

## POLICY DOCUMENT

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**Purpose of Policy:** To provide employees with information on the various forms leave which can be taken from work and the criteria for taking this leave.

**Policy Statement:** Employees should have the opportunity to take the holiday to which they are entitled; managers should endeavour to ensure that the workload does not prevent this and also that the needs of the business are taken into account.

Holy Cross Hospital also recognises that at various stages in employees' working lives, domestic and family commitments and responsibilities potentially reduce or hinder their ability to fulfil work responsibilities. Where such conflicts cannot be resolved, this could result in the Hospital losing employees. To prevent such loss of skilled experienced workers, and to help reduce anxiety and stress amongst our workforce, we not only acknowledge those potential conflicts but also offer practical help through the various types of leave below and includes the right to request flexible working.

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## **1. Annual Leave**

### Entitlement

The annual leave year runs from 1st April to 31st March. Employees have the right to request annual leave but not to demand and receive it.

Employees are entitled to a minimum of 4 weeks holiday per year. Part time employees are entitled to the same holidays as full time employees, calculated on a pro-rata basis.

Employees will receive an additional 10 days holiday per year in lieu of bank, public & statutory holidays, pro rated for part time employees, unless they are not required to work on these days in which case they will receive normal payment.

For the purposes of calculating holiday entitlement, only complete weeks worked are included.

Where employees join the company part way through the holiday year, their entitlement to annual leave will be proportionate to the amount of time left in the holiday year (with fractions of days rounded up to whole days). No service with any other employer will count for the purposes of assessing entitlement to annual leave.

Paid holiday will not be granted during the first four weeks of employment.

Holiday commitments made before joining Holy Cross Hospital, will be honoured.

If, for any reason, employees know that they will be late returning from holiday they must contact the Hospital and notify their late return as soon as possible. Failure to do so will render the employee liable to disciplinary action for unauthorised absence. Such disciplinary action may include dismissal.

### Additional Holiday Accrual

Holy Cross recognises the loyalty of its employees in helping to provide stability within the workforce and continuity of care, by providing additional leave for continuous service as below:

At 5 years continuous service: 1 additional day

### Obtaining Approval

All annual leave must receive management approval before being taken. Any employee who takes annual holiday which has not been previously approved may be subject to disciplinary action, which includes dismissal

All holidays must be applied for using the Leave Application Request Form, which must be submitted to the relevant Manager (Management Team members to CEO, Support Services to General Manager and Nursing, Therapy & Patient's Activities to immediate line manager, with the exception of Ward, Charge Nurse/Night Sisters which go to Director of Nursing Services and Physiotherapy Team Leaders which go to the Director of Clinical Services. The application will be considered with regard to the needs of the department and the rules on annual holiday set out in this policy.

Holiday requests of one week or more should be normally be submitted at least four weeks in advance.

Employees should not commit themselves to any holiday plans until they have received a signed copy of the form approving their holiday request. No responsibility will be taken for any holiday deposit paid or other losses incurred as a result of a failure to comply with this aspect of the procedure.

All applications for holiday are considered with regard to the needs of the department. Where an employee requests holiday but is refused and is subsequently absent, this will be treated as a conduct issue and may result in disciplinary action being taken.

All annual leave will be recorded in H.R. & Payroll, and on duty rotas where applicable.

#### Sickness absence whilst on Annual Leave

An employee can choose to change a period of annual leave during which they are sick to sick leave. Please refer to sickness absence policy.

The Hospital may determine whether a period of sickness during annual leave can be treated as sick leave and therefore count those days against sick pay entitlement. The employee must satisfy the company that the illness was genuine and must provide a doctor's medical certificate, regardless of the length of the sickness. Days of annual holiday lost through sickness may be taken again at a later date at the convenience of the Hospital.

#### Untaken Holiday

Subject to agreement by their senior manager, employees may be allowed to carry over untaken holiday at 31 March into the following holiday year, but only up to a maximum of one normal working week, subject to compliance with the Working Time Regulations. Such carried over holiday must be taken by 31<sup>st</sup> May in the following holiday year or it will be lost. In exceptional circumstances, and again subject to senior management agreement, payment in lieu of untaken holiday may be made, again up to a maximum of one normal working week per year, subject to compliance with the Working Time Regulations. This untaken holiday may include leave carried over to be taken before 31<sup>st</sup> May, but which then cannot be taken for operational or other reasons. Payment in lieu of leave will be paid by 31<sup>st</sup> May in each year in either the employee's April or May pay.

Employees on maternity leave will continue to accrue holiday entitlement.

Employees may, in exceptional circumstances and subject to Management Team approval, be allowed to work up to one of their normal working weeks subject to compliance with the Working Time Regulation and they receive an additional weeks' pay.

#### Carrying over annual leave that is left untaken due to sickness

Employees who are unable to take all of their statutory (5.6 weeks) annual leave entitlement within a leave year because of illness may be entitled to carry forward the unused statutory entitlement to the next leave year.

The Hospital reserves the right to suspend accrual of any holiday subject to the rules of the Working Time Regulations when an employee is absent for more than four weeks for any reason.

Employees who leave the Hospital, for whatever reason, will have their full entitlement to paid holiday calculated on a pro-rata basis per completed week of service less any holiday entitlement taken during the holiday year. If the holiday taken exceeds the holiday entitlement, the Hospital has the right to deduct payments made in excess of holiday pay entitlement from any money owing to the employee at the time of their leaving.

Annual leave is not normally allowed during the notice period; however this may be permitted subject to the agreement of a member of the Hospital Management Team

Outstanding holiday, which has been accrued but not taken by an employee on termination, will be paid in lieu in the final salary.

Where annual holiday taken exceeds the number of days which have been accrued at the date of termination, the Hospital will deduct the appropriate sum from the employee's final salary.

#### Unpaid Leave

Subject to agreement by a member of the Hospital Management Team, employees may be allowed to take up to one normal working week of unpaid annual leave in **exceptional circumstances**, where the employee has no annual leave left to take, subject to compliance with the Working Time Regulations.

## **2. Extended Leave**

Extended leave is defined as 3 or more consecutive weeks of an employee's normal working week.

A maximum of 3 weeks annual leave will be paid in advance when taking extended leave, unless more than 3 weeks leave have been accrued by the employee on the date of return. Leave over and above 3 weeks taken during the same period of extended leave will be paid on return.

Employees away on extended leave will remain under contract during their absence and will continue to accrue continuous service.

Employees granted extended leave must provide details of their travel arrangements, including travel documents, and an address/addresses and contact telephone numbers where they can be contacted while away.

If, for any reason, employees know that they will be late returning from holiday they must contact the Hospital and notify them of the reason as soon as possible. If the reason for the late return is illness, medical certificates covering any overdue period must be forwarded to the Hospital as promptly as possible. Employees suffering from minor illness will be expected to return to the UK, and if necessary, receive treatment here.

Employees going on extended leave will be entitled to return to the jobs they left, provided they return on or before the agreed date. The failure of an employee to return on the due date after extended leave will be treated as unauthorized absence, which

constitutes gross misconduct. There will be an investigation into why the return was delayed, which could lead to disciplinary action, which may include dismissal.

### **3. Leave of Absence (subject to your statutory rights to Time Off)**

If an employee wishes to leave work during working hours, they must obtain permission from their immediate Manager.

When personal circumstances prevent an employee from attending work, they must notify their Manager at the earliest possible opportunity to discuss the reasons for the absence. A Manager may exercise discretion in authorising a specific period of absence with or without pay, or agree to annual holiday being taken at short notice to cover the absence required. Where the circumstances are of a private and confidential nature, such confidentiality will be respected.

Any appointments should be made outside working hours if possible, however, if an employee must attend during work time they should try make the appointment for the start or end of the day to ensure minimum disruption to their work.

### **4. Compassionate leave**

Up to a maximum of 5 days' compassionate (paid) leave may be granted by a member of the Hospital Management Team in cases where a close relative of a member of staff dies and time off is required by them to take care of personal/family arrangements, e.g. executor responsibilities; taking care of spouse or dependants of deceased. Close relatives include mother/father, son/daughter, spouse/partner.

### **5. Parental Bereavement Leave**

#### **Parental Bereavement Leave and Pay**

As a parent, you would be entitled to a minimum of two weeks' leave should you lose a child under the age of 18 years, or if a baby is stillborn from 24 weeks of pregnancy. You will be able to take this leave in either a single block of two weeks, or as separate blocks of one week, to be taken within 56 weeks of your child's death. If you have been continuously employed for 26 weeks' or more, you will also be entitled to payment for this leave at the statutory rate.

Eligible parents will have a right to 2 weeks<sup>1</sup>:

- Statutory Parental Bereavement Leave, if they're an employee
  - Statutory Parental Bereavement Pay, if they're an employee or worker
- <sup>1</sup>Statutory' means the legal minimum an employer must give.

This right will apply to the:

- biological parent
- adoptive parent, if the child was living with them
- person who lived with the child and had responsibility for them, for at least 4 weeks before they died
- 'intended parent' – due to become the legal parent through surrogacy
- partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

### **Parental bereavement leave**

Parents have a right to take Statutory Parental Bereavement Leave if:

- they're classed as an employee
- their child dies under the age of 18 or is stillborn after 24 weeks' pregnancy

Employees have this right from the day they start their job. Statutory Parental Bereavement Leave can be taken in the 56 weeks following their child's death. If more than 1 child dies, the employee is entitled to 2 weeks' Statutory Parental Bereavement Leave for each child.

Anyone classed as a worker is not entitled to Statutory Parental Bereavement Leave but they might be entitled to 2 weeks' Statutory Parental Bereavement Pay for time they take off.

### **Parental bereavement pay**

Employees and workers are entitled to 2 weeks' Statutory Parental Bereavement Pay if:

- their child dies under the age of 18 or is stillborn after 24 weeks' of pregnancy
- they were employed when their child died
- they'd worked for their employer for at least 26 weeks, on the Saturday before the child's death
- they earn on average, at least the current rate per week, before tax

Statutory Parental Bereavement Pay is the minimum amount employers must pay eligible staff. Eligible employees and workers will get one of the following, whichever is lower:

- The current statutory rate
- 90% of their average weekly earnings

### **Taking Statutory Parental Bereavement Leave**

An employee can choose to take either 1 or 2 weeks' leave. If an employee takes 2 weeks, this can be taken in one go, or as 2 separate weeks. For example, they could take 1 week immediately after the death, and take the other week later on. The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

### **Giving notice to take leave**

An employee must tell their employer (give 'notice') to use Statutory Parental Bereavement Leave. To give notice, the employee must tell their employer:

- when they want the leave to start
- whether they want to take 1 or 2 weeks leave
- the date their child died
- This notice does not have to be in writing.

The rules for giving notice depend on how long it's been since their child died.

### **Taking leave in the first 8 weeks**

If it's within 8 weeks (56 days) of their child dying, an employee can start their leave as soon as they give notice. They must tell their employer before they start their leave. This can be on the first day of leave as long it's before they're due to start work. For example, if they've started work and give notice to start their leave straight away, Statutory Parental Bereavement Leave must start the following day. They can also cancel the leave, as long as they tell their employer before their leave starts. This can be on the day their leave is due to start, as long it's before they're usually due to start work. Any cancelled leave can be taken later by giving notice again.

### **Taking leave after the first 8 weeks**

If leave will be taken more than 8 weeks (56 days) since their child died, the employee must give their employer 1 week's notice:

- to take the leave
- if they want to cancel the leave

Any cancelled leave can be taken later by giving notice again.

### **Claiming Statutory Parental Bereavement Pay**

Employees and workers must ask their employer in writing (give 'notice') to receive Statutory Parental Bereavement Pay. They must confirm:

- their name
- their entitlement to Statutory Parental Bereavement Pay
- the start and end dates of the leave they want to claim the pay for
- the date of their child's death
- their relationship with the child

Notice must be given within 28 days of starting leave. If someone takes the 2 weeks off separately, they must give notice in writing for each week. Employees can give notice for their leave and pay in one document.

## **6. Time Off for Dependents**

Employees have the right to take a reasonable amount of unpaid time off during their working hours to deal with unexpected or sudden problems affecting their dependants and to make any necessary longer-term arrangements for their care.

It is expected that in most cases the amount of leave will be less than one day or one or two days at the most. An employee may be able to take longer periods of leave under other arrangements with the Hospital.

The situations where leave may be applicable are as follows:

- To care for a dependant who falls ill or has been involved in an accident or assaulted.
- When an employee's partner is having a baby.
- To make longer-term arrangements for a dependant who is ill or injured.
- To deal with the death of a dependant.
- To deal with an unexpected disruption or breakdown in care arrangements for a dependant, e.g. when the childminder or nurse fails to arrive.
- To deal with an incident involving an employee's child during school hours.

### Advising the Hospital

Employees must advise the Hospital as soon as possible about their absence and for how long they expect to be away from work. There may be occasions when an employee returns to work before it is possible to contact the Hospital – however on such occasions they must advise the Hospital of the reason for the absence immediately upon their return to work.

## Who is a Dependant?

For the purpose of the right to time off a dependant is defined as follows:

*"A spouse, partner, child or parent of the employee. It also includes someone who lives with the employee as part of their family, e.g. elderly aunt or grandparent"*

This does not include boarders, lodgers or employees - i.e. live-in housekeepers or nannies".

In cases of illness or injury or where care arrangements breakdown, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or the only person who can help in an emergency.

## **7. Parental Leave**

### Entitlement

If you have completed one year's continuous qualifying service by the time you want to take the leave you are entitled to Parental Leave.

The objective of Parental Leave is to enable employees, with parental responsibility for one or more children under 18 years of age, to take time off to spend time with and to look after a child or to make arrangements for the child's welfare.

Parental Leave, which is unpaid, is for a maximum of 18 weeks for each child and can be taken by both mothers and fathers. Leave taken with a previous employer counts towards the maximum entitlement.

### When Leave may be taken

Parental leave must normally be taken in blocks of one week or more, up to a maximum of four weeks in a year for each child. However, parents of disabled children can take leave in blocks or multiples of one day.

An employee can choose to take Parental Leave at any time up until the child's 18<sup>th</sup> birthday.

Where both parents are employed by the organisation, each will be entitled to parental leave in respect of each eligible child.

Employees who work part-time will receive a pro-rata amount of parental leave.

### Making an Application for Leave

An employee must give 21 days notice of their request for Parental Leave. Such an application should be made in writing to their manager and specify the requested start and finish dates of the leave period. Employees may be required to provide evidence of their responsibility for a child and the child's age.

Examples of what might be suitable evidence are:

- Information contained on the child's birth certificate
- Papers confirming a child's adoption or the date of placement in adoption cases.

- In the case of a disabled child, the award of disability living allowance for the child.

If an employee wishes to take Parental Leave immediately after the birth or adoption of the child, they must give 21 days notice before the beginning of the expected week of childbirth. In the case of adoption, they must give 21 days notice of the expected week of placement, wherever possible.

#### Postponement of Leave

The hospital reserves the right to postpone a period of parental leave for up to six months (unless the leave is requested for the period immediately after a child is born or adopted) from the date requested where it is considered that the employee's absence would unduly disrupt the business. Examples of such situations are:

- Seasonal peak work requirements
- Where a significant proportion of the workforce applies for Parental leave at the same time
- Where the absence of a key employee at a particular time would unduly harm the business

Postponement will be confirmed in writing no later than seven days after the employee's notice to take leave has been received, and will state the reason for the postponement and set out suggested new dates of parental leave.

#### Right to return to the same or similar job

At the end of any Parental Leave of up to four weeks duration, an employee will be reinstated in their previous jobs.

If the leave is for a longer period than four weeks, the employee is entitled to return to the same job, or if that is not reasonably practical, to a similar job, with the same or better terms and conditions as the previous job.

Employees will remain employed during all periods of parental leave. Certain contractual terms continue to apply. In particular, the employer's obligation of trust and confidence, terms concerning notice, redundancy compensation, and disciplinary and grievance procedures continue in force. Furthermore, the employee's obligation of good faith and any express terms prohibiting disclosure of confidential information or participation in a competing business remain active.

If Parental Leave follows **additional** Maternity Leave and it would not have been reasonably practical for the woman to return to her previous job, and it is still not reasonably practical at the end of Paternal Leave, she is entitled to return to a similar job which has the same or better status, terms and conditions as the old job.

## **8. Shared Parental Leave**

Employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) subject to eligibility. They can start SPL if they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP.

SPL and ShPP must be taken between the baby's birth and first birthday (or within 1 year of adoption).

To qualify for SPL, the child's mother (or adoptive parent) must be eligible for either maternity leave or pay, Maternity Allowance or adoption leave and pay. They must also:

- have worked for the Hospital continuously for at least 26 weeks by the end of the 15th week before the due date (or date they are matched with their adopted child).
- still be employed by the Company while they take SPL.
- give the Company the correct notice including a declaration that their partner meets the employment and income requirements which allow them to get SPL.

If they are eligible and they or their partner end maternity or adoption leave and pay (or Maternity Allowance) early, then they can:

- take the rest of the 52 weeks of leave (up to a maximum of 50 weeks) as Shared Parental Leave (SPL) (A mother must take a minimum of 2 weeks' maternity leave following the birth or 4 if she works in a factory).
- take the rest of the 39 weeks of pay (up to a maximum of 37 weeks) as Statutory Shared Parental Pay (ShPP).

ShPP is paid at the current statutory weekly rate or 90% of an employee's average weekly earnings, whichever is lower.

For Shared Parental Leave (SPL) to start, the mother or adopter must do one of the following:

- end their maternity or adoption leave by returning to work.
- give the Company 'binding notice' (a decision that can't normally be changed) of the date when they'll end their maternity or adoption leave.
- end maternity pay or Maternity Allowance (if they're not entitled to maternity leave, e.g. they're an agency worker or self-employed).

The mother must give the Company notice (at least 8 weeks) to end her maternity pay, or Jobcentre Plus to end her Maternity Allowance. Adopters must give the Company notice to end adoption pay.

SPL can start for the partner while the mother or adopter is still on maternity or adoption leave if she's given binding notice to end her leave (or pay if she's not entitled to leave).

They must give the Company written notice of their entitlement to SPL and ShPP, including:

- their partner's name.
- maternity leave start and end dates.
- the total amount of SPL and ShPP available and how much they and their partner intend to take.
- that they're sharing childcare responsibility with their partner.

The written notice must also include a signed declaration from the partner stating:

- their name, address and National Insurance number.
- that they satisfy the qualifying requirements for your employee to take SPL and ShPP.
- that they agree to your employee taking SPL and ShPP.

After receiving this notice, within 14 days the Company may ask them to provide within 14 days:

- a copy of the child's birth certificate.
- the name and address of their partner's employer.

They must give at least 8 weeks' notice of any leave they wish to take. If the child is born more than 8 weeks early, this notice period can be shorter.

The mother or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date hasn't passed.
- they haven't already returned to work.

One of the following must also apply:

- it's discovered during the 8-week notice period that neither partner is eligible for either SPL or ShPP.
  - their partner has died.
  - it's less than 6 weeks after the birth (and the mother gave notice before the birth).

They can work up to 20 days (in addition to the 10 KIT days) during SPL without bringing it to an end. These are called 'shared parental leave in touch' (or SPLIT) days and are optional - both the Company and the employee must agree to them.

Employees can take SPL in up to 3 separate blocks. They can also share the leave with their partner if they're also eligible. Parents can choose how much of the SPL each of them will take. If both parents are taking SPL then they can take their leave at the same time as each other or at different times.

They must give the Company at least 8 weeks' notice before a block of leave begins. They may request to split blocks of leave into shorter periods of at least a week, however this is subject to agreement by the Company.

## **9. Statutory Paternity Leave (SPL) and Statutory Paternity Pay (SPP)**

Paternity leave is the right to take paid leave to care for a child or support the mother.

### Entitlement

- Fathers are entitled to choose to take either one week or two consecutive weeks' paternity leave (not odd days), subject to the following conditions:
- They must have 26 weeks continuous employment by the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC).
- They must be, or expected to be, responsible for the upbringing of the child.
- They must be the child's biological father or married to or the partner of the child's mother.
- The leave must be taken for the purpose of caring for the child or supporting the mother.

- The leave, of either one week or two weeks, can start on any day of the week on or following the child's birth but, must be completed within a period of 56 days beginning with either the child's birth or the first day of the EWC, whichever is the later.

#### Notice and Evidence Requirements

The employee must give notice of their intention to take paternity leave in or before the 15<sup>th</sup> week before the EWC (or, in cases where this is not reasonably practicable, as soon as is reasonably practicable). **Note:** If, after providing this notice, the employee has a change of mind as to the commencement date or the amount of leave to be taken, further notice of at least 28 days must be provided (or, in cases where this is not reasonably practicable, as soon as is reasonably practicable).

The employee must provide a self-certificate stating the EWC, the date upon which paternity leave is anticipated to begin and whether one or two weeks leave is to be taken.

As part of the above certificate the employee must sign a declaration that the conditions of entitlement to statutory paternity leave and statutory paternity pay are fulfilled.

#### Statutory Paternity Pay (SPP)

If an employee is entitled to SPL they will also qualify for SPP provided that their normal weekly earnings are not below the "Lower Earnings Limit" applying to NI contributions, and, they give at least 28 days' written notice of the date liability to pay SPP is expected to begin.

SPP will be at the rate determined by the Department of Social Security or 90% of their weekly earnings (calculated at an average of the eight weeks preceding the Qualifying Week), whichever is the lower.

### **10. Statutory Adoption Leave And Statutory Adoption Pay**

If an employee adopts a child they have the right to take Statutory Adoption Leave (SAL) and be paid Statutory Adoption Pay (SAP).

#### Statutory Adoption Leave

An employee is entitled to 26 weeks' Ordinary Adoption Leave and a further 26 weeks' Additional Adoption leave. Within the context of joint adoptions one parent must opt for Adoption Leave and the other is entitled to Statutory Paternity Leave as outlined above.

Ordinary Adoption Leave commences either on the date on which the child is placed with the adopter or a date within 14 days before the expected date of placement. Additional Adoption Leave starts from the date Ordinary Adoption Leave ends.

The rights to return and to the employee's contractual benefits are the same as for Maternity Leave.

#### Statutory Adoption Pay

Statutory adoption pay will be paid for up to 39 weeks at the rate of 90% of average weekly earnings or the maximum rate determined by the government – whichever is the lower. There is no payment for Additional Adoption Leave.



## 11. Flexible Working

### Right to Request Flexible Working

All employees, subject to service criteria, have a statutory right to request flexible working. This can involve a change in working hours, working times or workplace. The procedure should take no more than three months.

If the change is agreed it becomes a permanent variation to the employee's terms and conditions of employment and without any right to revert back to the previous terms.

Employees wishing to apply for flexible working must have at least 26 weeks continuous employment and may only do so once in any twelve month period.

All requests for flexible working will be seriously considered. The request must be made in writing, specifying that it is a statutory request and providing the date of any previous request, detailing the flexible working which is requested and from when and proposing how any consequential effect on the company could be dealt with.

The company will respond to requests as follows:

- Arrange a meeting to discuss the request as soon as reasonably possible
- Provide a written confirmation of the outcome within a reasonable period, detailing the reasons if rejected
- Provide a right to appeal within 14 days and arrange it, if requested
- Provide the right to be accompanied by a fellow worker or trade union official.

If the request is to be declined, it must be on one or more of the specified grounds, i.e. cost, customer service, the affect on other employees, recruitment difficulties, quality and performance difficulties, work levels at the times requested or planned structural changes.

This is a very brief summary and if you need further information about the Scheme, such as the eligibility criteria, the scope of the request, the application procedure or any other aspect, this may be obtained by contacting Human Resources.

### **Review**

This policy has been reviewed for overt or implied discrimination within the scope of the Hospital's policies on equality and diversity and none was found.

The policy will be reviewed bi- annually to ensure that the system described continues to provide an effective framework for managing annual and other leave.