

**NHS Education for Scotland**

**Special Leave Policy**

**(Incorporating Guidelines for Managing Travel Difficulties/Adverse Weather Conditions)**

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### **Document Control**

	<b>Date</b>
<b>Ratified</b>	<b>07/02/2008</b>
<b>Reviewed</b>	<b>06/04/2010</b>
<b>Reviewed</b>	<b>13/02/2013</b>
<b>Next Formal Review</b>	<b>13/02/2015</b>
<b>Document Location</b>	<b>W:/HR/POLICIES/Under Review Policies</b>
<b>Policy Owner</b>	<b>HR &amp; OD</b>

### **Authorisation Following this Review**

	<b>Date</b>
<b>Ratified by Staff Governance Committee</b>	<b>25/07/2013</b>
<b>Placed/Replaced on the Intranet/Extranet</b>	<b>02/09/2013</b>

### **This Version History**

	<b>Date</b>
<b>Impact assessed</b>	<b>17/04/2013</b>
<b>Executive Team</b>	<b>n/a</b>
<b>Staff Consultation</b>	<b>n/a as only minor changes made</b>
<b>Partnership Forum</b>	<b>13/06/2013</b>
<b>Staff Governance Committee</b>	<b>25/07/2013</b>

## **1. Introduction**

NES 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, NES 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.

This policy details the provisions for time off in relation to serious illness; bereavement; domestic emergencies; carer leave and other types of special leave.

Guidelines for Managing Travel Difficulties/Adverse Weather Conditions have also been put in place by NES and further details on these are attached at Appendix 1.

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. Legal Framework**

### **The statutory right to time off for dependants**

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 be dismissed, or victimised, for doing so.

Under the Employment Rights Act 1996 and the Employment Relations Act 1999 a dependant is defined as the employee's spouse or partner, child or parent or a person living with the employee as part of his/her family. It does not include tenants or boarders living in the family home, or someone who lives in the household as an employee, eg a live in housekeeper. In cases of illness, injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance, including where the employee is the primary carer or is the only person who can help in an emergency.

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.

### **The statutory right to request flexible working practices**

Certain members of staff have a legal right to request a permanent change to their working pattern. This legal right applies to staff who are directly employed by NES, have at least 26 weeks' service and have not made a previous application for flexible working practices within the past 12 months.

The statutory right to request flexible working practices applies to staff meeting the criteria below.

- have or expect to have parental responsibility of a child aged 16 or under or a disabled child under 18 who receives Disability Living Allowance (DLA). The DLA will be replaced by Personal Independence Payment from 8 April 2013.
- are the parent/guardian/special guardian/foster parent/private foster carer or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care for the child
- are a carer who cares, or expects to be caring, for an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you

### **3. Policy Rationale**

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

- The sudden and immediate need for a member of staff to provide care to a family member, dependant, close friend or colleague
- A family member, dependant, close friend or colleague of the employee suffering ill health
- A family member, dependant, close friend or colleague of the employee suffering a bereavement
- Civic and public duties

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

Examples of this include:

- A family member, dependant, close friend or colleague of the employee falling ill, being involved in an accident, or being assaulted, including instances where the victim is distressed rather than being physically injured
- The need to make longer term care arrangements for a family member, dependant, close friend or colleague, who is ill or injured
- To deal with the death of a family member, dependant, close friend or colleague eg to make funeral arrangements, or to attend a funeral
- To deal with an unexpected disruption, or breakdown, in care arrangements for a family member, dependant, close friend or colleague eg when a child minder or nurse fails to turn up
- To deal with an incident involving the employee's child during school hours eg if the child has been involved in a fight, or is being suspended from school.

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 application for time off under these provisions.

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

Special Leave can only be authorised by Line Managers who have authority to approve annual leave.

## **4. Types of Leave and Process**

### **4.1 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, dependant, close friend or colleague.

#### 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 HR & OD, 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, eg 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.

### **4.2 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 eg house fire/flood.

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 HR & OD, 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 HR & OD should consider other options to assist in the situation. Further information can be found in the Flexible Working Practices – Policy and Procedures.

## **4.3 Carer Leave**

### Definition

Where members of staff are responsible for caring for a family member, dependant or close friend, 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.

### Entitlement

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, dependants, or close friends, can often be very simple and be relatively easy to satisfy. 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, eg to deal with an emergency situation, to attend hospital etc. In these circumstances, one of the arrangements detailed above 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 he/she is forced to consider more extreme measures, such as long-

term reduction in working hours, in order to meet their caring commitments. Further details may be found in the Flexible Working Practices – Policy and Procedures

While each case must be judged on its individual merits, NES 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 HR & OD to be involved in these discussions.

Where the manager feels unable, because of the needs of the service, to grant the employee's request, the employee should contact an appropriate member of HR & OD in order to investigate other alternatives eg 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 provision available under NES' Organisational Change Policy and Procedures (to include NES' Redeployment Policy and Guidance).

#### Other assistance

Employees with caring responsibilities are encouraged to take advantage of other facilities which already exist within NES and which may provide them with support or access to coping mechanisms eg Occupational Health Services or the AXA-ICAS Counselling Service

## **4.4 Other types of Special Leave**

### Definition

NES is required to make other types of special leave available to staff to enable them to be absent from work to perform civic and public duties.

The legislative 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
- Members of a variety of public bodies including Children's Panels
- Member of any statutory tribunal (eg an employment tribunal)

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 HR & OD, 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.

### **Armed Forces Reservists**

Armed Forces Reservists may be entitled to special leave, for example, for training purposes.

### **Jury Service**

On occasion, staff may be summoned to carry out public duties e.g. jury service or to attend court as a witness. In these circumstances appropriate paid leave will be granted as necessary.

### **4.5 Special Leave for Blood Donation**

Whilst NES does not currently promote campaigns for giving blood, equally NES is supportive of staff who would want to do so. To enable blood to be given this would be supported by providing reasonable time off during working hours. NES would anticipate that the travelling time to give blood would be minimal, as excessive time away from the workplace could not be supported. As a rule of thumb NES would anticipate that members of staff would take up to a maximum of 1 hour. Their personal contribution to the blood bank is very much appreciated.

### **4.6 Special Leave for NES staff as volunteers**

Given our commitment to volunteering as stated in the Employer Volunteering Policy, NES will support the participation of staff in voluntary work during working hours in some circumstances. However, special leave granted for this purpose will be unpaid. Further policy on the participation of NES staff in voluntary work will be developed in line with national policy on this issue as required.

## **5. Points to be considered when applying for all types of special leave**

### Notification

For all types of special leave members of staff must make their manager aware of their potential need for leave at the earliest opportunity and, where appropriate should keep in regular contact throughout the period.



### Record Keeping

Special Leave must be recorded on the Special Leave Form (Appendix 2) in all circumstances to enable monitoring of its fair application throughout NES.

Where unpaid leave is granted a Notification of Change Form is also required for payroll purposes in addition to the Special Leave Form (Appendix 2). This can be arranged by contacting the appropriate HR/Associate HR Business Partner.

Once completed the form(s) should be emailed to [absence@nes.scot.nhs.uk](mailto:absence@nes.scot.nhs.uk)

### Consistency

In all instances, managers should aim to be fair, consistent and sympathetic in applying this policy.

## **6. Resolution of Disagreements**

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 under the NES' Grievance Policy and Procedures. It may be preferable in such circumstances, however, for the manager to seek advice on resolving the matter from an appropriate member of HR & OD and/or a Staff Side Representative.

## **7. Monitoring, Review and Evaluation**

This policy will be monitored, reviewed and evaluated every 2 years by the Partnership Forum, taking into consideration legislative changes and developments in good practice to ensure it meets the needs of all employees.

**Ratified by the Staff Governance Committee on 7 February 2008**

**Reviewed by the Staff Governance Committee on 6 April 2011**

**Further reviewed on 13 February 2013**

**Reviewed by the Staff Governance Committee on 25 July 2013**

## Appendix 1

### Guidelines for Managing Travel Difficulties/Adverse Weather Conditions

#### 1. Introduction

Employees are responsible for arranging travel to enable them to reach work on time (within flexitime arrangements, where this is applicable) and NES expects members of staff to make every effort do so, without putting themselves at risk.

Situations can occur where extreme or unavoidable travel difficulties or adverse weather conditions hamper employees' travel to and from places of work.

This guideline is provided as a tool to assist in handling such situations in a culture of equity and fairness.

#### 2. Guidelines

It is expected that line managers and staff will co-operate to enable operational needs to be met, while also ensuring individual employee circumstances can be addressed. The essence to the approach should therefore be one of flexibility and understanding shown by and towards all employees.

Examples of situations where this guideline may be used could be for strikes on public transport; traffic delays and severe adverse weather. These are not meant to be prescriptive and there may be other situations where this guideline may apply.

In the event of **unexpected** closure of schools and nurseries e.g. due to adverse weather, employees should refer to Section 4.3 on Carer Leave

Possible tools that may be used in such circumstances could include;

- Use of flexitime/reconciliation of flexitime to normal office hours
- Annual leave

- Unpaid leave
- Special leave
- Working from home

Staff who do not normally have approval to work from home will need to have this option pre-approved with their line manager and the appropriate HR/Associate HR Business Partner.

Managers should make reasonable adjustments, where practicable, to allow colleagues who are experiencing difficulty in coming into the workplace, to enable them to work from home.

It is recognised that this may not be appropriate for all employees in all working environments, but such measures might help to reduce unnecessary levels of absenteeism and ensure that work demands are met.

For cases relating to severe travel difficulties/adverse weather conditions, advice should be sought from the appropriate HR/Associate HR Business Partner who will review the circumstances and confirm what options will be available in each instance.

## SPECIAL LEAVE FORM

Where possible, applications for Special Leave should be made with as much notice as possible. This will help in enabling any appropriate cover arrangements to be made.

<b>FOR COMPLETION BY EMPLOYEE</b>		
<b>Name:</b>	_____	
<b>Post Held:</b>	_____	
<b>Department:</b>	_____	
<b>Reason for Request:</b>	_____ _____	
<b>Type of Special Leave Requested</b> (please select from below)		
Carers leave <input type="checkbox"/>	Funeral <input type="checkbox"/>	Hospital appointment <input type="checkbox"/>
Compassionate leave <input type="checkbox"/>	Jury duty <input type="checkbox"/>	Antenatal appointment <input type="checkbox"/>
Childrens panel <input type="checkbox"/>	Other – please specify: _____	
<b>Dates requested for Special Leave:</b>	_____	
<b>Signature of Employee:</b>	_____	
<b>FOR COMPLETION BY LINE MANAGER</b>		
<b>Dates for Special Leave approved:</b>	_____	
<b>Dates to be Paid:</b>	_____	
<b>Dates to be Unpaid:</b>	_____	
<i>(A Notification of Change Form should be completed for any dates to be unpaid.)</i>		
<b>Signature of Head of Department:</b>	_____	
<b>Date:</b>	_____	

This form should be returned to the Absence Mailbox ([Absence@nes.scot.nhs.uk](mailto:Absence@nes.scot.nhs.uk)) or to the HR Department, NES, Westport 102, West Port, Edinburgh, EH3 9DN