

EMPLOYMENT BREAK SCHEME GUIDANCE

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Related policies:

Parental Leave Policy
Pay Protection Policy

Flexible Working Policy
NHS Terms and Conditions of Service
Handbook

1. Introduction

This document applies to all staff irrespective of their Age, Disability, Gender reassignment, Marriage and Civil partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex and Sexual orientation.

This document sets out the procedure for applying the national Agenda for Change terms and conditions of service in relation to the Employment Break Scheme.

2. Procedure / eligibility

The application of the Employment Break Scheme covers all members of staff with a minimum of 12 months' continuous service with the Trust.

Acceptance into the Scheme is at the discretion of the applicant's line Manager and must be approved by the relevant Director.

Where possible applications to the scheme must be made as far in advance as possible of the applicant wishing to start a career break, with the minimum notice period normally being 3 months.

Reasons for applying to join the employment break scheme:

- Care and/or responsibility of a child(ren)
- Care and/or responsibility for other dependants
- Personal study, training and development (which is relevant to operational/service needs of the Trust)
- Other appropriate reasons, which may include travel or voluntary work

The purpose of the scheme is not to enable a person to leave the Trust to work for another organisation. An exception to this may be where, for example, work overseas or charitable work could broaden experience.

Application to join the scheme will be through the applicants' line manager by completing the appropriate form.

All applications will be considered in line with the Trust's commitment to Equal Opportunities.

The Manager with the approval of the relevant Director of the applicant will have the authority to grant membership of the employment break scheme.

When assessing an application the Manager will need to take account of workforce planning issues where it may be impossible for the Trust to guarantee re-entry to comparable employment at the end of the employment break scheme.

Employees cannot commence on an employment break scheme immediately following a period of other leave e.g. sickness / maternity. **Managers must seek advice from the HR department in these circumstances.**

When assessing an application the Manager will need to consider situations where recruitment to a post is likely to be difficult.

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

Where a member of staff joins the scheme they are not required to resign although there will be a change to the contract of employment. Notification should be given on an SW2 and shall clearly state "Employment Break Scheme".

Where an employee undertakes an employment break and has a lease car every effort will be made to reallocate the vehicle. Failing this, the employee will be liable for the penalty fee or early return in accordance with current practice.

3. Terms and conditions

3.1 Membership

Membership of the scheme will be for a minimum of 3 months and normally for up to 1 year. In exceptional circumstances this can be extended up to 3 years.

There will be the provision for members of the Employment Break Scheme to return earlier than anticipated from breaks provided the necessary notice is given (2 months if the break is less than a year and 6 months if the break is more than a year).

The anticipated period of employment break should be stated at the time of application, although with prior agreement this can be extended.

If an employment break of more than 1 year is approved the scheme members will be required to re-register for the scheme annually. The purpose of re-registration is to provide accurate and up-to-date information on scheme membership, and possible members returning to work.

- A period of absence on the Trust Employment Break Scheme shall not be regarded as a contractual break in service.

3.2 Pension

If it is a break of more than 12 months, it will be regarded as a break in service for pension purposes.

Employees must contact NHS pensions to discuss the impact on their pension as a result of taking an employment break. Please see Appendix 2 for FAQ sheet.

Contact details are:

(0113) 2064874

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

The period of the break will not itself count as reckonable service for the purposes of pension if you choose not to stay in the scheme, increments, sick leave, annual leave, maternity leave, redundancy rights. These provisions will be suspended for the period of the break.

If the employee has less than 2 years' service they are entitled to a refund of payments made. If they are out of the scheme for 12 months or more they would be forced to take a refund of contributions.

If they have an added years contract, that contract would be deemed to have terminated at the last date of pensionable employment if on an employment break for 12 months or more.

If they are in the 1995 Pension Scheme and out for more than 5 years or more then if they re-join the pension scheme it will be under the 2008 scheme.

4. Return to work

Members of the scheme who return will be re-employed on commensurate terms and conditions and return to a similar job as possible to their previous substantive post.

In exceptional circumstances where the same or a comparable grade and level of post cannot be identified, the member of the Scheme returning to work may be re-assimilated on a lower grade. In this event their previous pay and terms and conditions will be protected in-line with the Trust Pay Protection Policy until a suitable post becomes available for their redeployment.

Scheme members will, after consultation where appropriate, be included in any arrangements for transfer of undertakings arising from organisational change.

5. Scheme requirements

Scheme members may undertake up to 3 days relevant training per year on approval from the Manager.

Where appropriate and agreed in advance of the employment break, scheme members will undertake up to 3 (and no more than 5) days professional updating and work experience a year. The scheme member and relevant Manager will determine the date and content of any professional update training.

These arrangements do not preclude scheme members undertaking bank duties, but such duties will not count towards the minimum 5 days updating commitment outlined above.

On return to work, scheme members may undertake up to 10 days updating / re-entry training / work experience. This will be paid pro rata to the grade the scheme member was previously employed on.

NB Scheme members are not required to maintain professional registration during the period of the break but must check any requirements for updating their professional qualifications with their professional body prior to their return.

6. Procedure - application

Applicants should complete the Employment Break Scheme application form (Appendix 1) and submit it to their line manager.

The line manager should acknowledge receipt of the request within 10 days of receiving the letter.

Applicants will receive written reasons should their application to join the scheme be refused.

The Employee reserves the right to invoke the grievance procedure if they feel that a decision to not grant an employment break is not justified.

7. Records

Management is responsible for keeping records of any staff on an employment break, contact mechanisms, and return to work dates.

Application for Membership of Employment Break Scheme

Please complete Part A and then ask your manager to complete section B

Part A: Staff Details

Name		
Address		
Contact details		
Job title		
Location		
Proposed Start date		
Length of break		
Reason for break	Care responsibility for child(ren)	
	Care responsibility for other dependants	
	Personal study/training/development (relevant to operational/service needs of the Trust)	
	Other (Please Specify)	

I confirm that I wish to apply for membership of the employment break scheme. I have read, understood the Trust Employment Break Scheme Guidance. I agree to participate in the scheme under the terms stated within the Agenda for Change terms and conditions and I can confirm that I have contacted the Pensions office with regard to my pension. Following this I wish / do not wish (delete as appropriate) to remain in the scheme of the duration of the employment break

Signed: _____

Date: _____

Part B

Manager's Comments/Approval

Please indicate whether you approve this application?
If No please give reasons

Yes No

If you approve the application please provide the following details:
Have you agreed with the scheme member their commitment to yearly professional updating/work experience whilst they are members of the scheme? Yes No

If yes please give details

Director Approval

Please indicate whether you approve this application?

Yes No

Signed: _____

Please sign and date the application form and forward to lch.hr@nhs.net

If membership of scheme has been approved please also forward a completed SW2 form to lch.sw@nhs.net with a copy of this form.

Signed: _____

Name: _____

Job Title: _____

Date: _____

A copy should be kept on an employee's personal file for monitoring purposes.

Authorised leave and NHS pension scheme membership

Are periods of authorised leave (including career breaks where the contract of employment is retained) pensionable?

Prior to 1 April 2008 periods of authorised leave were pensionable. However, it was generally anticipated that these would be fairly short periods, for example periods of leave that had been authorised because of a domestic emergency or bereavement.

How are pension contributions paid during authorised leave/career break?

For the first 6 months the employee and the employer must pay their respective contributions continuously. Where pensionable pay is reduced or suspended employee and employer pension contributions are based on the member's pensionable pay immediately prior to the break starting.

An employee who has paid contributions for the first 6 months can then continue contributing to the scheme for a further period of up to 18 months. Should the member wish to continue contributing to the Scheme during this period they will be responsible for both the employee and employer pension contributions.

Where the authorised leave/career break is to be pensionable the employer must treat the member as they would any other active member of the Scheme and ensure that employee and employer contributions are paid continuously throughout the break. I.e. by the 19th day of the month following that which the earnings (if there were any) would have been paid.

Before the authorised leave/career break begins, therefore, employers must make arrangements to collect the appropriate contributions from the employee continuously during the break. Arrears cannot be allowed to accumulate and payment made on returning to the Scheme.

Can an employer choose whether a member is granted a career break?

The decision on whether to agree a member's application for a career break rests with the employer. The employer should refer to the employee's relevant terms and conditions. For staff subject to Agenda for Change, the provisions in Part 5, Section 36 'Employment break scheme' of the NHS terms and conditions of service handbook should be followed. This section is to be amended to reflect the change in the pension position of employment breaks.

Can an employer choose whether the authorised leave/career break is pensionable?

No. If the break has been agreed and the member chooses to pay pension contributions the employer must pay the employer pension contributions for the first 6 months.

A member has been granted authorised leave/career break. Do they have to pay pension contributions?

No. A member does not have to pay pension contributions. Should the member decide not to pay pension contributions their pension record should be closed down the day before the leave commences.

A member was granted authorised leave/career break and decided not to pay pension contributions. Can the member decide to pay these contributions retrospectively?

No. Contributions must be paid continuously; arrears cannot be allowed to accumulate. If the member does not pay contributions for the first 6 months they do not have the option to continue to be pensionable for the further period of up to 18 months.

A member has been granted a career break for longer than 2 years can they continue to contribute to the scheme after 2 years have elapsed?

No. Although under Agenda for Change terms and conditions an employee can be granted an employment break of up to 5 years, the NHS Pension Scheme Regulations only allow authorised leave periods (which includes career breaks where the contract of employment is retained) to be pensionable for the first two years. After this time the member's record must be closed down for pension purposes.

Which section of the scheme will a member belong to on returning from authorised leave/career break?

Whilst contributing to the Scheme a member will remain in the same section of the scheme they were in prior to commencing the authorised leave/career break. If a member chooses not to contribute to the Scheme during a career break or continues on a career break for more than 2 years, the normal rules surrounding scheme membership and eligibility will apply.

If a member holds MHO or special class status will this be retained during the authorised leave/career break?

If a member decides not to pay pension contributions during the period of authorised leave/career break the normal rules surrounding membership of the scheme and entitlement to MHO/special class status will apply. The member must return to pensionable NHS employment within 5 years to be eligible to be considered for MHO/special class status on their return.

If a member continues to contribute to the scheme during the authorised leave/career break, MHO/special class status will be retained for the pensionable period. (i.e. for up to two years). It would be expected that the member would return to an MHO/special class job on their return.

Should the member remain on a career break for longer than 2 years the normal rules surrounding entitlement to MHO/special class status will then apply on a member's return to NHS pensionable employment.

What life insurance and family benefits would a member be entitled to during authorised leave/career break?

A member will be entitled to 'death in membership' benefits during the period of up to 2 years providing that they continue to contribute to the Scheme. Further information on life insurance and family benefits can be found at page 29 of the Scheme Guide.

What happens to added years contracts during authorised leave/career break?

Contributions will continue during the pensionable period of, (up to two years). If a member decides not to pay contributions or remains on a career break for longer than 2 years they must return to the Scheme within 12 months of the last day of contributing membership to enable the original added years purchase to continue. If a member does not return to the Scheme within 12 months the contract will end and a proportional added years credit will usually be given to the member.