

SPECIAL LEAVE POLICY

Document Reference	HR13.SL.V.21
Document status	Final
Target Audience	All staff
Date Ratified	9 February 2012
Ratified by	Policy Committee
Release Date	2 March 2012
Review Date	February 2015
Sponsor	Kath Griffin, Director of Human Resources

Version Control

Version	Release	Author	Update comments
1.0	February 2011	Jan Armstrong, Deputy Director of Human Resources	Routine review of policy
1.1	May 2011	Jan Armstrong, Deputy Director of Human Resources	Comments from HR Strategy Group incorporated and guidance on carers leave included.
1.2	June 2011	Jan Armstrong, Deputy Director of Human Resources	Joint Consultative Group consulted
1.3	July 2011	Jan Armstrong, Deputy Director of Human Resources	Comments from Executive Board incorporated.
2.0	November 2011	Jan Armstrong, Deputy Director of Human Resources	Special leave provisions for Magistrates amended as agreed by HRSG in May 2011.
2.1	January 2012	Jan Armstrong, Deputy Director of Human Resources	Comments from Executive Committee incorporated

CITY HOSPITALS SUNDERLAND NHS FOUNDATION TRUST

DOCUMENT APPROVAL PROFORMA

Policy Title: Special Leave Policy			
Policy Number:			
Name of Author: Jan Armstrong, Deputy Director of Human Resources			
Name of Sponsor: Kath Griffin, Director of Human Resources			
New Policy:		Yes	No: X
Reviewed Without Amendments:		Yes	No
Type of Policy:	Risk management		
	Operational policy		
	Operational guidelines		
	Mental Health Act		
	Human Resource	X	
	Control of infection		
	Drugs policy		
	Other		
Equality Impact Assessment: If this policy has a potential discriminatory impact please record below the person who has informed and involved the sponsor:			
Name:			
Title:			
Date:			
NB: It is the sponsor's responsibility to submit the policy through the CHS approval route.			
Checklist for the review and approval of the policy			
	Is the policy compliant with:	Yes/No	Comments
	Corporate style	Yes	
	Format including duties,	Yes	
	Content; intended outcomes clearly described	Yes	
	Evidence base; key references included and cited in full	Yes	
	Associated documentation recorded	Yes	
	Review/consultation process: List of groups/committees included with the policy	Yes	
	Appropriate stakeholders consulted	Yes	
	Approval: Staff side committee (if appropriate)		

	Dissemination & implementation: appropriately described	Yes	
	Training: requirements included (where appropriate)	Yes	
	Document control: table updated appropriately	Yes	
	Monitoring compliance/ effectiveness: adequate description and appropriate monitoring	Yes	
	Review date: identified and acceptable	Yes	
	Page numbers: correct with index	Yes	
	Intranet to be updated: Record the date and person responsible		
	Individual approval; Policy author	Date	Sign
	Director of Corporate Affairs: update version control and approval of the process	Date	Sign
	Policy archived		
<u>Committee Approval</u>			
Committee which forms the approval process: Policy Committee			
Date of approval:			
Signature of Chair of Committee, including approval:			

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1.0 INTRODUCTION

- 1.1 This policy is part of a 'suite' of policies providing a range of paid and unpaid leave available with the aim of ensuring that the Trust's commitment to the provision of high quality care is achieved whilst also, where possible, supporting the needs of staff.
- 1.2 At times, staff may need help to manage the balance between work and their private lives. They may also have responsibilities as carers and/or towards the wider community. This policy sets out a framework for time off, paid and unpaid, for carers, urgent domestic and other personal reasons and for carrying out public duties, as far as these are not covered in other policies.

2.0 PURPOSE AND SCOPE

- 2.1 The purpose of special leave is to cover certain carer, urgent domestic emergencies as well as certain planned circumstances such as public duties.
- 2.2 Special leave is not intended to cover activities that could be carried out in an employee's own time.
- 2.3 Special leave may be with or without pay.
- 2.4 Special paid leave is not a contractual entitlement.
- 2.5 Special leave requests may be considered in conjunction with other local agreements on flexible working and annual leave. However employees are not required to exhaust their annual leave entitlement before special leave is granted. Each individual request will be considered on its merits, giving full consideration to the facts and to the needs of the service.
- 2.6 Part time employees are entitled to special leave under the same conditions as their fulltime colleagues, on a pro-rata basis.
- 2.7 All employees should be treated fairly and with respect, regardless of age, disability, gender, marital status, membership or non-membership of a trade union, race, religion, domestic circumstances, sexual orientation, ethnic or national origin, social and employment status, HIV status or gender reassignment.

3.0 DUTIES

3.1 Board of Directors

The Board of Directors is responsible for monitoring and approving a framework for special leave that is compliant with all relevant legislation, guidelines and NHS best practice standards.

3.2 Chief Executive

The Chief Executive has ultimate responsibility for ensuring that the workforce is competent and capable and that a framework is in place to deal with requests for special leave in line with all relevant legislation, guidelines and NHS best practice

standards. The Chief Executive therefore supports the Trust wide implementation of this policy.

3.3 Director of Human Resources

The Director of Human Resources is the nominated Director lead for the management of this policy and is directly responsible to the Chief Executive for facilitating the implementation following consultation with the staff side representatives.

3.4 Human Resources Department

The Human Resources Department is responsible for:

- Supporting the implementation of this policy;
- Advising managers, staff and trade unions on the content and its interpretation
- Providing training for managers on the operation of the policy via the ILM Level 3 Programme.

3.5 Managers

Managers are responsible for:

- Ensuring that effective and efficient services to patients and service users are maintained;
- Ensuring that their staff are aware of this policy and the support provisions available.
- Applying the policy in a fair and consistent manner;
- Seeking advice from the Human Resources Department where appropriate.

3.6 Employees

Employees are responsible for:

- Ensuring that effective services to patients and service users are maintained;
- Complying with this policy;
- Raising beforehand with their manager, the prospect of involvement in any public duties including an outline of the level of time off required for the performance of those duties;

4.0 DEFINITIONS

4.1 Special Leave

Exceptional leave (paid or unpaid) that may be granted to an employee in certain special circumstances.

4.2 Carer

Someone who looks after a relative, friend, child or neighbour who is unable to manage alone because they have a long-term illness, disability or are frail and who provides unpaid care and support involving personal care (washing, bathing, dressing, feeding etc.), cooking, housework and shopping, etc;

4.3 Dependant

A spouse or civil partner, partner (including same-sex partner), child or parent of the employee or a member of their household, who is not their employee, tenant, lodger or boarder.

Where time off is to take necessary action to help when a dependant falls ill or is injured or assaulted, the definition extends to any person who reasonably relies on the employee for assistance on such an occasion. That means an individual for whom the employee is the only person who can help – e.g. an elderly neighbour with no relatives or other neighbour, who is living alone and who falls and breaks a leg.

5.0 TYPES OF SPECIAL LEAVE

5.1 Bereavement Leave

Bereavement leave applies regardless of length of service. Employees may be granted up to 5 days' paid leave following the death of any of the people listed below:

- own child;
- next-of-kin or nominated next-of-kin;
- partners (including same-sex partners);
- parents;
- siblings;
- parents of partner, if the employee is responsible for funeral arrangements.

These provisions are not meant to limit the manager's discretion, as each request for such leave will need to be judged on the circumstances of the cases. For example, some people may have been raised by their grandparents, aunt/uncle, brother/sister and therefore bereavement leave in such circumstances may be in order.

In considering requests for bereavement leave, Managers should take into account if the employee has to travel to another country (e.g. where the funeral is to take place or where their family is located). Such cases will be treated individually according to the distance to be travelled.

Where appropriate, employees may be granted up to 1 day's bereavement leave to attend the funeral of a close friend, colleague or other relative. Managers will be sympathetic to employee requests for annual leave to cover other contingencies relating to bereavement.

5.2 Parental leave

A parent (father, mother or other person who has acquired formal parental responsibility for a child, as defined in the Children Act 1989) who has at least 1 year's continuous service with the Trust is entitled to apply for up to 13 weeks unpaid parental leave.

Parents of children entitled to Disability Living Allowance under Part III of the Social Security Contributions and Benefits Act 1992 are entitled to apply for up to 13 weeks unpaid parental leave. This leave is to be taken in the period up until the child's 5th birthday, or where the child is entitled to Disability Living Allowance up to

their 18th birthday, or where the child was placed with the employee for adoption, the 5th anniversary of the placement, or the child's 18th birthday, whichever is earlier.

The purpose of parental leave is to enable parents to care generally for their child(ren). Parents may use it to spend more time with their children and strike a different balance between their work and family commitments. The reasons for leave need not be connected with the child's health unlike carers' leave, which is outlined in section 5.4.

In case of any disagreement between the employee and the manager as to which leave should apply, the manager should consult the HR Department for advice.

Where both parents work for the Trust, both parents can apply for leave under this provision. There is a separate entitlement for each child (including multiple births). For part-time employees, parental leave entitlement will be calculated on a pro rata basis. An employee taking parental leave cannot normally undertake paid employment with any other employer, during the period of parental leave and their employment contract with the Trust continues during the period of parental leave.

Superannuation contributions will be suspended during periods of unpaid parental leave.

Parental leave procedure

Employees should apply in writing to their Manager giving as much notice as reasonably possible, but at least 21 days before the date they wish their leave to begin. The employee should give the following information when requesting leave:

- their responsibility or expected responsibility for the relevant child;
- the child's birth certificate, expected birth date or, in the case of a child who was placed with the employee for adoption, the date on which the placement began; and
- where the employee's entitlement depends upon whether or not the child is entitled to a disability living allowance, evidence of the child's entitlement to that allowance.

Parental Leave will be taken in blocks of time agreed with the individual's manager in light of the nature of their work and up to a maximum of 4 weeks for each individual child in any one year.

The dates of parental leave will be approved by the employee's manager, subject to service needs. The manager may exceptionally require an employee to postpone their parental leave for a period of up to 6 months, if the needs of the service require them to do so. The exception to this is where the leave is to be taken immediately on the birth/ adoption of a child, or immediately after taking maternity or adoption leave.

Factors that may require the manager to request the postponement of leave could include:

- a peak workload or holiday period
- others absent at the same time
- the difficulty in finding a short term replacement

- covering the absence by other means.

Within 7 days of receiving the employee's request, the manager should notify the employee in writing of the request for postponement, including the reason and the alternative dates proposed. If the proposed alternative date starts or continues after the expiry of the statutory age limits (detailed in 5.2), the employee still has the right to take parental leave.

5.3 Urgent domestic crises

Employees can request leave in circumstances of urgent domestic crises, which are not covered by any other policy. Some examples would be:

- Vehicle theft;
- Burglary;
- Flood;
- Fire.

In such circumstances, employees may be granted up to 1 day's leave with pay. Employees should contact their manager when the incident occurs.

Special leave with pay is not granted for gas or electricity companies, etc, for tradespersons carrying out routine maintenance, nor for medicals for private insurance or mortgages. Employees should arrange such visits/appointments outside of their normal working hours, or take annual leave.

5.4 Carers Leave

The Employment Rights Act 1999 (ERA) gives a right to every employee, regardless of length of service, to take a reasonable amount of unpaid time off work to deal with an emergency involving a dependant. An emergency could be any unexpected or sudden problem involving someone who depends on your help or care

Who is eligible for carers leave?

All employees, regardless of length of service, are eligible to apply for carers leave. As such this policy applies to those who have caring responsibilities for dependants such as:

- ◆ Their own child(ren);
- ◆ Their next of kin or nominated next-of-kin;
- ◆ Their partner;
- ◆ Their parents or parents of partners

How much time off is allowed?

There is no set amount of time allowed to deal with emergencies. It will vary depending on what the event is, but in most cases 1 to 2 days' paid leave may be granted by managers. This should be sufficient to deal with the immediate emergency and arrange longer term solutions or care if necessary.

When carers leave applies

Carers leave could apply to a wide range of different circumstances but below are examples of some of the more common situations where employees may apply for time off under this policy:

- **If a dependant falls ill.** In this situation the illness or injury does not necessarily have to be serious or life-threatening and may be mental or physical. The illness or injury could be a result of a deterioration of an existing condition;
- **An unexpected disruption or breakdown of normal caring arrangements** for any of the above dependants (e.g. sick child minder, closure of school, nursery, day-centre or other regular form of provision);
- **If a dependant has been injured or assaulted**, e.g. if a dependant is a victim of a mugging or similar incident. S/he may not have been physically hurt but carers leave may be considered to comfort or help the victim or to make longer term care arrangements for the dependant.
- **To deal with an unexpected incident involving a child during school hours**, e.g. if a child has been involved in a fight, is distressed, has been injured on a school trip or is being suspended from school.
- **Attendance at appointments concerning the welfare and care** of the above (e.g. child guidance, making arrangements for resettlement of people in long-term sheltered accommodation/nursing home/psychiatric care etc.).

This list is not exhaustive and managers should seek advice from the HR Department if they are uncertain of whether or not, in the circumstances with which they are dealing, carers leave is appropriate.

Applying for carers leave

Where an emergency situation arises, the employee should contact their manager as early as possible to inform them of the problem and to request carers leave. An Application Form for this purpose is given at Appendix 1.

In the event that a manager is concerned about the amount of carers leave being requested or where they have reason to believe that the employee's dependant may not be sick, they can require the employee to provide a medical certificate. There may be a charge for this, for which the employee will be reimbursed where they have met the cost. Where a problem arises, the manager should seek advice from the HR Department.

5.5 Other domestic crises

At times, employees may experience other domestic crises that can be extremely stressful, e.g. relationship breakup, re-possession of home, bankruptcy, redundancy of a partner etc. Managers should deal with requests for special leave under such circumstances with discretion and judge each case on the individual circumstances. In such circumstances, employees may be granted one day's leave with pay. Employees should contact their manager when such an incident occurs.

In cases where employees are experiencing/have experienced domestic violence, it is imperative that managers deal with the issues in a sympathetic and confidential

manner so that staff feel able to request leave in line with this policy. The HR Department should be contacted for advice in all such instances.

5.6 Religious and cultural observances

Some employees have particular needs for time off in relation to religious and/or cultural observance. This may be on a daily or weekly basis for a small number of staff, but more often, will involve requests for a day off for a particular religious or cultural occasion.

The Equality Act, states that work requirements would generally be unlawful if they have a disproportionately adverse effect on particular religious groups and cannot be shown to be justifiable.

All employees who have needs for time off for religious or cultural observance will be entitled to request the following:

- Flexibility in the arrangement of shifts, rotas, meetings and working hours generally;
- Annual leave, flexi-days or unpaid leave.

Managers should be sympathetic to requests on these grounds and try to accommodate them wherever it is reasonably practicable to do so, subject to the needs of the service.

5.7 Public duties

The following public duties are covered by this policy as governed by the Employment Rights Act 1996:

- Member of a local authority
- Member of a police authority
- Member of a statutory tribunal
- Member of the governing body of an educational establishment
- Member of a relevant health body (a health authority or Primary Care Trust)
- Member of a board of prison visitors or a prison visiting committee
- Member of the Environment Agency

Managers may authorise up to 5 days' paid leave (pro rata for part time employees) during each leave year for those duties listed above/to attend meetings of the body or any of its committees or subcommittees and perform duties approved by the body.

Managers also have discretion to approve reasonable amounts of unpaid time off in addition to the above paid leave where appropriate.

Employees are advised to discuss the possibility of appointment to a public body with their manager, giving as much notice as possible. Appointment to any of the public bodies listed above must be notified in writing to the line manager, including provision of any supporting documentation/evidence.

All requests for leave to undertake public duties, regardless of whether the leave is paid or unpaid, must be submitted in writing to the line manager, together with

supporting documentation. Under normal circumstances, requests should be submitted at least 6 weeks ahead of time.

When deciding whether to grant paid and/or unpaid Public Duties Leave and the amount of leave granted, managers must take account of the following factors:

- The time off required for the performance of the duties of the office or as a member of the body in question and how much time is required for the performance of the particular duty;
- How much time off the employee has already had for public duties or time off for trade union duties and activities within the current leave year;
- The impact on service provision, ensuring that there is no detrimental effect on patients and service users.
- The provision of paid and/or unpaid Public Duties Leave should be reviewed between the employee and their line manager on an annual basis taking account of the above factors.

5.8 Magistrate duties

The Trust recognises that magistrates are an invaluable part of our justice system and as part of its overall commitment to community engagement supports employees who are, or who wish to become, magistrates.

Any member of staff wishing to apply to become a Magistrate must request prior approval from their Directorate Manager, to ensure that the potential impact on their role/ward/department has been fully considered in advance of their application being submitted.

Where approval is given and the employee's application is successful, s/he will be entitled to a maximum of up to 13 days' paid leave per year to meet the minimum magistrates' 'sitting requirement', which is 26 half-days.

The Trust understands that magistrates are normally provided with their rota of sittings a year in advance, to reduce any potential conflict with work priorities. The employee should provide their line manager with details of their rota as soon as it is available so that time off can be agreed a year in advance, having regard to the needs of the business and the times when the employee is required to sit in court.

Employees **must not** commit to more than 13 days without first discussing this with their line manager. Where needed, time which exceeds the minimum sitting requirement will need to be taken as annual leave.

A Directorate Manager can refuse to support more than one magistrate in an area of working (i.e. a department or ward) or where staffing numbers are small and to support more than one Magistrate would impact on business efficacy. There may also be occasions where time off cannot be approved due to the exigencies of the service.

5.9 Volunteer Reserve Forces

The Volunteer Reserve Forces consist of:

- the Royal Naval Reserve,
- the Royal Marines Reserve,

- the Territorial Army
- The Reserve Air Forces.

Any employee who is a member of the Volunteer Reserve Forces is entitled to 10 days' paid leave during each leave year (pro rata for part time employees) to attend annual training camps. If additional time is required, this should be taken as either annual leave or unpaid leave.

The maximum continuous obligatory training commitment for those in the Volunteer Reserve Forces is 16 days (as per the Reserve Forces Act 1996). The employee must give to their line manager, as much notice as possible of their requirement to attend a continuous period of obligatory training.

The Trust is required to release employees from their duties if called up (mobilised) for service with the Regular Forces. This is taken as unpaid leave. Employees should inform their manager as soon as possible of this request.

No employee should accept "High Readiness Reserves" liability before prior discussion with their manager and consent being given by the Trust.

5.10 Jury Service

If required to undertake Jury Service, employees must inform their line manager on receipt of the summons. Whilst sitting on a jury, employees will be paid by the Trust. The Trust does not pay travel costs or subsistence allowance for attendance as a juror.

Where an employee receives regular paid supplements, their pay during Jury Service will be based on what the employee would have received had s/he been at work. This will be based on a reference period of the previous 3 months at work.

The Trust is unable to request that staff have their Jury Service deferred.

5.11 Attending court as a witness

An employee who is required to attend court on behalf of the Trust and is "witness summoned" or "subpoena" shall be granted paid leave for the period of time required.

An employee who is required to attend court as a professional witness, on behalf of the Trust shall be regarded as on Trust business and will be paid/can claim expenses in the usual way.

Where staff are required to attend court for reasons other than Trust business, time off must either be annual leave, lieu time, flexi-leave or unpaid leave.

5.12 Attending job interviews

Time off for job interviews, whether these are within or outside the NHS are to be taken either as annual leave, lieu time, flexi-leave or, where the individual has exhausted their annual leave entitlement as unpaid leave.

Special paid leave may be granted however if the employee is at risk of redundancy.

5.13 IVF treatment leave

The Trust recognises the potential anxiety and distress that staff may suffer during the process of undergoing IVF treatment and wishes to support staff who decide to do so or those whose partner is undergoing the treatment, providing some special leave for this purpose.

5.13.1 Employees receiving or recovering from IVF treatment

Employees may be granted up to 3 days' paid leave per IVF treatment cycle (pro-rata for part-time staff) for the purpose of receiving and recovering from treatment. These days can be taken in one block, separate days or ½ days. If more than 3 days' leave is required, then annual leave or unpaid leave must be used, with the prior agreement of the manager.

5.13.2 Employees whose partner is receiving IVF treatment

An employee whose partner is receiving IVF treatment may be granted up to 3 days' paid leave per 12 month period (pro rata for part-time staff) to support their partner through the treatment.

The leave can be taken in one block, separate days or ½ days. If more than 3 days' leave is required, then annual or unpaid leave must be used, with the prior agreement of the manager.

Leave may be taken only within the treatment cycle. It cannot be carried over to a further IVF treatment cycle, or 12 month period.

6.0 PROCEDURE FOR DEALING WITH SPECIAL LEAVE REQUESTS

1. In the case of planned leave (e.g. Volunteer Reserve Forces, Jury Service) employees should discuss the leave required with their manager at the earliest opportunity. In considering the request, managers need to take into account the amount of leave being requested, any leave already taken and the needs of the service.
2. In the case of unplanned leave (e.g. urgent domestic crisis), employees should telephone their manager as soon as possible and inform them why they want to request the leave and how much time off they require.
3. Employees should keep in regular contact with their manager throughout the period of leave.
4. When deciding on the type and length of leave being requested, managers should consider each case on its merits. In some cases it may be necessary to decide which type of leave to agree when the employee returns to work.
5. Employees should complete the relevant application form at Appendix 1 or Appendix 2 and return this to their manager.

6. The manager should complete and sign the form, returning a copy to the employee.
7. Where special leave (paid or unpaid) has been approved, the manager should record this in ESR via Manager Self Service.
8. Where special leave cannot be approved, the manager should provide the employee with their reason(s) for this in writing.

7.0 PROCEDURE FOR RESOLVING ISSUES RELATING TO THIS POICY

If an employee has a complaint relating to the application of policy, they should, in the first instance, raise their concern with their line manager. If they are dissatisfied with the outcome of this, then they should raise their concern with a more senior manager. As a final option, if they remain dissatisfied with the outcome, they should raise their concern via the Trust Grievance Procedure.

8.0 MONITORING COMPLIANCE

8.1 Director of Human Resources

The Director of Human Resources will monitor the implementation of this policy by ensuring that it forms part of the ILM programme for managers and reporting usage of special leave once a year and any fraudulent requests through the workforce report presented to HRSG and Executive Committee.

8.2 Managers

Managers will keep accurate records of any special leave approved under this policy in ESR and keep any associated documentation on the employee's personal file.

8.3 Employees

The abuse of this policy by any employee, obtaining leave by false pretence will be considered serious and could result in disciplinary action. Any potential fraudulent requests for special leave will be referred to the Local Counter Fraud Specialist.

9.0 DISSEMINATION/TRAINING

9.1 Dissemination

- Induction
- E-mail to Senior Manager Forum
- Team Brief
- Intranet – HR Policies
- HR briefings to Directorates
- Joint Consultative Group
- Employee Benefits Day

9.2 Training/Awareness

The Trust is committed to providing training on matters relating to special leave to all its managers with staff responsibilities via the ILM Level 3 programme and subsequent HR Workshops.

10.0 CONSULTATION, REVIEW AND RATIFICATION

10.1 Consultation

- Human Resources Strategy Group
- Joint Consultative Group
- Executive Board

10.2 Review

- Human Resources Strategy Group
- Joint Consultative Group
- Executive Committee

10.3 Ratification

- Policy Committee

11.0 REFERENCES

11.1 Relevant Legislation

- Employment Rights Act 1996
- Age Discrimination Regulations 2006
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 1995
- Equality Act 2010

12.0 ASSOCIATED POLICIES/DOCUMENTS

- Flexible Working Policy
- Annual Leave Policy
- Parental Policy
- Employment Break Scheme
- Grievance Procedure
- Disciplinary Procedure

SPECIAL LEAVE APPLICATION FORM

SECTION A: (to be completed by employee)	
Employee Full Name:	
Employee Number:	
Directorate/Department:	
Job Title:	
Please indicate the type of special leave you are requesting	Please tick below
Bereavement leave	
Urgent/other domestic crisis leave	
Public duties leave (e.g. Magistrate, Jury Service, School Governor)	
Volunteer Reserve Forces leave	
IVF leave	
At risk of redundancy (job interview)	
Carers leave	
Reason for request:	
Date(s) Required:	
I declare that the information I have given on this form is correct and complete and in accordance with the Trust's Special Leave Policy. I understand that if I knowingly provide false information, this may lead to disciplinary action and I may be liable for prosecution and/or civil recovery proceedings	
Employee Signature:	Date:
SECTION B: (to be completed by Line Manager)	
The period of leave requested is approved* / declined* (*delete as appropriate)	
Paid:	From ----- To -----
Unpaid:	From ----- To -----
Reason(s) for approval/decline:	
Line Manager Signature:	Date:
Managers must ensure that where special leave has been approved, this information is recorded in ESR via Manager Self Service.	

PARENTAL LEAVE APPLICATION FORM

Employee Full Name:	
Employee Number:	
Job Title:	
Directorate/Department:	
Length of continuous NHS service:	
Name of child parental leave relates to <u>and</u> amount of parental leave taken previously in respect of this child:	
I would like to apply for unpaid parental leave as follows:	
I wish to apply for a period of:	
I will be stopping work on:	
I will be returning to work on:	
<p>The leave requested *does/*does not relate to the birth/adoption of my child. (*Delete as appropriate)</p> <p>If leave does relate to the birth or adoption of a child, please give the date of birth or placement date here:</p>	
Signed:	
Dated:	
<p>Please return this form to your Line Manager at least 21 days prior to the date on which your requested period of parental leave is due to start.</p>	
<p>Managers must ensure that where parental leave has been approved, this information is recorded in ESR via Manager Self Service.</p>	