



# Employment Breaks Policy

## 2020-2023

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			<b>Team</b> Human Resources
<b>Title</b>	Employment Breaks Policy		
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<b>Purpose</b>	To provide guidance on Employment Breaks		
<b>Superseded Documents</b>	Employment Breaks Policy v1.0		
<b>Audience</b>	All staff within Nottingham and Nottinghamshire CCG inclusive of lay members and patient representatives		
<b>Consulted with</b>	Staff Engagement Group and Trade Unions		
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## **1. Introduction**

- 1.1. Nottingham and Nottinghamshire Clinical Commissioning Group (hereafter referred to as 'the CCG') value the contribution made by its employees to the provision of high quality services. It recognises the need to ensure that its recruitment strategies are sufficiently flexible to attract and retain employees of all grades and disciplines.
- 1.2. Many of our employees combine their working lives with the responsibilities of childcare, eldercare and care for another dependant. Employees may wish to undertake work abroad to broaden their professional experience or undertake a course of study, either to improve their performance at work or to further their personal development (this list is exhaustive). There are, therefore, times when experienced and valued employees may wish to take time away from work which support them balancing work responsibilities and personal commitments.

## **2. Purpose**

- 2.1. The employment break scheme provides employees with access to apply to take unpaid break on either a short term or long term basis and to return to employment at a later time (Agenda for Change, section 34).
- 2.2. The scheme is not designed to be used where the main reason is to enable an employee to leave the organisation and work for another organisation, except in circumstances envisaged by overseas travel or charitable work which could broaden experience.
- 2.3. The aims of this document are to:
  - Ensure employees understand the principles and terms of the scheme;
  - Put in place effective procedures to support requests for an employment break;
  - Ensure continuity and the fair application of the scheme;
  - Work alongside other flexible working policies to support employees who wish to undertake a period of time away from employment.

## **3. Scope**

- 3.1. The Employment Break Scheme is open to all employees on a substantive contract of employment, whether full or part-time, who have completed a

minimum of 12 months' service with the CCG. This will include service transferred to the organisation through TUPE transfer.

- 3.2. The organisation will ensure that the application of any part of this policy does not have the effect of discriminating, directly or indirectly, against employees protected by the Equality Act (2010). The application of this policy will apply equally to full and part-time employees on substantive contracts of employment.
- 3.3. Employees, who have a 'live' disciplinary or sickness absence warning, will not necessarily be excluded from eligibility to the scheme, however where an employment break is granted, any unexpired term of a 'live' warning will continue following a return to work. Further, the application of request for an employment break will not stop the process of any commencement or completion or the provision of an outcome to any ongoing investigation.

#### **4. Applications**

- 4.1. Applications must be submitted on the Employment Break Scheme application form (**Appendix A**) at least three months prior to the proposed date of commencement of the required break and be accompanied by any supporting information to the employee's line manager.
- 4.2. To ensure continuity and a fair application of the scheme, all applications will be considered by the Senior Leadership Team, in conjunction with the HR Team and the appropriate budget holder. All approvals will be at the discretion of management.
- 4.3. Where an employee intends to take up paid employment with another employer (i.e. in cases of overseas travel or charitable work) written authority from the authorising manager will be required.
- 4.4. Applications will not be unreasonably refused and reasons for any refusal will be provided in writing, refer to Section 9 for the Appeal Process.

#### **5. Terms of the Employment Break Scheme**

- 5.1. An employee on an employment break must agree to be bound by the terms of the scheme. Failure to comply with these terms may be taken as a breach of the employment contract. This may result in the termination of the employment contract.

- 5.2. If it is subsequently identified that an employee has provided false or deliberately misleading information in order to influence the agreement to their request for an employment break, the matter must be immediately reported to the appointed Counter Fraud Specialist - Taelor Martin on 0115 883 5323. Such matters will also be dealt with in accordance with our Fraud, Bribery and Corruption Policy along with the Disciplinary Policy potentially resulting in the application of criminal and/or disciplinary sanctions which may include prosecution and/or dismissal.
- 5.3. Employees on an employment break will not have to resign to take an employment break, although there will be a change to the express terms of the contract of employment.
- 5.4. For statutory purposes, the period of the break will count towards continuous employment. However, all other terms and conditions of employment with the organisation will be suspended for the duration of the break. The period of the career break will not count as reckonable service when calculating entitlement to benefits such as annual leave, sick pay, contractual redundancy payments and any other benefits dependent upon length of service. Nor will there be any entitlement to any benefits such as sick pay, during the period of the break.
- 5.5. **Length of the break**
- The minimum length of an employment break is three months and the maximum length is up to five years.
  - Breaks may be taken either as a single period or in more than one period.
  - The length of any break will try and balance the needs of the applicant with the service, in some cases with the potential for any breaks to be extended with appropriate notice, or for early return from breaks. However, it may not always be possible to accommodate such a request.
  - Continuous services with any NHS employer will count as reckonable service in respect of NHS agreements on redundancy, maternity, sick pay and annual leave. Any break or breaks in service of 12 months or more will have an impact on reckonable service for payments of both sickness absence and redundancy pay.

- Other provisions depending upon length of service, i.e. contractual redundancy payments leave entitlements etc. will be superseded for the period of the break.

#### 5.6. **Work update, training and maintenance of professional registration**

- Wherever possible, a period of ten 'keeping in touch' (KIT) days per year paid employment (pro rata depending on the length of leave) will be spent at the organisation to help employee's keep up-to-date.
- There will be further requirement on the part of the applicant to keep up-to-date with their relevant professional registration needs, including attendance at specified training courses and conferences. Updating will be arranged between the employee and the line manager and detailed in the agreement (see **Appendix A** for Employment Break conditions). Employees should be advised to check/ensure they are up-to-date with the requirements of their registration and contact their professional body for guidance on maintaining/retaining professional registration needs.
- Where required, it will be the responsibility of the employee to ensure they regularly read relevant professional journals to keep up-to-date with developments and current thinking.

#### 5.7. **Communications**

- Employees taking an employment break will be provided with copies of the organisation's newsletters and notes of departmental meetings as agreed between the employee and their manager when drawing up the 'employment break scheme training and work update agreement'.
- Employees on an employment break must maintain regular contact with the line manager as agreed when drawing up the 'employment break scheme training and work update agreement'.

#### 5.8. **Return to work**

- Employees will have the right to return to work on a pay band and equivalent salary level, reflecting any annual standard of living increases awarded during the break and whole time equivalent hours commensurate with the post they held prior to the employment break being taken.
- On return to NHS employment, your incremental progression pauses therefore, you will return to your previous incremental point. The duration you have spent at your current increment prior to your break will

be counted and your incremental date will be calculated on what time there is remaining to serve as part of one yearly cycle.

- A continuous break of over one year will result in an employee returning on the same incremental point.
- If the employee returns to work within one year, the same job will be available, as far as reasonably practicable (refer to Section 34 of the Agenda for Change Terms and Conditions).
- If the break is for longer than one year, the applicant may return to as similar job as possible but not necessarily to the same post of their former base. Where an employee is required to return to a different base, they will not be eligible to protection rights or excess daily travel expenses (see Clause 35.15 of the Agenda for Change Terms and Conditions).
- Employees will be required to give written notice of their intended date of return to work. If the break is less than a year, two months' written notice is required. If the break is for one year or more, six months' written notice is required.
- In order to facilitate an effective return to work, employees will undertake a re-induction programme, which will include:
  - Local induction and work place orientation;
  - Identified on and off the job training;
  - Mentorship/management support;
  - Short-term objectives as part of the competency framework;
  - A review at the end of three months.
- The organisation reserves the right to require employees to return on the date stated on their employment break scheme application form. Failure to do so could be taken as a repudiation of the contract of employment and could lead to the termination of employment.
- Employees are encouraged to give as much notice as possible if they decide not to return to work following an employment break, but must give at least two months' notice or longer if the employment contract states to do so. Those deciding not to return should tender their resignation in writing to their line manager.



- Employees accepted onto the scheme will be required to signify the acceptance of the Employment Break Scheme Terms and Conditions by signing the application.

## **6. Vacancy Cover**

- 6.1. When providing cover for an employee's post whilst on the scheme, a manager will explore the following possibilities:
- The acting up of a more junior member of staff for a temporary period. This may have real advantages in terms of staff development.
  - Appointment of a fixed term/temporary contract.
  - Secondment.
  - A substantive appointment, if natural turnover is such to accommodate an additional employee.
- 6.2. Arrangements for cover must be made prior to any final decision being taken as to whether a request to go on an employment break can be approved.

## **7. Extension to Employment Break**

- 7.1. Employees wishing to extend the agreed length of their employment break will only be allowed to do so if cover/service arrangements can also be extended. Any extensions will not exceed the maximum five year break.
- 7.2. Employees must give a minimum of two months' notice of their wish to extend their employment break.
- 7.3. Requests for an extension must be made in writing to an appropriate line manager. There shall be a single level of appeal against a decision not to grant an extension to an employment break and this shall be to the budget holder. Decisions may not be challenged solely on the basis that they differ between departments or individuals as employment breaks are granted on the basis of the department being able to accommodate the request.

## **8. General Conditions**

- 8.1. **Paid employment during an employment break**
- Employees on an employment break will not normally be allowed to take up new paid employment with another employer, except where, for example, work overseas or charitable work could broaden the experience. It is however, acknowledged that some short-term or part-time work may be acceptable. In such circumstances written authority

from your line manager must be obtained before engaging in any other employment.

## 8.2. **Maternity/Adoption Leave**

- When calculating continuous service with regard to entitlement to Maternity/Adoption Pay, an employment break period will not count as a break in service (SMP entitlement is covered by Statute).
- Entitlement to Occupational Maternity/Adoption Pay will depend upon NHS service and whether or not the employee intends to return to work for the NHS. Occupational Maternity/Adoption Pay is based upon earnings, and Statutory Maternity/Adoption Pay is based on National Insurance contributions during the qualifying period prior to Maternity/Adoption leave (see Family Leave policy). An employee may not, therefore, be entitled to paid maternity/adoption leave if the beginning of the eleventh week before the expected week of childbirth or, in cases of adoption, the week in which the employee has been notified that they have been matched with a child, occurs whilst the employee is on the employment break scheme.
- Where an employment break period immediately follows a period of maternity/adoption leave and the employee has received Occupational Maternity/Adoption Pay, should the employee choose not to return to work then they will be required to repay the Occupational Maternity/Adoption Pay as detailed in the CCG's Family Leave Policy. Occupational Maternity/Adoption Pay would be repayable if the employee does not return at the end of the agreed employment break period.

## 8.3. **NHS Pension Service**

- Pensionable employment break – if the employer agrees to the employment break then contributions will be paid by both the employer and the employee for the first six months. Following this, the employee member then has the option to pay both the employer and employee contributions for up to a maximum of a further 18 months.
- Non-pensionable employment break – if the employee does not take up the option to continue paying pension contributions after the first six months, the pension member has the option to preserve pension contributions. Time away from the business will be recorded as disallowed days. If the employment break occurs when an employee has less than two years in the NHS pension scheme, the regulations

require that the employee's pension contributions are refunded. Employees may elect to repay any refund back into the scheme if they resume pensionable employment within five years.

- Further information – employment break applicants should contact SBS Pensions for full details on the effect of an employment break on their pension.

#### **8.4. Redundancy rights**

- In the event of a redundancy/management of change situation arising whilst an employee is absent on an employment break, the CCG's Change Management Policy will be applied.
- The period of an employment break will not count as 'qualifying reckonable service' for the purpose of establishing entitlement to any redundancy payment under the Change Management Policy.
- In the event of a redundancy situation arising following an employee's return to work after an employment break, the period of reckonable service before and after the break should be aggregated.

#### **8.5. Protection**

- An employment break falling within an employee's pay protection for excess mileage will not extend any protection period; the date protection ceases will remain unchanged.

#### **8.6. Holidays**

- All annual leave entitlement will be suspended for the period of the employment break. The employment break scheme will not impact on the recognised service for aggregated holiday entitlement. All accrued annual leave must have been taken before the commencement of the employment break. No payment in lieu of outstanding leave will be made nor will any "carry over" of leave be allowed. There is no entitlement to annual leave during the employment break scheme. On return to work, entitlement to annual leave will be recalculated and the period of the employment break will not count for reckonable service for leave purposes.

### **9. Appeals**

- 9.1. Applicants are entitled to a written reason for refusal of any application for an employment break (see Agenda for Change, section 34).

- 9.2. Applicants may resort to the grievance procedure if a request for a break is refused (see Agenda for Change, section 34).

## **10. Communication, Monitoring and Review**

- 10.1. The CCG will establish arrangements for making this policy available via the staff intranet pages.
- 10.2. The policy will be reviewed by the Remuneration and Terms of Service Committee every three years.
- 10.3. Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the HR department via email [ncccg.hr.greaternottingham@nhs.net](mailto:ncccg.hr.greaternottingham@nhs.net)

## **11. Equality and Diversity Statement**

- 11.1. The Nottingham and Nottinghamshire CCG pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as a commissioner and as an employer.
- 11.2. As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.3. We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.
- 11.4. As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 11.5. To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

## **12. Interaction with other Policies**

12.1 This policy should be read in conjunction with the following CCG policies:

- Flexible Working Policy.
- Fraud, Bribery and Corruption Policy.
- Disciplinary Policy.

## Appendix A:

### Employment Break Scheme Application Form

Please discuss your request to take an Employment Break informally with your manager before completing Section A of the form. Return the completed form to your manager who will check the form and complete Section B. On behalf of the CCG, if your application is approved you have jointly agreed an undertaking to fulfill the conditions laid down in the CCG's Employment Break Policy).

<b>Section A - To be completed by the employee:</b>			
<b>Part 1 - Personal Details</b>			
<b>First Name:</b>		<b>Surname:</b>	
<b>Employee No:</b>		<b>Commencement Date with Trust:</b>	
<b>Directorate/Team:</b>		<b>Job Title:</b>	
<b>Hours per week:</b>		<b>Band/Grade:</b>	
<b>Home Telephone No:</b>			
<b>Home Address (including postcode):</b>			
<b>Part 2 - Employment Break dates requested</b>			
I wish to request an Employment Break: (please give details of the reason for the break)			
I would like to commence my Employment Break on: ____ / ____ / ____			
<b>AND</b>			
I intend to return to work on: ____ / ____ / ____			
I understand I am required to give three months' notice of my intention to return to work or if I wish for an extension to the Employment Break to be considered.			
Where possible I am giving my manager at least three months' notice of my request for an Employment Break.			

### Part 3 – NHS Pension Contributions

I am a member of the NHS Pension Scheme and wish to continue to make employee contributions to the scheme during my Employment Break. I have liaised with the Trust's pension advisor and request that the Trust makes employers contributions (up to a maximum of six months) in accordance with the NHS Pension Regulations:

YES            NO            N/A\*      (delete as appropriate)

I understand that prior to my leave commencing, it is my responsibility to make provisions with the payroll department for the employee contribution payments to be made and maintained during my unpaid employment break. I accept that should I fail to maintain payment of the agreed contributions this will affect my pension provisions.

\* Not applicable

### Part 4 – Employment Break Conditions

I agree:

- To undertake at least ten (KIT) days paid work (pro rata depending on length of leave) per annum, arranged with my manager.
- Not to work for another organisation during the period of the Employment Break.
- To give the CCG the required notice of my intention to return to work.
- If I decide not to return, I will write to my manager immediately, giving three months' notice, (except where the employment break is three months in duration, where normal contractual notice will apply).
- If I leave the CCG before completion of any development opportunities that have been funded by the CCG (except if my contract is terminated by the CCG for reasons other than on the grounds of dismissal for misconduct), I undertake to repay the fees contributed by the CCG in line with the reimbursement clause of the Learning, Education and Development Policy. This may be waived by the CCG if the exemption criteria stipulated in the Learning, Education and Development policy is met.
- If I leave the CCG within the year following the completion of any development funded by the CCG (except if my contract is terminated by the CCG for reasons other than on the grounds of dismissal for misconduct), I will undertake to repay the fees contributed by the CCG in line with the reimbursement clause of the Learning, Education and Development Policy. This may be waived by the CCG if the exemption criteria stipulated in the Learning, Education and Development policy is met.
- In the event of a repayment being required for any developmental opportunities as outlined above, I undertake to make such a repayment on receipt of an invoice from the CCG or agree to it by means of a deduction from my final salary, in which case I will be informed by my manager, of the amount prior to the deduction being made.
- I understand there is no guarantee that the post to which I return will be exactly the same as that in which I am currently employed.
- I agree to repay my NHS maternity/adoption pay if I do not return to work.
- Other conditions to be agreed with manager (detail):

**Part 5 – Declaration**

I have received and read a copy of the Employment Break Policy and confirm my agreement to all sections of the policy and the above conditions.

**Signed:**

**Date:**

**Section B - To be completed by the manager:**

I confirm I have discussed with the above individual his/her\* request to take an Employment Break. He/she\* meets the requirements set out in the Employment Break Policy. I understand all of the employment break conditions (including any NHS Pension Employer Contributions). It is therefore my decision to:

Support his/her\* application

**OR**

Not to support his/her\* application for the following reasons:

His/her\* Employment Break will begin on: \_\_\_/\_\_\_/\_\_\_ and end on: \_\_\_/\_\_\_/\_\_\_ (if known).

This is expected to last for \_\_\_\_\_ years \_\_\_\_\_ months.

Reason(s) for Employment Break: *(complete only if needed to supplement the employee's rationale above).*

I have read the Employment Breaks policy and my commitments to the employee. I will also maintain contact and keep the applicant informed of any developments, staff meetings etc.

**Name (Print):**

**Job Title:**

**Signed:**

**Date:**



**Section C - To be completed by Senior Leadership Team**

This application is Agreed / Not Agreed\* - Please give reasons:

<b>Name (Print):</b>		<b>Job Title:</b>	
<b>Signed:</b>		<b>Date:</b>	
<b>Is this a revised application?</b> (i.e. has this application been submitted previously but the date has now changed)	<b>Yes</b> <input type="checkbox"/>  <b>No</b> <input type="checkbox"/>	<b>Date copy of this form and change of circumstance form sent to ESR:</b>	

**Line Manager Action:**

Please retain a copy of the signed documentation and change of circumstance form on the individuals file and send the Application for Employment Break to ESR with a Change of Circumstance form.

Please note if the commencement of the Employment Break changes a new Application for Employment Break must be completed and a further copy and Change of Circumstance form sent to ESR to advise indicating that this is a revised application.

**IF AN APPLICATION IS DECLINED PLEASE SEND A COPY OF THIS FORM TO THE HR TEAM.**

## Appendix B: Equality Impact Assessment

<b>Date of assessment:</b>	<b>March 2020</b>			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Age<sup>1</sup></b>	No	N/A	N/A	N/A
<b>Disability<sup>2</sup></b>	Yes	Mechanisms are in place via the Communications and Engagement Team to enable the policy to be available in a range other accessible formats.	N/A	This policy provides guidance, accountability and clarity on how an organisation operates. It will support consistent and transparent decision making for all members of the CCG's workforce.
<b>Gender reassignment<sup>3</sup></b>	No	N/A	N/A	N/A
<b>Marriage and civil partnership<sup>4</sup></b>	No	N/A	N/A	N/A

<sup>1</sup> A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

<sup>2</sup> A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

<sup>3</sup> The process of transitioning from one gender to another.

<sup>4</sup> Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

<b>Date of assessment:</b>	<b>March 2020</b>			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Pregnancy and maternity<sup>5</sup></b>	No	N/A	N/A	N/A
<b>Race<sup>6</sup></b>	No	N/A	N/A	N/A
<b>Religion or belief<sup>7</sup></b>	No	N/A	N/A	N/A
<b>Sex<sup>8</sup></b>	No	N/A	N/A	N/A
<b>Sexual orientation<sup>9</sup></b>	No	N/A	N/A	N/A
<b>Carers<sup>10</sup></b>	No	N/A	N/A	N/A

<sup>5</sup> Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

<sup>6</sup> Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

<sup>7</sup> Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

<sup>8</sup> A man or a woman.

<sup>9</sup> Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

<sup>10</sup> Individuals within the CCG which may have carer responsibilities.