STAFF LEAVE POLICY
& PROCEDURE

For application to: HR041 Staff Leave Policy & Procedure
HR041a Annual Leave Guidance

Ref: HR Business Partnering 07/04/20 v1 Annual Leave Guidance published
Coronavirus Exec Daily Update - April 7, 2020

COVID-19 PANDEMIC POLICY BRIDGING STATEMENT

Due to requirements in line with national guidance issued during the COVID-19 pandemic and/or in order to support business continuity and the delivery of clinical care during the pandemic, the following changes to Trust Policy were agreed at the Trust’s COVID-19 Safety, Legal and Regulatory Group.

Effective from | 07/04/2020 | Discontinued on

Changes proposed by: HR Operations Team

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<thead>
<tr>
<th>Nature of change</th>
<th>Summary of change</th>
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<tr>
<td>INTRODUCING NEW requirements, actions or responsibilities</td>
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</table>
| CHANGING EXISTING requirements, actions or responsibilities | ANNUAL LEAVE
Updated guidance outlining national temporary arrangements and amended policies which affect the way the Trust is managing annual leave during its response to the Covid-19 pandemic.
Impacts on: booking leave, cancelling leave and carrying over leave during this time. |

STOPPING requirements, actions or responsibilities

For full details see page 1 of this document

COVID-19 Safety, Legal and Regulatory Group on 15/04/2020
☑ Approved ☐ Requires revision ☐ Not approved
### COVID-19 PANDEMIC POLICY BRIDGING STATEMENT

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<th>Details &amp; rationale</th>
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<tr>
<td><strong>CHANGING EXISTING</strong> requirements, actions or responsibilities</td>
<td><strong>ANNUAL LEAVE</strong> Updated guidance outlining national temporary arrangements and amended policies which affect the way the Trust is managing annual leave during its response to the Covid-19 pandemic. Impacts on: booking leave, cancelling leave and carrying over leave during this time. Key FAQs included at the end of the document.</td>
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**Details of change**

**Annual leave** will be managed at a local level with line managers. Some individuals may wish to cancel leave due to changes in plans as a result of the COVID-19 pandemic. Any changes to annual leave should be made in agreement with both the individual and their line manager.

Staff rest and recuperation at a time of pandemic is vital. Line managers will need to discuss with individuals how best to utilise annual leave during this time.

Due to these exceptional circumstances, there will be difficult choices to make and there will be instances where pre-booked leave may need to be delayed in order to provide continuity of services for patients and support for other members of staff. In these particular circumstances, this position will need to be discussed with the individual in a sensitive manner. All other avenues should be explored with the member of staff and the decision to cancel annual leave will only be taken as a last resort.

Decisions to cancel annual leave will only be considered where there is significant risk to service delivery and patient care as part of emergency preparedness planning and must only be done in consultation with HR and local staff side representatives.

The Trust will give consideration, in partnership with staff side colleagues, to those services where a shortage would be operationally critical in the response to the COVID-19 pandemic and cancelling or restricting annual leave would, as a last resort, create additional capacity.

Staff continue to be entitled to their annual leave allowance set out in their terms and conditions: Terms and conditions, Section 13: Annual leave and general public holidays; Medical terms and conditions and model contracts

Further guidance including Working Time Regulations (WTR) and carry-over of annual leave can be read [here](#).

**Rationale**

To support gaps in workforce delivery to support the COVID-19 response.
Policy and Procedure Statement / Key Objective:

KEY POLICY ISSUES
- To advise managers and employees about types of special leave available to staff
- To provide a framework for requesting and authorising special leave
Executive Summary

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<tr>
<th>Subject</th>
<th>Staff Leave Policy</th>
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</thead>
<tbody>
<tr>
<td>Applicable to</td>
<td>All employees of Lancashire Care NHS Trust</td>
</tr>
<tr>
<td>Key Policy Issues</td>
<td>The policy and procedure provides a framework for the various types of Special Leave that can be taken by eligible employees. This document provides employees and managers with guidance on how requests for leave are to be submitted, considered and approved/rejected and information on eligibility for the various forms of paid and unpaid leave.</td>
</tr>
<tr>
<td>Original issue date</td>
<td>July 2011</td>
</tr>
<tr>
<td>Issue date this version</td>
<td>December 2014</td>
</tr>
<tr>
<td>Date policy reviewed</td>
<td>October 2017</td>
</tr>
<tr>
<td>Next review due date</td>
<td>30th June 2019, extended until 30th September 2020</td>
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<tr>
<td>Policy written by</td>
<td>HR Advisor</td>
</tr>
<tr>
<td>Consultation</td>
<td>HR Department</td>
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<td></td>
<td>Senior Management Team</td>
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<td>Staff Side Representatives</td>
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<td>Partnership Forum</td>
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<td>Policy reviewed by</td>
<td>Director of HR</td>
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<td>HR</td>
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<td></td>
<td>Staff Side Representatives</td>
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<td>Lead responsible for policy</td>
<td>Director of HR</td>
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<td>Monitoring arrangements</td>
<td>The HR department is responsible for overseeing the introduction, operation and monitoring of the policy and where appropriate data are available, will report to the Trust Board on matters relating to the policy.</td>
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<tr>
<td>Approved by</td>
<td>Staff Side</td>
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<td></td>
<td>EMT Policy and Governance</td>
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<tr>
<td>Authorised by</td>
<td>EMT Policy and Governance</td>
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<tr>
<td>Signature</td>
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<tr>
<td>Related procedural documents</td>
<td>Training and Development policy, Study Leave policy for Medical Staff</td>
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## Staff Leave Policy & Procedure

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1.1 Introduction

Lancashire Care NHS Foundation Trust recognises its obligations under the relevant employment legislation to provide eligible employees with the appropriate time off for family and parental responsibilities, and reasonable time off to deal with unforeseen and immediate emergencies involving dependents.

The Trust recognises the importance of making provisions for staff to take leave outside of the normal annual leave entitlements in certain circumstances. This Policy will enable the Trust to ensure, where possible, that support is given to staff when balancing the demands of domestic, professional and work responsibilities through the provision of special leave.

The provisions outlined in this document may be amended from time to time, to reflect changes in legislation, NHS Terms and Conditions of Service provisions, relevant Terms and Conditions for Medical Staff or to reflect organisational needs.

This document must be read in conjunction with the Annual Leave Guidance.

The overall objectives of the Trust’s Leave policy are:

- To provide staff with clear and consistent information on the various types of leave they may be entitled to apply for.
- To ensure a fair approach to supporting staff in balancing their domestic and work responsibilities.
- To provide information and guidance for managers dealing with requests for special leave
- To ensure the Trust is aware of its statutory obligations under the relevant employment legislation.

This policy is in line with the relevant legislation, Advisory, Conciliation and Arbitration Service (ACAS) guidance and documents set out as follows:

- ACAS guide ‘Time off for dependants’
- Education and Skills Act 2008
- Apprenticeships, Skills, Children and Learning Act 2009
- The Employee Study and Training (Procedural Requirements) Regulations 2010
- Agenda for Change Terms & Conditions of Service

2.0 Scope

This policy applies to all Trust employees, full-time or part-time. This policy is not applicable to Bank Staff and Doctors in Training.
3.0 Definitions

3.1 Continuous Service – full or part-time employment with the Trust or any previous NHS employer, where there has not been a break in service (the length of break that would effectively break continuous service will depend on the specific provision or entitlement being claimed by the employee).

3.2 Reckonable Service – any full- or part-time employment with the Trust or any previous NHS employer, or recognised non-NHS organisation.

3.3 Dependant - a spouse, civil partner, a child or parent of the employee, a person who lives in the same household (except tenants, lodgers, boarders and employees), or those who reasonably rely on the employee in an emergency/to make arrangements for the provision of care. This does not extend to domesticated animals or pets.

4.0 Duties

4.1 Chief Executive & The Trust Board
4.1.1 Has responsibility to ensure that appropriate policies and procedures are in place to manage the provision of special leave for employees
4.1.2 Ensure a consistent framework is in place for managers.
4.1.3 Has principal responsibility for ensuring the content of this policy is applied consistently and fairly across the Trust.

4.2 Human Resources
4.2.1 Are responsible for overseeing the introduction, operation and monitoring of this policy and reporting to the Trust Board.
4.2.2 Are responsible for ensuring the provision of training, guidance and support to Line Managers on the implementation of the policy.
4.2.3 Are responsible for promoting the adoption of consistent and fair application of the policy throughout the Trust.

4.3 Line Managers
4.3.1 Are responsible for the dissemination and implementation of this policy within their teams.
4.3.2 Are responsible for liaising with the relevant HR Advisor to seek professional advice and guidance on the implementation of the policy.
4.3.3 Are responsible for ensuring that employees are aware of their responsibilities in relation to the policy and understand what is expected of them.
4.3.4 Are required to record all leave granted within the scope of this policy on personal records and on ESR.

4.4 Employees
4.4.1 Are responsible for submitting applications for leave in accordance with the procedures set out in this document.
4.4.2 Are responsible for adhering to the terms of their individual leave agreement.
4.4.3 Are responsible for providing any supporting documentation, as requested by management, when applying for leave.
4.4.4 All employees must seek approval from their Line Manager for the granting of leave in accordance with this policy and procedure.

5.0 Annual Leave

Annual Leave entitlements, booking arrangements and additional information can be found in the accompanying Annual Leave Guidance Document which can be found on the eHR website, this document applies to all Trust employees, full-time or part-time. This policy and guidance document does not apply to Bank Staff and Doctors in Training.

The Trust Policy is to determine annual leave entitlement in hours not days for all staff (except medical and dental staff) regardless of whether the employee is full-time or part time. The benefit for all Trust employees in calculating entitlement in hours is that this ensures equity for all by ensuring that staff who work variable hours/shifts do not receive either more or less leave than colleagues who work a standard pattern. For example, if an employee working nights, on 10 hour shifts, takes annual leave over one shift, then 10 hours is deducted from the annual leave entitlement.

Employees must follow the appropriate local procedure for obtaining approval (from their line manager) for annual leave and should not assume approval in advance, or take leave from work without prior management approval. Further information is available in the ESR Manager Self Service User Guide.

6.1 Time off for Public and Civic Duties

Irrespective of length of service, employees have a statutory entitlement to a reasonable amount of unpaid time off for the purpose of performing any of the duties of their office or as members.

Eligible employees will be granted a maximum of 12 days’ paid leave in any 12 month period to carry out public and civic duties. Any leave to be taken beyond this limit, will be recorded as annual leave or authorised unpaid leave.

‘Duties’ include attendance at meetings or the undertaking of activities approved by the body for the purpose of discharging its functions.

Eligible employees are those who are:

- A magistrate, sometimes known as a justice of the peace
- A local councillor
- A school governor
- A member of a policy authority
- A member of any statutory tribunal (e.g. an Employment Tribunal)
- A member of the managing or governing body of an educational establishment
Staff Leave Policy & Procedure

- 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
- 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

Special leave will also be granted to those who are required to:
- Attend court as a witness
- *Undertake jury service
- Attend as a witness at an appeal hearing or Employment Tribunal
- Train with the Reserve or Cadet Forces

For further information about requesting time off for public and civic duties please see the associated guidance.

The amount of special leave granted will depend on how much time off is reasonably required for performance of the particular duty.

*Employees summoned for jury service will be granted authorized paid leave for the duration of the period of jury service: The Trust requires employees to claim for loss of earnings in accordance with Her Majesty’s Courts Service’s allowance process. Employees are required to forward their ‘Certificate of Loss of Earnings or Benefit’ certificate to the Payroll Department, prior to the commencement of jury service, allowing at least 5 working days for it to be processed and returned to them. The amount the employee claims from the Courts Service will be deducted from the following month’s salary. Line managers must record any leave due to jury service on the monthly SAR.

Failure by an employee to follow the correct procedures for claiming loss of earnings through the Courts Service may result in the period of jury service being treated as unpaid leave, with the Trust making the appropriate deduction from the following month’s salary.

Line managers reserve the right to ask the employee to present written confirmation that they are required to attend the meeting/event for which they have requested time off.

Where an employee performs a range of public duties, the Trust encourages the employee to, where possible, arrange to undertake duties outside normal working hours.

7.0 Time off For Training

The Trust is committed to facilitating the learning and development of its workforce, and recognises the challenges employees may face when trying to balance their daily workload, with ‘off-the-job’ learning and development activity.
Under the Apprenticeships, Skills, Children and Learning Act 2009, employees with at least 26 weeks’ continuous service with the organisation (Lancashire Care NHS Foundation Trust) have a statutory right to request time off to undertake training or study they think will improve their effectiveness in their role, and the performance of the organisation. In practice, this will relate to requests for time off to undertake training or study which is independent from / in addition to mandatory training, statutory training, and/or learning events organised by the Trust.

The training to be undertaken by the employee can include accredited programmes leading to a qualification, or unaccredited training which will help the employee to develop specific skills relevant to their job or the business. The Trust already provides a variety of relevant learning / training opportunities for staff, however, there may be occasions where alternative requests for time off are received.

The Trust is under no obligation to pay employees for time taken out of the workplace to undertake training requested under this policy. However, where a line manager recognises that the training is essential, desirable or work-related; he/she has the discretion to grant paid time off. Arrangements for paid study leave and meeting the costs of training are covered under the Trust’s ‘Training and Development Policy’, or for medical staff, the ‘Study Leave Policy for Medical Staff in Non-Training Grades’.

For the procedure for requesting time off for training please see the associated guidance document.

### 8.0 Compassionate Leave

Managers should exercise discretion in granting compassionate leave for employees requiring time off to deal with the death of a dependent.

The amount of leave granted in cases of bereavement is dependent upon the relationship of the employee to the deceased and their involvement in the funeral arrangements. Generally, employees may need time off to make funeral arrangements and/or to attend the funeral. As a general principle, one to five days’ paid compassionate leave may be appropriate where the deceased was a dependent. In regards to how this is taken it is for the manager and employee to discuss and agree this, often it may not be appropriate to take compassionate leave in a block and as such, where applicable, discretion may be used as to how compassionate leave days are split up.

Consideration needs also to be given as to whether the employee is appointed as Executor and also the distance of the deceased from the place of employment.

The Special Leave Request form may be used to request (retrospectively) and record Compassionate Leave.
9.0 Emergency/Domestic Leave

There may be occasions where employees encounter domestic emergencies such as flooding in the home, burglary or severe damage to their home adversely affecting the safety and/or security of the premises.

In such circumstances, the Trust, with discretion, will grant one days’ paid special leave for the employee to deal with the immediate problem/emergency. The Special Leave Request form (available on E-HR Infopoint via the Trust Intranet) may be used to request (retrospectively) and record such leave requests.

Where a longer period of time off is required, or an employee has already taken 3 days’ (pro-rata) domestic leave over a rolling 12-month period, employees may be asked to take annual leave, use flexitime, or take authorized unpaid leave.

10.1 Carer Leave

Carer leave for domestic, personal and family reasons is intended to enable employees to cope with disruption of, or changes to, normal caring responsibilities.

Employees have a statutory right to take a reasonable amount (usually up to one day) of time off work to deal with emergencies involving dependants. A “dependant” is defined as a spouse, civil partner, a child or parent of the employee, a person who lives in the same household (except tenants, lodgers, boarders and employees), or those who reasonably rely on the employee in an emergency/to make arrangements for the provision of care. This definition does not extend to cats, dogs, horses or any other domesticated animal.

Carer leave may be granted to assist the employee in coping with urgent, immediate and unforeseen domestic situations. The aim of such leave is to provide a compassionate response to immediate needs.

It is impossible to be completely prescriptive about all the circumstances in which carer leave may be granted, however examples of situations in which carer leave may be appropriate include:

- To deal with the unexpected breakdown of arrangements for care of a dependant
- To provide assistance if a dependant unexpectedly falls ill, is injured or assaulted
- To provide assistance if a dependant gives birth
- To deal with an incident involving the employee’s child during school hours.

Examples of situations in which carer leave is not appropriate include:

- To accompany a relative to a planned hospital appointment
To deal with a situation the employee could reasonably have planned for in advance
To stay at home to look after a sick child (once any immediate crisis has been addressed).
To stay at home to look after a child affected by trade union activity at the school they attend.

The granting of paid carer leave will be at management’s discretion. Each request will be considered separately, taking into account the needs of the service. Alternatives to carer leave might include asking the employee to take annual leave, or when annual leave entitlement has been exhausted, using flexitime or granting authorised unpaid leave.

It is important to remember that carer leave is intended to support the individual in dealing with immediate, unforeseen needs, therefore, in most cases, one day’s paid leave will be sufficient. Managers may use their discretion to extend this period in particularly difficult situations. The Trust, with discretion, will grant a member of staff a maximum of 5 days’ (pro-rata for part-time staff) paid Carer Leave in any rolling 12-month period.

11.0 Time Off for Medical Appointments

Staff who are required to attend a GP medical appointment will be expected to make all reasonable attempts to arrange for their appointments to take place prior to, or at the end of their shift. Where appointments fall during working hours, line managers reserve the right to request that flexi-time / TOIL is used for the time taken out of the workplace to attend. Where flexi-time/TOIL is not in effect within the department, annual leave or authorised unpaid leave may be granted.

Where appointments are required to access consultations / treatment for a long-term condition / disability (as defined under the Equality Act 2010), an action plan will be developed between the line manager and member of staff, with reasonable time off allocated for attendance at the appointment. This may be a combination of paid time off, and the use of flexitime / TOIL. Where flexi-time/TOIL is not in effect within the department, annual leave or authorised unpaid leave may be granted.

Copies of official appointment cards/letters must be provided to the line manager and every reasonable effort should be made to attend work prior to, and/or following appointments made during working hours. Staff unable to attend work must notify their line manager accordingly.

In most cases, time off for planned operations/procedures will be classed as certified sickness.

12.0 Time off to attend Job Interviews

Where an employee wishes to attend a job interview with another NHS Organisation, reasonable paid time off will be allowed to attend the interview. This
does not extend to interviews with non-NHS organisations and will only cover the time of the interview and not travel or preparation time.

Staff who are deemed ‘At Risk of Redundancy’ in line with the Lancashire Care Foundation Trust Organisational Change Policy will be given reasonable paid time off to attend job interviews with other departments within Lancashire Care Foundation Trust and, where applicable, other NHS organisations.

13.0 Training

Line managers may access one-to-one advice and guidance from the HR department. Where a significant need to increase management capability in the application of the policy and procedure is identified, training sessions will be delivered to line managers.

Further advice and support in relation to this policy can be obtained through e-HR or the HR Advice Centre.

14.1 Counter Fraud

There should be no absences from work other than for legitimate and acceptable reasons e.g. sickness, annual leave, study leave or special/compassionate leave.

Employees should not leave their work place at times they are required to be working, without obtaining the express approval of their manager or delegated supervisor.

All staff leave must be documented and approved in accordance with Trust Guidance; failure to comply with this may result in an act of fraud.

Where fraud is found to have occurred, this may lead to criminal, civil and/or disciplinary action being taken.

Further information regarding Fraud and the Fraud Act 2006 is included in the LCFT Anti-Fraud, Bribery and Corruption Policy available on the LCFT intranet.

How can I report a fraud (or suspected fraud) taking place in the NHS?

1. Call the NHS Fraud and Corruption Reporting Line on 0800 028 40 60 (freephone). Lines are open 8am–6pm Monday to Friday.

2. Fill in the online fraud reporting form at www.reportnhsfraud.nhs.uk.

3. Ask your Local Counter Fraud Specialist for advice.
15.0 Monitoring (Including Standards)

15.1 The governance of this policy, including the reviews, monitoring and reporting will be overseen by Trust’s Partnership Group and/or HR Delivery and Governance Group. The reviews will be undertaken in accordance with the review date set out within the policy or at appropriate intervals when required.

16.0 Reference Documents

Agenda for Change Handbook
Study Leave Policy for Medical Staff
Training and Development Policy
ESR Manager Self Service Manual
Terms and Conditions of Service for Speciality Doctors (England) 2008
Terms and Conditions – Consultants (England) 2003