HR PROCEDURE: BUYING AND SELLING ANNUAL LEAVE (ADDENDUM TO FLEXIBLE WORKING HRP001)
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1. Why we need this Policy

The Trust recognises that there may be a time when an employee will need to alter their working pattern in order to balance home, family or other personal demands and the Trust’s Special Leave for Domestic, Personal, Family and Professional Matters Policy addresses emergency and short-term arrangements. Also, there will be staff approaching retirement who may wish to approach retirement gradually, rather than ending employment completely.

This addendum should be read in conjunction with the Trust’s Flexible Working procedure HRp001 and is intended to be used to support staff who wish to buy or sell annual leave.

The Trust is committed to treating people with dignity and respect in accordance with the Equality Act 2010 and Human Rights Act 1998. Throughout the production of this policy due regard has been given to the elimination of unlawful discrimination, harassment and victimisation (as cited in the Equality Act 2010).

2. What the Policy is trying to do

The Trust is committed to equality of opportunity for all. It recognises that offering flexible working arrangements can help to increase the diversity of the workforce. The purpose of this procedure is to explain the application process for staff who wish to buy or sell annual leave and should be read in conjuction with the Trust’s Flexible Working procedure HRp001.

For each of the options available, the benefits and considerations are provided.

3. Which stakeholders have been involved in the creation of this Policy

Human Resources team

Staff Side

Corporate Services Transformation Board

Payroll/Workforce

4. Any required definitions/explanations

NHFT - Northamptonshire Healthcare NHS Foundation Trust

5. Key duties

1.1. The Trust

The Trust needs to ensure that the procedures within this procedure are complied with and that managers understand the balance between the individual’s right to request and service/team needs. The Trust will monitor flexible working requests and their outcomes to ensure compliance and equality.

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The Trust recognises that some staff have a statutory right to request flexible working. This procedure ensures that this right is available to all staff with sufficient service with the Trust. Many services that the Trust operates are on a 24/7 basis and therefore the Trust, when considering flexible working requests, must take this service delivery into account.

1.2. Human Resources
HR have a duty to ensure compliance with this procedure and to ensure that managers balance the needs of the Trust with the needs of the individual.

1.3. Managers
Each line manager has a responsibility to ensure compliance with this procedure. Managers need to ensure that staff are aware that they have a right to make a flexible working request. This right is enshrined not only in employment law for eligible staff but in best practice as an NHS employer.

Managers also need to think creatively about how they can accommodate the request being made. If the request cannot be accommodated in its entirety, it may be able to be partially met and managers will need to ensure that a constructive dialogue between themselves and the employee is undertaken.

1.4. Employees
Staff need to ensure that, on making any request for flexible working, they have not only considered their own individual needs and circumstances but those of the Trust, their team and colleagues. Enshrined in the application process is the need to consider the impact of their request on the team and service delivery and how this impact can be mitigated. If the request cannot be met in its entirety, it may be able to be partially met and both parties may need to consider compromise.

6. Policy detail

6.1. Flexible Working
Anyone can ask their employer for flexible work arrangements, and the law provides some employees with the statutory right to request a flexible working pattern. The statutory right requires that:

The individual must:

- be an employee, but not an agency worker
- have worked for the employer for 26 weeks continuously before applying
- not have made another application to work flexibly under the right during the past 12 months

Under the law the employer must seriously consider an application made, by staff who meet the above criteria and only reject it if there are good business reasons for doing so. The above individuals have the right to ask for flexible working - not the right to have it.

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6.2. Eligibility

The Trust allows all employees to make a flexible working request providing that they meet the criteria detailed in section 6.1.

Part-time employees, regardless of their working pattern, are treated on no less favourable terms than their full time equivalents.

6.3. Buying and Selling Annual Leave

An arrangement between the employee and the Trust whereby additional annual leave entitlement can be purchased or sold. Such requests will be given consideration during specific windows as detailed in 7.2.1/7.2.2 and any extra leave, like all annual leave, will be subject to the protocols operating within each department.

Benefits

- Allows individuals who wish to have more paid time off to do so.

Considerations

- May be hard to manage a team, or deliver the service with extra annual leave entitlements.

7. Applying for Flexible Working

7.1. Who can apply?

Any employee can apply to buy or sell annual leave provided that they:

- Have 26 weeks’ continuous service with the Trust.
- Have not normally made a previous flexible working request in the previous 12 months.
- Do not exceed the limits as set out in 7.2.1/7.2.2

7.2. How to Apply

The employee must put their application in writing by completing a Buying/Selling Annual Leave Application– Appendix 2. Completion of this form entails obtaining a line manager and budget holder signature (this can be the same person), prior to submission to the relevant HR Business Partner.

7.2.1. Buying Annual Leave

Staff who wish to buy annual leave must be aware of the following:

- A maximum of 2 weeks (WTE) annual leave can be purchased by an employee
- Annual leave is purchased at hourly rate x hours purchased. Staff requiring assistance with calculations should contact the Workforce team.
- All annual leave must be paid for and taken by the end of the financial year in which it is purchased
- There is no carry over or sell back of purchased annual leave
- Employees need to be aware that there may be an impact on any maternity/paternity/adoption pay as the deduction will impact on the gross salary for calculation purposes
- Any deductions from an employee’s salary may have an impact on pension contributions, and could impact final pension sums. Employees who are nearing

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retirement age should contact NHS Pensions to discuss the impact of any deductions.
- Should an employee leave before the end of the leave year, they may be subject to an overpayment if they have exceeded their annual leave allowance

Staff should also be aware of the following timescales for applications:
- For staff who require additional annual leave over 12 months (April-March); applications must be submitted between 5 January and 5 February
- For staff who require additional annual leave over 6 months (October-March); applications must be submitted between 5 July and 5 August
- For staff who require additional annual leave over 3 months (Jan-March); applications must be submitted between 5 September and 5 October
- Should the purchase of annual leave be viewed as a reasonable adjustment due to ill health, discretion may be used outside of the period above

7.2.2. **Selling Annual Leave**
Staff who wish to sell annual leave must be aware of the following:
- Staff can only sell a maximum of 1 week WTE
- Annual leave is sold back to the employee at hourly rate x hours sold, and is subject to tax and NI deductions. Staff requiring assistance with calculations should contact the Workforce team.
- Staff must not reduce their annual leave below the statutory allocation (28 days including bank holidays)
- Should staff leave before the end of the leave year, they may be required to pay back this lump sum if they have exceeded their annual leave allowance
- Applications to sell annual leave must be made within the first 6 months of the leave year (by 30 September)

7.3. **Application is considered**
Once the application has been submitted to management, the manager must consider the application on an individual basis. However, the manager has a duty to take into account the needs of the service and the team as well as the individual making the request. Management must take into account that any annual leave must be planned to meet service needs. It is important that departments do not use bank and agency staff to cover the additional annual leave. Management must also be aware that any monies owed to employees as a result of selling annual leave will be deductible from their budgets.

7.4. **Request is declined**
If the request is declined, then this needs to be communicated to the employee formally, ensuring that the following issues are covered:
- The request has been declined
- Outlining the specific business reasons why the request can not be accommodated.
  Reasons for declining the request can include:
  - burden of additional costs
  - detrimental effect on the ability to deliver service
  - inability to recruit additional staff
  - inability to re-organise work among existing staff

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- detrimental impact on quality or performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

Outlining that they have the right to appeal against this decision using the Trust's grievance procedure.

8. Training requirements associated with this Policy

8.1. Mandatory Training
There is no mandatory training associated with this policy.

8.2. Specific Training not covered by Mandatory Training
Not applicable to this document

9. How this Policy will be monitored for compliance and effectiveness

The table below outlines the Trust's monitoring arrangements for this document. The Trust reserves the right to commission additional work or change the monitoring arrangements to meet organisational needs.

<table>
<thead>
<tr>
<th>Duties</th>
<th>To be addressed by the monitoring activities below</th>
</tr>
</thead>
<tbody>
<tr>
<td>Be very specific about the aspect of compliance to be monitored</td>
<td>State the measure of the aspect including sample size</td>
</tr>
<tr>
<td></td>
<td>State the job title of the individual responsible for the monitoring</td>
</tr>
<tr>
<td></td>
<td>How often will monitoring occur – monthly, quarterly, 6 monthly annually, bi annually.</td>
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<td></td>
<td>State the group or committee which will receive the results of the monitoring and ensure it is on that group or committees workplan</td>
</tr>
<tr>
<td></td>
<td>Who is ultimately responsible for ensuring that the monitoring takes place</td>
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</table>

Where a lack of compliance is found, the identified group, committee or individual will identify required actions, allocate responsible leads, target completion dates and ensure an assurance report is represented showing how any gaps have been addressed.

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10. For further information
   - Flexible Working Procedure HRp001
   - Annual Leave and Bank Holiday Procedure HRp010

11. Equality considerations
The Trust has a duty under the Equality Act and the Public Sector Equality Duty to assess the impact of Policy changes for different groups within the community. In particular, the Trust is required to assess the impact (both positive and negative) for a number of ‘protected characteristics’ including:

- Age;
- Disability;
- Gender reassignment;
- Marriage and civil partnership;
- Race;
- Religion or belief;
- Sexual orientation;
- Pregnancy and maternity; and
- Other excluded groups and/or those with multiple and social deprivation (for example carers, transient communities, ex-offenders, asylum seekers, sex-workers and homeless people).

The author has considered the impact on these groups of the adoption of this Policy (See Appendix 2)

Reference Guide
There are no references or bibliography associated with this document

12. Document control details

<table>
<thead>
<tr>
<th>Author:</th>
<th>Alex Ridley, HR Business Partner</th>
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<tbody>
<tr>
<td>Approved by and date:</td>
<td>Corporate Services Transformation Board, 22/05/17</td>
</tr>
<tr>
<td>Responsible committee:</td>
<td></td>
</tr>
<tr>
<td>Any other linked Policies:</td>
<td>Flexible Working Procedure HRP001</td>
</tr>
<tr>
<td>Policy number:</td>
<td>HRP001a</td>
</tr>
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<td>Version control:</td>
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<table>
<thead>
<tr>
<th>Version No.</th>
<th>Date Ratified/Amended</th>
<th>Date of Implementation</th>
<th>Next Review Date</th>
<th>Reason for Change (eg. full rewrite, amendment to reflect new legislation, updated flowchart, minor amendments, etc.)</th>
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<tr>
<td>2</td>
<td>22/07/19</td>
<td></td>
<td></td>
<td>Minor grammatical amendments, policy due for review</td>
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Appendix 1 – BUYING/SELLING ANNUAL LEAVE APPLICATION

The Form must be completed by the employee and signed as appropriate, and sent to Human Resources for processing.

Once completed and agreed a copy of this form must be given to the employee and kept on the employee’s personal file.

Name __________________________ Assignment Number __________________________

Base ___________________________ Dept / Ward __________________________

Contracted Hours ___________________ Length of NHFT Service __________________________

Assignment No ___________________________ Line Manager __________________________

Please complete the applicable section

BUYING ANNUAL LEAVE

I wish to buy additional annual leave : ____________ hours

I wish to pay this back over three / six / twelve months (delete as appropriate)

Declaration :
- I understand the impact this will have on my salary
- I understand that this additional leave must be paid for and used within this financial year, and that there is no carry over or sell back of additional leave
- I understand this is non-recurring and applies only within this leave year
- I am applying within the application windows. If not, please detail : __________________________

SELLING ANNUAL LEAVE

I wish to sell annual leave : ____________ hours Declaration :
- I understand that I cannot reduce my annual leave below 28 days (including bank holidays)
- I understand I cannot sell more than 1 week annual leave
- I understand that this is non-recurring and applies only within this leave year

Management Approval and Signature
- I understand the impact this application has on my budget
- I understand that agency and bank cannot be used to cover additional annual leave taken
- I understand that the costs/savings associated with this application are non-recurring

Signed: ___________________________ Date: ___________________________ Line Manager: ___________________________

Signed: ___________________________ Date: ___________________________ Budget Holder: ___________________________

Signed: ___________________________ Date: ___________________________ Budget Code: ___________________________

Signed: ___________________________ Date: ___________________________ HR Business Partner: ___________________________

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**APPENDIX 2 – EQUALITY ANALYSIS REPORT**

<table>
<thead>
<tr>
<th>Equality Analysis Report</th>
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<tbody>
<tr>
<td><strong>Name of function:</strong></td>
</tr>
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<td><strong>Date:</strong></td>
</tr>
<tr>
<td><strong>Assessing officers:</strong></td>
</tr>
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</table>

**Description of policy including the aims and objectives of proposed:**

(service review/redesign, strategy, procedure, project, programme, budget, or work being undertaken):

Addendum to Flexible Working Procedure (HRp001) to provide more detail regarding applications to buy and sell annual leave.

**Evidence and Impact – provide details**

data community, service data, workforce information and data relating specific protected groups. Include details consultation and engagement with protected groups.
Evidence base:

- NHFT Equality Information Report August 2012
- Northampton County Council: Northamptonshire Results: 2011 Census Data Summary

<table>
<thead>
<tr>
<th></th>
<th>Corby</th>
<th>Daventry</th>
<th>East Northants</th>
<th>Kettering</th>
<th>Northampton</th>
<th>South Northants</th>
<th>Wellingborough</th>
<th>Northants</th>
<th>England</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>53,400</td>
<td>72,100</td>
<td>76,600</td>
<td>82,200</td>
<td>194,200</td>
<td>79,400</td>
<td>72,500</td>
<td>630,400</td>
<td>49,449,700</td>
</tr>
<tr>
<td>2011</td>
<td>61,100</td>
<td>77,700</td>
<td>86,800</td>
<td>93,500</td>
<td>212,100</td>
<td>85,200</td>
<td>75,400</td>
<td>691,900</td>
<td>53,012,500</td>
</tr>
<tr>
<td>% rise</td>
<td>14.4%</td>
<td>7.8%</td>
<td>13.3%</td>
<td>13.7%</td>
<td>9.2%</td>
<td>7.3%</td>
<td>4.0%</td>
<td>9.8%</td>
<td>7.2%</td>
</tr>
</tbody>
</table>

- Ethnicity: 85.7% (White) and 14.3% (BME) - 1.75% (dual heritage); 4.01% (Asian); 2.5% (Black including British, African and Caribbean); 0.85% (Chinese); 6.05% (white other EEA, polish, Gypsy & Traveller)

- Gender: 49.6% males; 50.4% females (including 1% transgender)

- Disabled people: 19% (including 3.5% < aged under 18)

- Faith communities: 71% Christian; 29% minority faith: (includes Hindu, Muslim, Sikh, atheists, non-belief)
<table>
<thead>
<tr>
<th>Human Resources</th>
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<tr>
<td>06.07.2016</td>
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</table>

- Sexual orientation (gay, lesbian or bisexual): 5 - 7% (Stonewall estimate)

| In compliance with the Equality Act 2010 this procedure will be applied equally to all members of staff and will not allow a person’s age to be used to their detriment to ensure that no member of staff will be treated less fairly based on their age. |
| No specific adverse impacts related to sexual orientation have been identified in the implementation of this procedure. |
| The Trust is committed to eliminating discrimination on the grounds of sex, gender and is committed to ensuring employers’ practices will not disadvantage women in the workplace during their pregnancy and maternity. |
| In compliance with the Equality Act 2010 this policy will be applied equally to all |

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<th>Name of function:</th>
<th>Human Resources</th>
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<tr>
<td>Date:</td>
<td>06.07.2016</td>
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</table>

members of staff and will not allow a person’s gender to impact on the fair and equal application of the procedure.

<table>
<thead>
<tr>
<th>Gender reassignment</th>
<th>No specific adverse impacts related to sexual orientation have been identified in the implementation of this procedure.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Orientation (incl. Marriage &amp; civil partnerships)</td>
<td>No specific adverse impacts related to sexual orientation have been identified in the implementation of this procedure.</td>
</tr>
<tr>
<td>Race</td>
<td>No specific adverse impacts related to sexual orientation have been identified in the implementation of this procedure.</td>
</tr>
<tr>
<td>Religion or Belief (including non-belief)</td>
<td>No specific adverse impacts related to sexual orientation have been identified in the implementation of this procedure.</td>
</tr>
</tbody>
</table>

Equality Analysis outcome: Having considered the potential or actual effect of your project, policy etc, what changes will take place?

No change

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### Equality Analysis Report

<table>
<thead>
<tr>
<th>Name of function:</th>
<th>Human Resources</th>
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<tr>
<td>Date:</td>
<td>06.07.2016</td>
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### Action Plan

<table>
<thead>
<tr>
<th>Issue to be addressed</th>
<th>Action</th>
<th>Who</th>
<th>Date to be completed</th>
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### Ratification – a completed copy of the Equality Analysis form must be sent to Equality and Inclusion Officer to be approved.

- **Approving Officers**
- **Date of completion:**

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