

**TRUST CORPORATE POLICY :
SPECIAL LEAVE POLICY**

APPROVING COMMITTEE(S)	Trust Policies Committee – Chairs Action	Date approved:	18/10/13
EFFECTIVE FROM	Date of approval		
DISTRIBUTION	All Managers in CAGs via Trust Bulletin, Corporate Services and Non-Clinical Services via Trust Bulletin and all staff via Trust intranet		
RELATED DOCUMENTS	Leave for New and Expectant Parents Policy Annual Leave Policy		
OWNER	Director of HR		
AUTHOR/FURTHER INFORMATION	Author: HR Team Manager		
EXTERNAL REFERENCES	ACAS Agenda for Change Terms and Conditions of Service Employment Rights Act 1996		
SUPERCEDED DOCUMENTS	Special Leave Policy (Barts and The London NHS Trust); Policy on Special Leave (Newham University Hospital NHS Trust); Special Purposes Leave Policy and Procedure (Whipps Cross University Hospital NHS Trust);		
REVIEW DUE	3 years from the date of approval shown or earlier subject to legislative or national policy changes or organisational need.		
KEYWORDS	Special Leave, Bereavement Leave, Parental Leave, Carer's Leave, Leave Associated with Fertility Treatment, Leave for Public and Other Duties, Fostering Leave		
INTRANET LOCATION(S)	http://bartshealthintranet/Policies		
CONSULTATION	<i>Barts Health Working Groups</i>	Policy Development Working Group	
	<i>External Partners</i>	Capital Hospitals via the New Hospital Control Team	
SCOPE OF APPLICATION AND EXEMPTIONS	<i>For the groups listed below, failure to comply with this policy may result in investigation and management action which may include formal action in line with the Trust's disciplinary or capability procedures for Trust employees, and other action in relation to organisations contracted to the Trust, which may result in the termination of a contract, assignment, placement, secondment or honorary arrangement.</i>		
	Application: All Trust staff employed on a contract of employment		
	Exclusions: e.g. students, agency workers, Bank (only) staff, honorary contracts and contractors working within the Trust		

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Please note that where words/phrases are inside square brackets [], this indicates that you can click on the word/phrase when and it will send you to the relevant area of the policy or (if you are using a Trust PC) the relevant supporting document/template.

This Policy is available in Braille, large print, Easy-Read and alternative languages by request. It is a manager's responsibility to ensure employees are aware of these options.

LEAVE FOR SPECIAL CIRCUMSTANCES POLICY

1. INTRODUCTION AND AIMS OF POLICY

- 1.1 Barts Health ("The Trust") recognises that members of staff may on occasions need to request leave that falls outside the scope of annual leave and the statutory entitlements of parental, maternity and adoption leave. The nature of this leave is that it is unexpected or unanticipated.
- 1.2 The purpose of this policy is to provide a supportive flexible environment which balances the needs of the service, work commitments and the impact on other members of staff with the unpredictable demands and responsibilities outside work that staff may face.
- 1.3 The aim of this policy is:
- to ensure that the Trust behaves in line with its values.
 - to ensure efficient and high quality care for our patients.
 - to ensure that special leave is considered in a fair and consistent manner and without discrimination in relation to any of the [\[protected characteristics\]](#).
 - to ensure that this policy is applied in line with the Equality Act 2010.
 - to ensure there is compliance with the Health and Safety requirements.
 - to ensure employees are aware of the types of leave available to them.
- 1.4 This policy covers the following:
- Parental Leave.
 - Carer's leave.
 - Bereavement Leave.
 - Leave for public and other duties.
 - Leave associated with fertility treatment.
 - Other types of special leave.

2. VISION, VALUES & BEHAVIOURS

- 2.1 In order to establish a sense of organisational community during the development of Barts Health, the 'Creating our Future together Campaign' was established. The Campaign engaged patients, carers, staff and partners to identify a set of values and behaviours we can all share to make Barts Health a great organisation. Our vision is to change lives.
- 2.2 Our values define what is important in the way we deliver this vision. Our core behaviours set out how all of us will work regardless of the role we hold in the organisation. These behaviours consistently carried out will help embed the values in our everyday working lives and ultimately consistently 'doing the right thing' will affect our organisation's culture. Every time individually we do the right thing it makes it easier for others to follow our example.
- 2.3 At Barts Health we champion dignity, compassion and respect, putting the individual at the heart of all decisions, striving to get it right for every person, every time.
- 2.4 As Managers and staff we must ensure we implement the principals held by the values & behaviours so we can support the achievement of our vision to 'Change Lives'.

Our Values:

- Caring and compassionate with patients, each other and our partners;
- Actively listening, understanding and responding to patients, staff and our partners;
- Relentlessly improving and innovating for patient safety;
- Achieving ambitious results by working together;
- Valuing every member of staff and their contribution to the care of our patients.

2.5 All of us, managers and staff are responsible for ensuring the values and behaviours are integral to how we implement this policy. Through this implementation together we can affect the organisational culture and change lives.

3. DEFINITIONS

3.1 The following definitions are used in this policy:

Parental Leave	Unpaid leave taken by a parent to look after a child or make arrangements for the child's welfare.
Carer's Leave	Time taken to deal with certain unexpected or sudden emergencies in relation to a dependant and to make any necessary longer term arrangements.
Dependants	A dependant is the husband, wife, civil partner, child or parent of the employee, or someone who lives in the same household as the employee but does not include tenants or boarders or employees (such as housekeeper)
Bereavement leave	Time taken when someone close to an employee dies
Leave for public duties	Leave taken to perform public duties where the employee is <ul style="list-style-type: none"> • A Justice of the Peace • A member of a Local Authority • A member of a Statutory Authority • A member of a Board of Prison Visitors • A member of an NHS Trust, Regional or District Health Authority Board, or Family Services Board. • A member of the managing or governing body of an educational establishment, maintained by a Local Authority • A member of the governing body of a grant maintained school, further or higher education corporation, or of a school board of management of a college of further education or self-governing body • A member of the National Rivers Authority entitled to take time off work for the purposes of performing the duties of his/her office.
Child	Anyone who has not reached their 18 th birthday

4. DUTIES AND RESPONSIBILITIES

Employee	<ul style="list-style-type: none"> • Read and understand the policy and behave in a way that reflects its principles and values. Where they do not understand, ask for help to understand
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	<ul style="list-style-type: none"> • Behave in a way which reflects the Trust's agreed [values and behaviours] • Request leave in a timely manner • May be required to provide relevant evidence when requested
Manager	<ul style="list-style-type: none"> • Have a duty of care for their employees • Treat colleagues and employees with dignity and respect • Consider all requests fairly and apply decisions consistently and transparently • Take into account special leave that has been previously granted when considering any request for special leave
Human Resources	<ul style="list-style-type: none"> • Provide Management training where necessary • Advise and support managers on how to use this policy • Advise employees on the application of this policy

5. PARENTAL LEAVE

5.1 Eligible employees can take unpaid parental leave to look after their child's welfare. For example, to:

- spend more time with their children
- look at new schools
- settle children into new childcare arrangements
- spend more time with family - e.g. visiting grandparents

5.2 Employment rights (e.g. the right to be paid for work done, holidays and returning to a job) are protected during parental leave.

Child	Entitlement
For each child	18 weeks up to their 5 th birthday
For each adopted child	18 weeks up to their 18 th birthday or 5 th anniversary of adoption; whichever comes sooner
For each child who qualifies for Disability Living Allowance	18 weeks up to their 18th birthday

5.3 The limit on how much parental leave can be taken per year is 4 weeks.

5.4 Unless an employer agrees otherwise, or the child is disabled, leave should be taken in blocks of one week.

5.5 A 'week' equals the length of time an employee normally works in a week.

Example

If an employee works 3 days a week, one 'week' of parental leave equals 3 days. If an employee works irregular weeks the number of days in a 'week' is the total number of days they work a year divided by 52.

5.6 Parental leave applies to each child not to an individual's job (see examples below)

Example

An employee is entitled to 18 weeks parental leave. They've used 8 with a previous employer. They can use up to 10 weeks with their new employer if they're [eligible](#). Employees are entitled to 18 weeks parental leave, so in this example an employee can use up to 10 weeks with their new employer if eligible.

5.7 Employees qualify if all of these apply:

- they have been in the organisation for more than a year
- they are named on the child's birth or adoption certificate
- they have or expect to have [parental responsibility](#)
- they are not self-employed or a 'worker' - e.g. an agency worker or contractor
- they are not a foster parent (unless they've secured parental responsibility through the courts)
- the child is under 18

5.8 Employers can ask for proof (like a birth certificate) as long as it is reasonable to do so.

5.9 Employees must give 21 days' notice before their intended start date. To take parental leave straight after the birth or adoption of a child, an employee should give notice 21 days before the beginning of the expected week of childbirth or placement.

5.10 Employees must confirm the start and end dates in their notice and this must be in writing.

5.11 Leave can only be postponed where:

- the employer has a 'significant reason' - e.g. it would cause serious disruption to the business;
or
- it is being taken by the father or partner immediately after the birth or adoption of a child;

5.12 Leave cannot be postponed where this would cause an employee to no longer qualify for parental leave - e.g. postponing it until after the child's 18th birthday

5.13 Where a request for parental leave is postponed, the employer must write to the employee within 7 days of the original request. In the letter, the employer:

- must explain the reason for refusal or postponement
- suggest a new start date within 6 months of the requested start date
- cannot change the amount of leave being requested

6. CARER'S LEAVE

6.1 All employees regardless of their length of service, have a statutory right to request reasonable unpaid time off work in emergency situations,

6.2 Employees who have completed twelve month's continuous service with Barts Health NHS Trust have an entitlement to request paid carer's leave.

6.3 Paid carer's leave is not guaranteed and should not be regarded as additional paid leave entitlement for those with caring responsibilities.

6.4 Carer's leave may be appropriate where:

- A dependant is ill, gives birth or is injured or assaulted; or
- An employee needs to make provision for care of a dependant; or
- There is unexpected disruption or termination in the provision of care arrangements for a dependant; or
- An employee needs to deal with an unexpected incident involving a dependant child at school

6.5 These situations are expected to be of short duration and may only involve a few hours away from work

- 6.6 In all cases the employee must be prepared to make their manager aware of relevant personal and domestic commitments when a request is made. Managers will recognise that employees with caring responsibilities may on occasions have to leave work with minimum notice to cope with a sudden crisis. However, employees must give as much prior notification to their manager as possible and the manager will consider the request in a fair and equitable manner.
- 6.7 Paid carers' leave is limited to a maximum of one working day at any one time and to no more than three working days per annual leave year. If longer periods are required, they may be taken as either annual leave or unpaid special leave.

7. BEREAVEMENT LEAVE

- 7.1 All employees regardless of their length of service are eligible for bereavement leave.
- 7.2 The Trust understands the importance of supporting employees after bereavement and the need for time to grieve before returning to work. Managers are encouraged to be sensitive to individual circumstances.
- 7.3 If a death involves an immediate relative (defined as a partner, spouse/civil partner, parent, guardian, sibling or child of the employee), one week's special leave should be granted. One further week can be granted at the discretion of the manager. If further leave beyond this week is requested, the individual would normally be expected to take annual leave or unpaid leave the extent of which must be agreed with the manager.
- 7.4 If a death involves a close relative (defined as grandparents, niece/ nephew, aunt/uncle, 'in-laws'), up to three consecutive days' special paid leave may be granted. If further leave beyond these three days is requested, the individual will normally be expected to take annual leave or unpaid leave, the extent of which must be agreed with the manager.
- 7.5 Trust recognises the diversity which exists in reference to modern family life and acknowledges there may be close bonds beyond the relationships listed above. However, it is at the manager's discretion whether paid or unpaid leave is granted to attend the funeral of someone other than that outlined above.
- 7.6 The needs of the service and the impact on other members of staff must be taken into account in approving a request for bereavement leave.

8. LEAVE FOR PUBLIC DUTIES

- 8.1 Barts Health NHS Trust is aware that employees will be called upon from time to time to perform duties of a public nature and that some employees will have public duties to perform on a regular basis. Although some duties will play a part in enhancing the reputation of Barts Health NHS Trust in the community, the aim of these guidelines is to enable employees to balance their public duties with their duties under their contract of employment with the Trust.
- 8.2 Employees must discuss their needs with their manager, and must also seek permission from their manager if they wish to take up a post involving public duties.
- 8.3 Under the terms of the Employment Rights Act 1996 this leave includes duties where an employee is:
- a magistrate (also known as a justice of the peace)
 - a local councilor
 - a school governor
 - a member of any statutory tribunal (eg an employment tribunal)
 - a member of the managing or governing body of an educational establishment

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- a member of a health authority
- 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 (England or Wales) or a member of the prison visiting committees (Scotland)
- a member of Scottish Water or a Water Customer Consultation Panel
- a trade union member (for trade union duties and activities)

- 8.4 Subject to the needs of the service, an employee who is a member of one of the bodies mentioned above, may be granted up to 10 days of unpaid special leave in any 12-month period for the purpose of carrying out the duties of the office.
- 8.5 An employee who is elected to a local authority and whose duties are combined with duties as a magistrate may only receive up to a total of 10 days' special unpaid leave for the combined duties.
- 8.6 The employee must discuss with the manager any requirements for time off during the coming 12 months, as far as is reasonably practicable, in order to allow the planning of service delivery.
- 8.7 The employee must give as much notice as possible of an intended absence, and must produce evidence of the need to attend a meeting or to perform public duties. A copy of this should be kept on the local employee file.
- 8.8 The manager should not unreasonably refuse special leave, but has the right to take into consideration:
- How much time off is required for the performance of the duties.
 - How much time off the employee has already been permitted for public or trade union duties in line with Trust arrangements for facility time.
 - The effect of the absence of the employee on the running of the service.
- 8.9 Where the employee requests special leave in line with the above, they shall be granted unpaid special leave on the understanding that any fee received for carrying out that public duty is passed to Barts Health NHS Trust in order to cover the cost of the absence.

9. LEAVE ASSOCIATED WITH FERTILITY TREATMENT

- 9.1 This section applies to all staff employed by the Trust undergoing fertility treatment.
- 9.2 An employee who is undergoing fertility treatment may use their annual leave entitlement to undertake this treatment. Paid special leave will not be granted for those staff undergoing fertility treatment.
- 9.3 Where annual leave has been exhausted and/or an employee may require any additional time off, then alternative leave arrangements should be agreed with their line manager for time owing or unpaid leave.
- 9.4 Managers should allow flexibility wherever possible to enable employees to take leave at short notice.
- 9.5 Should the employee require time off due to the side effects of the treatment, this will be subject to the normal sickness absence provisions applicable to the individual.
- 9.6 At all times managers will be expected to treat the matter with sensitivity and with the appropriate level of confidentiality and support.

10 OTHER TYPES OF SPECIAL LEAVE

10.1 Urgent Domestic Distress

In addition to the statutory entitlements detailed above, managers have discretion to allow paid time off (normally a maximum of one working day) to enable employees to cope with unforeseen domestic circumstances, such as burglary, flood or fire. Such leave does not cover delivery of domestic items such as washing machines for which other arrangements should be made by employees.

Employees may be required to provide evidence of the need for special leave for urgent domestic distress. Managers should consider the request in a fair and balanced manner. Where the domestic emergency has been resolved, employees should make every effort to return to work.

10.2 Jury Service or Attending Court as a Witness

Employees attending court for jury service or as a witness shall be granted special leave with pay on the understanding that any court fee received is passed to Barts Health NHS Trust in order to cover the cost of the absence.

Barts Health NHS Trust will not pay travelling and subsistence allowances.

Staff may request to be excused from jury service when summoned if they have pressing duties to perform. However, this request may not be granted.

Proof of appearance should be given to the employee's line manager and kept on the HR file.

Where such duties are likely to require an absence from work for longer than two weeks, the employee should inform their line manager at the earliest opportunity and before being sworn in.

It may be appropriate for the line manager to give the employee a letter in order to support their deferral of jury service or request for exclusion.

10.3 Attending as a Witness at Professional Body Hearings

Employees shall normally be granted paid special leave and should not be refused time off to attend except when the needs of the service require attendance or the request is unreasonable. However, it is essential that the employee's request is submitted as far in advance as is reasonably practicable and that prior approval by the line manager is confirmed. Proof of the appearance should be given to the employee's line manager and kept on the HR file.

Employees attending Professional Body Hearings as a witness shall be granted special leave with pay on the understanding that any court fee received is passed to Barts Health NHS Trust in order to cover the cost of the absence.

10.4 Attending Training With the Reserve/Cadet Forces

An employee who wishes to join the reserve or cadet forces, must seek the consent of the manager before doing so. Permission will not be withheld except where special circumstances make the membership inappropriate.

Employees shall be granted one week of unpaid special leave for the purpose of attending annual camp. However, the employee may choose to take this as annual leave. If a second week is required, then the employee will have to take this as annual leave.

Employees who are required to undergo short periods of training additional to annual camp must arrange this in their own off-duty time.

10.5 Attending an Employment Interview

Employees shall not unreasonably be refused time off to attend an external employment interview, however the leave shall be taken from an employee's entitlement to annual leave or as unpaid leave.

Alternatively the time should be made up. Interviews for posts at Barts Health NHS Trust are included in normal working time.

10.6 Fostering Leave

There is no entitlement to paid or unpaid leave for those employees who are becoming foster parents. However, staff and managers are encouraged to have open discussions about how employees can be reasonably released to enable them to complete the fostering process.

11 NOTIFICATION

11.1 In all cases, requests for special leave should be made in writing at the earliest opportunity. This will assist in ensuring adequate cover for service provision.

12 EMPLOYMENT BREAK

12.1 The employment break scheme allows employees the opportunity to take a period of authorised **unpaid** leave for reasons including childcare, eldercare, care for another dependant, training, study leave or work abroad. Other reasons other than those stated will be considered on their merits on an individual basis.

12.2 Employees on employment breaks will not normally be allowed to take up paid employment with another employer, except where, for example, work overseas or charitable work could broaden experience. In such circumstances this must be put in writing by the line manager authorising the employment break.

12.3 Employees must have at least 12 months continuous NHS service in order to be eligible for an employment break. Applications must be submitted in writing

12.4 An employment break must last at least 3 months and no more than 5 years. A break can be taken as a single period or multiple periods.

12.5 The length of any break should balance the needs of the applicant with the needs of the service.

12.6 All employment breaks must have a signed agreement outlined in appendix 4. This agreement outlines in more details the terms of the agreement.

12.7 Where the employee returns to work within one year, the same job will be available, as far as is reasonably practicable

12.8 Where a break is greater than a year the employee will return to a similar role as possible.

12.9 An employment break will not break continuous NHS service or reckonable service. However, it will not count as service. An employment break will count as continuous for statutory service.

12.10 Whilst on an employment break the employee is required to keep up to date with their relevant professional registration needs, including attendance at specified training courses and conferences.

12.11 Line managers and employees will agree arrangements for keeping in touch during the break, and any training arrangements and the re-induction to work.

- 12.12 Employees will not need to resign to take an employment break and will remain on Trust payroll
- 12.13 For staff in the NHS Pension Scheme, they are encouraged to discuss the implications on their pension with the Trust’s pension officer.
- 12.14 Regardless of whether an application for an employment break is successful or not, the decision must be conveyed to the employee in writing.

13 FAILURE TO FOLLOW PROCEDURE

- 13.1 Any leave taken without following the stated procedure and not authorised by the manager will be considered as unauthorised absence. Pay will be suspended pending a full investigation which may result in formal disciplinary action being taken.

14. IMPACT AND EQUALITIES ANALYSIS

- 14.1 An Equality Analysis has been completed for this policy and has concluded that there are no negatives effects and no positive effects of this policy. The analysis has been included here:

15. MONITORING THE EFFECTIVENESS OF THIS POLICY

Issue being Monitored	Monitoring Method	Responsibility	Frequency	Reviewed and Followed Up By
Compliance with the Equality Act 2010	The use of special leave per protected group	HR/Workforce Information	Bi-annual	Staff Partnership Group
Consistent use of special leave per CAG across the Trust	Comparison of use of special leave per CAG in relation to WTE	HR/Workforce Information	Bi-annual	Staff Partnership Group

END

APPENDIX 1: GLOSSARY OF TERMS

Equality Act 2010	<p>Replaces previous discrimination law (e.g. Disability Discrimination Act 1995) and includes the following:</p> <ul style="list-style-type: none"> • Extends the groups protected (protected characteristics) • Removal of health questionnaires • Bans discrimination by association • Bans direct and indirect discrimination • Bans harassment, victimisation and failure to make reasonable adjustments • Replaces all previous discrimination law • Introduces harassment by third parties • Also relates to provision of services to patients, not just employment
Protected Characteristics (part of the Equality Act 2010)	<ul style="list-style-type: none"> • Age • Disability • Gender Reassignment • Marriage and Civil Partnership • Race • Religion or Belief • Sex • Sexual Orientation • (Pregnancy and Maternity – only some elements apply)
Reasonable Adjustments (part of the Equality Act 2010)	<p>An 'adjustment' is a change. This can be a physical change or a change in the way something is done.</p> <p>'Reasonable' will depend on a number of circumstances but the tests include:</p> <ul style="list-style-type: none"> • How much will a reasonable adjustment reduce the disadvantage • The practicality of the change • The financial & other costs & the extent of any disruption caused • The extent of the Trust's financial & other resources <p>Although the Trust must consider reasonable adjustments for employees who have a disability or are pregnant, it is best practice for them to be considered for all employees to facilitate attendance & implemented where service delivery allows.</p>

APPENDIX 2: OTHER LINKED TRUST POLICIES AND GUIDELINES

	Title differences where policies have not been amalgamated		
	Barts and The London (& CHS)	Newham University	Whipps Cross University
Leave for New and Expectant Parents Policy	n/a	n/a	n/a
Annual Leave Policy	n/a	n/a	n/a
<u>Sickness Absence Management Policy</u>	n/a	n/a	n/a

APPENDIX 3: EXTRA SOURCES OF INFORMATION AND SUPPORT

Employee Assistance Programme <i>provided by CiC</i>	<p>A free service to all employees provided 24 hours 7 days a week which includes advice on debt, legal issues, caring and childcare and offers face to face counselling services.</p> <p>Tel. 0800 085 1376</p> <p>Or access them via www.well-online.co.uk</p>
Trade Unions	<p>The Trust recognises a number of Trade Union organisations. For further information about these, please visit the Trade Union page on the Trust Intranet:</p> <p>http://bartshealthintranet/People/Staff-side/Staff-side-representatives.aspx</p>
Chaplaincy	<p>The local chaplaincy service is there to support staff of all religions or beliefs including staff with no religion or belief.</p> <ul style="list-style-type: none"> • The Royal London, The London Chest & Mile End - ext 14 42070 • Barts: ext 15 57220 • Newham: 020 7363 8467 • Whipps Cross: ext 5005 or 5244

APPENDIX 4: EMPLOYMENT BREAK AGREEMENT

Dear

I am writing further to our meeting of DATE at which we discussed your formal request for an employment break.

It was agreed that you will be taking an employment break with the Trust as follows:-

Start Date:

End Date:

If your employment break lasts for less than 1 year, the Trust will guarantee that you return to the same job, as far as is reasonably practicable. If your employment break lasts for more than 1 year you will return to a role as similar as possible to your current role.

You may however be asked to attend to undertake your mandatory training and, if applicable, I will contact you with the dates and times of the training and agree attendance dates with you. Attendance at training days will be paid at your normal hourly rate. If applicable, you must ensure that your professional registration is kept up to date.

There is a requirement that we keep in touch on your career break and we agreed that we would keep in touch by <INSERT AGREED METHOD>

I would remind you that your career break is unpaid, unless attending work on a formal basis for training and/or keeping in touch. Such attendance is paid at your normal hourly rate for the hours that you are required to be at work.

Your career break on unpaid leave will count as continuous service for statutory requirements. However, continuous and reckonable service for occupational entitlements does not accrue and will be suspended for this time.

You are required to give notice of your return to work. For employment breaks under 1 year, 2 months' notice is required. For employment breaks of greater than 1 year 6 months' notice is required.

Yours sincerely,

Line Manager

I confirm that I have read and understood the conditions relating to my employment break

SignedDated