off work for public duties (up to 18 days pro rata) if they are one of the following:

- a magistrate, sometimes known as a justice of the peace

• an elected local councillor
• a member of a police authority
• a member of any statutory tribunal (e.g. an Employment Tribunal, Fitness to practice hearings)
• a member of the managing or governing body of an educational establishment
• a member of the General Teaching Council for Wales
• a member of the Natural Resources Wales
• a member of the prison independent monitoring boards
• a member of any other applicable organisation referred to in section 50(2) of the Employment Rights Act 1996

Individuals requesting time off for public duties need to discuss these arrangements with their line manager in a timely manner, confirming the nature of the duties and the amount of time to be taken.

Any individual who has been allowed paid time off for public duties must refrain from then claiming or accepting any fee or allowance for undertaking that public duty. For the avoidance of doubt, in this context, 'fee or allowance' is not intended to cover any subsistence payment or re-imbursement of expenses incurred in the performance of the public duties.

7.2.2 Job Interviews

Requests for leave to attend job interviews within the NHS or Welsh Government's Health and Social Care Department will not be unreasonably refused. However, NHS organisations may insist that annual leave is taken to attend interviews outside of the NHS rather than special leave granted.

7.2.3 Jury Service/Court Witnesses

Individuals will initially continue to be paid by the NHS organisation for an initial period of jury service or court attendance as a witness that they are required to undertake. The individual should discuss with their line manager whether or not they will continue to be paid as normal during the entire period of jury service or court attendance as a witness, and consequently, whether they will need to make a loss of earnings claim to the Court or elsewhere.

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

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

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

7.2.4 Reserve and Cadet Forces

Refer to Reserve Forces – Training and Mobilisation Policy.

7.2.5 Fertility Treatments

It is recognised that infertility can cause considerable distress and **NHS Wales Shared Services Partnership** is supportive of employees who may decide to undertake fertility treatment. **NHS Wales Shared Services Partnership** will provide limited paid leave for this purpose, where the request is supported by documentary evidence, from the employee's GP or consultant/specialist.

As fertility treatment can be a lengthy process, managers should discuss with the employee concerned, the likely duration of their treatment, together with the number of occasions and where possible dates, when they are likely to need time off work, to attend hospital for

their fertility treatment appointments.

It should be noted that following implantation, in law the employee will be considered to be pregnant and as such should be treated as pregnant and the normal pregnancy provisions applied.

NHS Wales Shared Services Partnership will provide an employee who is to receive fertility treatment, with normally up to three days paid leave and a period of agreed unpaid special leave, in any rolling 12-month period. Each case should be treated on its own merits and alternative arrangements may also be considered, e.g. annual leave.

Where an employee experiences side effects or ill health as a result of their fertility treatment, which renders them unfit for work, such absences must be reported, certified and recorded in accordance with the sickness absence policy.

NHS Wales Shared Services Partnership will provide an employee who is the partner of someone receiving fertility treatment with support and reasonable time off.

7.2.6 Wales for Africa

Requests for leave to attend initiatives as part of the "Wales for Africa" programme will be given fair consideration where not covered in local policies.

8. Appeals

An individual who considers the NHS Wales Shared Services Partnership has failed to comply with the provisions described previously in this policy should refer to the appeal process within the NHS Wales Shared Services Partnership Grievance Policy and Procedure.

9. Training and awareness

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

10. Equality

NHS Wales Shared Services Partnership recognises and values the diversity of its workforce. Our aim is to provide a safe environment where all employees are treated fairly and equally and with dignity and respect.

NHS Wales Shared Services Partnership recognises that the promotion of equality and human rights is central to its work both as a provider of healthcare and as an employer. This policy has been impact assessed to ensure that it promotes equality and human rights.

11. Personal Data

Whenever NHS Wales Shared Services Partnership processes personal data about employees in connection with this policy, we will process it in accordance with our Data Protection Policy. We will only process employee personal data if we have a lawful basis for doing so. We will notify you of the purpose or purposes for which we use it.

12. Freedom of Information Act 2000

All NHS Organisations' records and documents, apart from certain limited exemptions, can be subject to disclosure under the Freedom of Information Act

2000. Records and documents exempt from disclosure would, under most circumstances, include those relating to identifiable individuals arising in a personnel or staff development context. Details of the application of the Freedom of Information Act within the NHS organisation may be found in the NHS Wales Shared Services Partnership publications scheme.

13. Records Management

All documents generated under this policy are official records of the NHS Wales Shared Services Partnership and will be managed and stored and utilised in accordance with the NHS Wales Shared Services Partnership Records Management Policy.

14. Monitoring

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

15. Review

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

Signed on behalf of the Staff Side:

Signed:
Name:
Title:
Date:

Signed on behalf of the Management Side:

Signed:
Name:
Title:
Date:

02

Appendix A: Application for Special Leave

2 Appendix A: Application for Special Leave

Please note that if your organisation is using ESR self-service then special leave should be recorded through this mechanism

Velindre University NHS Trust

Application for special leave

Personal Details

Full name:

Employee number:

Position:

Organisation (Department):

Work base:

Contact telephone number:

Circumstances of leave

Emergency carers & dependant leave – Section 7.1.1 of policy (please give details)

Unexpected crisis leave – Section 7.1.2 of policy (please give details)

Bereavement – Section 7.1.3 of policy (please give details)

Time off for public duties – Section 7.2.1 of policy (please give details)

Job Interviews – Section 7.2.2 of policy (please give details)

Jury service/Attendance at court as a witness – Section 7.2.3 of policy (please give details)

Fertility Treatments – Section 7.2.5 of policy (please give details)

Wales for Africa – Section 7.2.6 of policy (please give details)

Other reason (please specify)

Number of days requested

Total number of days requested:

From (date):

To (date):

Signed:

Date:

To be completed by Line Manager

Special leave granted (this episode):	**Yes**
Is the special leave paid or unpaid?:	**Paid**

Number of days granted:

Number of days granted (in last 12-month period)

From (date):

To (date):

If not granted, please give reason:

Signed:

Date:

Name:

Position:

Copy to be placed on employee's personal file. This form can be completed retrospectively as long as permission for the special leave has been granted verbally.