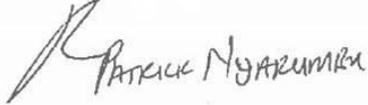




EMPLOYMENT BREAK POLICY

POLICY NO & CATEGORY	HR 13	Organisational & Workforce Development
VERSION NO & DATE	5	May 2020
RATIFYING COMMITTEE	Operational Management Team Meeting	
DATE RATIFIED	September 2020	
NEXT REVIEW DATE	September 2023	
EXECUTIVE DIRECTOR	Executive Director of Strategy and Partnerships	
POLICY LEAD	Senior HRBP	
POLICY AUTHOR (if different from above)		
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

POLICY CONTEXT:

An “employment break” as described in this policy, is intended to cover time away from work to look after children, (for a period longer than the Parental Leave Policy allows), to care for family members, to undergo an extended period of training or to undertake an unpaid, charity / voluntary work .

This policy covers all employees, both on Agenda for Change and Medical Contracts.

POLICY REQUIREMENT (see Section 2)

Any employee who has completed 12 months continuous service with the Trust is eligible to apply for an employment break. An employee will not usually be allowed to take more than a total of **12 months** employment break whilst in the employment of the Trust unless in exceptional circumstances and approved by the Executive Director for People and Strategy.

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1. Introduction

1.1. Rationale

The Birmingham and Solihull Mental Health NHS Trust Employment Break Policy complements the rights of Trust staff as provided by *Section 34* of the *Agenda for Change: Terms and Conditions of Service Handbook*. The policy is part of the commitment to assist employees balance their working lives in the Trust with their other commitments, responsibilities and life goals.

The policy clarifies the procedure leading the employment break as well as roles and responsibilities of the staff members undertaking an employment break, their managers and HR department.

Employment breaks are breaks from employment with Birmingham and Solihull Mental Health Trust without pay.

1.2. Scope

Requests for an employment break can only be made for one or more of the following reasons:

- To bring up/care for a child or children for a period longer than the Parental Leave Policy allows,
- To care for a relative or to care for someone with whom the employee has a close relationship with
- To undertake full-time education
- To undertake training
- To undertake research
- To undertake a National Office within one's professional organisation
- To undertake study leave, not directly related to professional development for current role or as outlined in the Trust's Study Leave Policy.
- To undertake charity/voluntary work
- To undertake a domestic commitment that necessitates a longer-term absence

Requests for breaks for any other reason will be considered on the merit of each application. All applications should be put in writing using the application form in appendix 2.

In most circumstances individuals 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 and improve their ability to

perform their role within the Trust. In such circumstances written authority from the employer would be necessary.

1.3. Principles

The Trust recognises the need to recruit and retain staff with the right skills, values, knowledge and experience to maintain and maximise the best quality of patient care.

This policy is to be implemented within the spirit of the Trust's Equal Opportunities Policy and care will be taken not to discriminate against any employees covered by the protected characteristics defined in the Equality Act 2010.

2. Policy Criteria

To qualify for an employment break:

- Must have been employed by the Trust continuously for 12 months or more.
- Have demonstrated a commitment to continuing their employment with the Trust
- Have the approval of an appropriate authorising manager

An employee will not normally be allowed to take more than 12 months as an employment break whilst in the employment of the Trust without the written approval of an Executive Director (mainly the Executive Director for People and Strategy).

3. Procedure

3.1. Length of Break

- The maximum length of a break is 12 months and the minimum length is 3 months, unless with the express written permission from an Executive Director.
- Any requests for a break extending beyond 12 months must be made to the Executive Director of People and Strategy, outlining the reasons for the request, the proposed return date and methods to maintain skills required to continue in their role on return to work. This will be considered by the Executive Director in connection with line management and HR support to see if the position and arrangements made to cover it can be sustainable. All requests approved will be subject to a review period which the employee must make arrangements to attend (this can be virtually if overseas) and the maximum amount of time a career break can run is 5 years (based on highly exceptional reasons).

- An employment break may either be taken as a single period or as more than one period.
- The total period of Employment Break must be taken within 12 months of the commencement of the Break, unless they have written dispensation from an Executive Director
- Once an employment break is approved by the line manager, the break may be extended if the extension will not lengthen the break beyond the allowed 12 months, unless subject to consideration by an Executive Director.
- An employee wishing to extend their break must make a request to do so at least 2 months prior to their previously agreed date of return.
- An employee may also return from an employment break earlier by writing to their manager with the request at least 2 months prior to the original date of return.

Should an employee want to embark on an employment break longer than 12 months, they would not be guaranteed a return to their substantive role but may be able to return to a vacancy on the same terms and conditions prior to the break. If no suitable vacancies are available they will be treated the same as an 'at risk' employee.

Once an employment break is approved by the line manager, the break may be extended by mutual agreement if the extension will not lengthen the break beyond the allowed 12 months. Requests for an extension must be made in writing. For requests to extend beyond an initial 12-month period, written requests must be addressed to the appropriate Executive Director and copy in the line manager.

There is no automatic right to an employment break or an extension to an employment break.

Failure to return from an employment break as previously agreed will be treated as a resignation from the organisation.

3.2. Management Considerations

Before approving a request for a break, the manager must ensure that:

- The employee is eligible to have a break in line with the policy criteria.
- Give due consideration to the impact the employee's absence would have on the provision of the service.
- For those seeking developmental opportunities consider if a secondment would be more appropriate.
- The length of any break should balance the needs of the applicant with the needs of the service.
- If the service is unable to grant an employment break, to consider alternatives under the flexible working policy to support the employee going forward.

3.3. Application

- An application for an employment break should be made as early as possible and at least 3 months before the envisioned start date, to the line manager and for Medics to the Responsible Officer – **Application Form (Appendix 2)**. Requests made less than 3 months before, will be considered only in exceptional circumstances.
- The manager should contact the HR department prior to the implementation of this process to notify of the request.
- In order to enable the Trust to have a clear process for managing and monitoring the applications for employment breaks, an electronic copy of all requests needs to be forwarded to the Employee Relations Team, and a copy kept on employees personnel file.

3.4. Terms and conditions of employment during break

- Applicants do **not** have to resign to take an employment break, however there will be a change to the contract of employment during the break.
- For employees with Trust Bank Worker agreements, they should not enter into paid bank shifts without prior agreement from the Head of HR. Bank shifts may be limited and will be agreed on a case by case basis.
- During the break, the employee will **not** be entitled to sick pay or any annual leave entitlements i.e. annual leave will not be paid or accrued.
- While on the employment break, the employee's salary progression and / or increases will be stopped therefore, they will return to work following the break, at the same pay point, reflecting any national increases awarded during the break, which had been reached at the time the employment break began, subject to restructuring or substantial organisational change. If applicable, incremental dates will be deferred accordingly, to ensure that the employee's terms remain unchanged.
- The period of employment break will not count towards continuous employment for statutory purposes. However, it will not be noted as a gap in employment.
- Other provisions depending upon length of service, i.e. contractual redundancy payments, leave entitlements etc, will be suspended for the period of the break.
- The notice period required before the return to work is two months if the break is less than a year and six months if the break is more than a year.
- Employees may make pension contributions whilst they are on a break for the duration of the break however, the Trust will only be making the employer part of the pension contributions for the first 6 months of the employment break.
- Should the staff member decide to make pension contributions, the payments need to be made continuously. The arrears **cannot** be accumulated and then paid following the return from the employment break.
- For further information regarding the pension contributions arrangements during an employment break, please follow: <http://www.nhsbsa.nhs.uk/pensions> and

<https://www.nhsbsa.nhs.uk/sites/default/files/2020-01/Authorised%20leave%20career%20breaks%20member%20factsheet-20200128-%28V5%29%20%20%20%20%20%20%20%20%20.pdf>

- During the break National Insurance contributions will not be paid by the Trust. Further information can be obtained by contacting your local Tax Office or <https://www.gov.uk/topic/personal-tax/national-insurance>
- Employee may not apply for another Employment Break until 3 years pass from the end of their previous Employment Break.

*In certain circumstances, paid employment abroad may qualify for an employment Break.

3.5. Return to Work

- Return to the same post is not guaranteed, but if the employee returns to work within one year, the Trust will try as far as is reasonably practicable, to get the employee into the same job but this is not guaranteed.
- If the break is longer than one year, the employee may return to as similar a job as possible, as far as reasonably practicable in the Trust.
- Return to work must be confirmed to manager at least 2 months in advance.
- The manager must organise a Return to Work meeting as soon as reasonably possible after return is confirmed, to discuss with the staff member any work arrangements/procedures for re-entry and training.
- A returning employee for whom a suitable post is being sought should be given the same status as the Trust internal “at risk” employees.
- A vacancy would be considered suitable for the returning employee if it was of similar pay, responsibility level, status and if the person meets the essential criteria of the post.
- Should the post be deleted during the period of the employment break the employee will be no less favourably treated than the employees that were at work at the time.
- To reach the decision on availability and suitability following an employment break the following factors must be taken into consideration:
 - If, at the time of the 2 months’ notice of return, no suitable vacancy can be identified for the returning staff member; the 12 week “at risk” process will be commenced immediately. This would provide a maximum extension of the Employment Break by 1 month, if necessary.
 - Rejection of a job offer without valid reason will result in the employee losing their right to return to work and interpreted as the staff member resigning their post with the trust. There will be not eligibility for redundancy payment in such circumstances.

3.6. Arrangements Whilst on a Break

- Means of keeping in touch should be agreed, as practicable, between the staff member and the line manager before the break commences and could include e-mail, telephone calls or posted correspondence.
- If possible, the employee should maintain regular contact with their manager, during the break, to discuss any important news or development regarding the service.
- During the break, the employee must retain their professional or state registration, if this is a requirement of their post as well as maintain the skills, knowledge and expertise of their post. If funded CPD is required, the employee must contact their local line manager to discuss this matter, and consideration will be given as to whether this will be funded by the Trust in line with the Study leave policy.
- It is their responsibility to make sure that the registration is up to date.
- Medics seeking to maintain their license must continue to participate in revalidation and whole practice appraisals this must be agreed with the RO prior to taking the break.
- Dependent on the employee's circumstances (e.g. they may be known to be abroad) they should be given an opportunity to attend any key meetings, seminars, training and away days. Arrangements for this should be made through discussion and agreement between the manager and employee.
- During absence on an employment break, the employee will be subject to all normal Trust policies and procedures, where these are applicable, and as such disciplinary action may be taken where appropriate.
- Whilst on a break the employee must keep the Trust informed of any changes of home address and other contact details.

The employee must notify their manager if the circumstances of their break change whilst they are absent. If the reason for the break changes then the employee must discuss this with their manager. If the employee no longer fulfils eligibility requirements for the break, the employee will be required to return to work under the arrangements described within this policy.

3.7. Appeal

- Applicants will be entitled to a written reason for the refusal of any application.
- Any appeals arising from the application of this procedure should be made aware through the Trust Grievance and Disputes Policy.

3.8. Monitoring

- The Deputy Director of HR will monitor the effectiveness of this policy using information from the ESR Database.

4. Responsibilities

Post(s)	Responsibilities	Ref
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All Staff	<p>To familiarise themselves with the amended policy and its instructions</p> <p>To act with integrity in line with the terms of their employment break</p>	
Service, Clinical and Corporate Directors	<p>Ensuring that all applications for employment break are fairly and in timely manner considered as per the outlined process,</p> <p>Assuring that decisions regarding the applications are made with full consideration of their implications on the service: financial, staffing numbers of the service, etc.</p> <p>Ensuring that the appropriate information is forwarded to HR for monitoring purposes,</p>	
Policy Lead	To deliver a policy that supports the organisation in managing employment breaks throughout the Trust, in line with employment legislation.	
Executive Director	To ensure the policy is implemented and cascaded throughout the Trust	
Human Resources	To support and advise Managers accordingly	

5. Development and Consultation process.

This policy will be reviewed 3 years from the implementation date unless there are changes in relevant legislation / best practice guidance, trust wide policies and procedures that require amendments to the policy prior to that review date.

Consultation summary	
Date policy issued for consultation	January 2020
Number of versions produced for consultation	1
Committees / meetings where policy formally discussed	
HR Committee	May 2020
PDMG	April 2020

6. Reference documents

Family Friendly Policies (HR 08 – HR 16)

Employment Rights Act 1996,

Employment Relations Act 1999

Employment Act 2002

Work and Families Act 2006

<https://www.gov.uk/topic/personal-tax/national-insurance>

<https://www.nhsbsa.nhs.uk/sites/default/files/2020-01/Authorised%20leave%20career%20breaks%20member%20factsheet-20200128-%28V5%29%20%20%20%20%20%20%20%20.pdf>

<http://www.nhsbsa.nhs.uk/pensions>

7. Bibliography

As above

8. Glossary

Employment Break- Employment breaks are breaks from employment with Birmingham and Solihull Mental Health Trust without pay.

‘At risk’ employee- means an employee who is at risk of redundancy from their substantive employment with Birmingham and Solihull Mental Health NHS Foundation Trust.

9. Audit and Assurance:

All staff are aware of this policy and will adhere to it when necessary in relation to employment breaks.

Managers will know and understand how to apply the policy when managing employment breaks in their area of work.

Element to be monitored	Lead	Tool	Frequency	Reporting Arrangements
Applications made for employment breaks	Head of Human Resources	Application Forms	12 months	Report submitted to workforce
Approved applications for employment breaks	Head of Human Resources	ER Team casework database	12 months	Report submitted to workforce
Financial impact of areas approving employment breaks	Head of Human Resources	ER Team and Finance Business Partner reports	12 months	Report submitted to workforce

10. Appendices consisting of:

- Appendix 1 – Equality Impact Assessment
- Appendix 2 – Employment Break Application Form
- Appendix 3 – Managers Authorisation

APPENDIX 1

Equality Analysis Screening Form

Title of Proposal	Employment Break Policy			
Person Completing this proposal	Jo Munns	Role or title	Senior HR Business Partner	
Division	Corporate	Service Area	HR	
Date Started	30 th December 2019	Date completed	30 th December 2019	
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.				
Employment Break Policy reviewed to be in line with any changes in legislation and Trust strategy				
Who will benefit from the proposal?				
All staff				
Impacts on different Personal Protected Characteristics – Helpful Questions:				
<i>Does this proposal promote equality of opportunity? Eliminate discrimination? Eliminate harassment? Eliminate victimisation?</i>		<i>Promote good community relations? Promote positive attitudes towards disabled people? Consider more favourable treatment of disabled people? Promote involvement and consultation? Protect and promote human rights?</i>		
Please click in the relevant impact box or leave blank if you feel there is no particular impact.				
Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age	No Impact			

Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
Disability	No Impact			
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender	No Impact			
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
Marriage or Civil Partnerships	No Impact			
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity	No Impact			
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post-natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation into pregnancy and maternity?				
Race or Ethnicity	No Impact			

Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? What arrangements are in place to communicate with people who do not have English as a first language?				
Religion or Belief	No Impact			
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation	No Impact			
Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment	No Impact			
This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of transgender staff and service users in the development of your proposal or service?				
Human Rights	No Impact			
Affecting someone's right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?				

If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)				
	Yes	No		
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
				No Impact
<p>If the impact could be discriminatory in law, please contact the Equality and Diversity Lead immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.</p> <p>If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the Equality and Diversity Lead before proceeding.</p> <p>If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the Equality and Diversity Lead.</p>				
Action Planning:				
How could you minimise or remove any negative impact identified even if this is of low significance?				
N/A				
How will any impact or planned actions be monitored and reviewed?				
N/A				
How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.				
N/A				
Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at hr.support@bsmhft.nhs.uk . The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.				



APPENDIX 2

EMPLOYMENT BREAK APPLICATION FORM

Name: _____ Job Title/Band: _____

Location: _____

Manager's Name: _____

Contact Number: _____

Date of Commencement of Employment in the Trust: _____

I wish to apply for an employment break from (Date) for months.
I am planning to return to work on (Date)

My reason for requesting an employment break is:

.....
.....
.....

I think my Employment Break will affect the service and my colleagues as follows:

.....
.....
.....

I have read and understood the process and conditions of the Employment Break.

I also understand and accept my responsibilities within this procedure.

Signed..... Date.....



APPENDIX 3

Manager's Authorisation

Further to your application for an Employment Break dated _____, I am pleased to confirm that your application has been approved.

OR

I need to inform you that your application for an Employment Break has been declined.

A copy of your application and this authorisation form has also been forwarded to the HR Department.

OR

Your application had been declined for the following reasons:
(Briefly outline the reasons for which the application had been declined.)

Manager's Name.....

Job Title.....

Date.....

Copies: Employee NAME,
Personal File,
Human Resources (electronic copy only)