

Buying and Selling Leave Policy

This policy outlines the procedure whereby staff can apply to buy extra annual leave up to maximum of 2 weeks per annum and sell up to a maximum of 1 week per annum.

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KEY REQUIREMENTS

Applications are subject to the following criteria:

- Completion of 26 weeks continuous service with the Trust and successful completion of the probation period with the Trust at the time of application.
- A minimum attendance level when selling leave (excluding annual and other Trust approved leave), ideally staff should not have exceeded the trigger points in the LPT Attendance Management and Wellbeing Policy and Procedure in the previous year. Note: this will be subject to the line manager's discretion.
- Staff have bookable annual leave (bookable leave does not apply for term time only contracts/annualised hours contracts)
- Staff with fixed term contracts can only participate in the scheme if participation can be completed before the end of the fixed term.

TARGET AUDIENCE:

The policy applies to all permanent members of staff (regardless of contracted hours).

TRAINING

There is no training requirement identified within this policy.

1.0 Quick look summary

Please note that this is designed to act as a quick reference guide only and is not intended to replace the need to read the full policy.

The scheme allows employees to request to buy extra annual leave up to the equivalent of 2 working weeks per annum and sell up to a maximum of the equivalent of one working week per annum and is designed to give employees extra flexibility to their working lives.

The policy arrangements are totally discretionary – employees do not have a contractual right to buy or sell leave. Support must first be obtained from the line manager and the final decision will be made by the Head of Service/Director.

Selling leave

- If an employee has sold holidays and run out before the end of the year, they cannot buy back any extra days.
- The payment for the annual leave will be in a lump sum and paid on the first payroll of the leave year, i.e. April.
- Should staff leave before the end of the leave year, they may be required to pay back some of the lump sum if they have exceeded their annual leave allowance.

Buying leave

- The cost of the annual leave will be spread over the year in 12 monthly instalments.
- If an employee has bought holidays and cannot use them before the end of the leave year, they cannot sell them back and receive a salary in lieu of the benefit.
- Any additional annual leave bought will be managed as per the Trust's Annual Leave and General Public Holiday Policy and Local Annual Leave Guidance.
- If an employee leaves during the year in which they have purchased additional leave any instalments will be recovered from their final salary. If there are insufficient sums to recover this payment the employee will be invoiced.
- Once considered by line managers the request will not be finalised until all national living wage checks have been completed to ensure compliance with legislation and they have been reviewed by the Head of Service/Directors, Human Resources (HR) and finance.

1.1 Version control and summary of changes

Version number	Date	Comments
1.0	November 2020	First version of the policy and therefore no changes are applicable
2.0	June 2021	<p>Introduction:</p> <ul style="list-style-type: none"> Added - If deadline dates in this policy fall on a weekend – the following Monday will apply. <p>Section 7:</p> <ul style="list-style-type: none"> Removed - Training grade medical staff FY1 and FY2. Added - annual salary excludes on-call allowance and clinical excellence awards <p>Section 9:</p> <ul style="list-style-type: none"> Wording made clearer that contracted annual PA's will be taken into account in calculations. Added - Example calculation Added - Training grade medical staff would need to have 12 months remaining on their contract for eligibility. <p>Appendix 3: Timescales amended (also reflected in various sections within the policy).</p>
3.0	October 2021	<p>Appendix 4:</p> <ul style="list-style-type: none"> Application form amended for staff to stipulate 'type of contract'. <p>Appendix 6: Timescales amended (also reflected in various sections within the policy).</p>
4.0	<p>October 2022</p> <p>September 2023</p>	<p>Appendix 4:</p> <ul style="list-style-type: none"> Application form amended for staff to stipulate continuous service, responsibilities, duties, and timescales <p>Appendix 6:</p> <ul style="list-style-type: none"> Timescales, responsibilities, and duties amended (also reflected in various sections within the policy) <p>Section 3 and 4:</p> <ul style="list-style-type: none"> Employees individual basic salary as of 1 April, changed to 1 January. Added Agenda for change (AFC) payments information. <p>Appendix 4 and 6:</p> <ul style="list-style-type: none"> Application and process dates amended for consistency year on year – dates also reflected in the body of the policy.
5.0	August 2024	<p>Section 5.1: Wording amended to clarify that applications will only be considered if employee remains compliant with National Living Wage after purchase.</p> <p>Wording amended to clarify that if staff have a retrospective change to pay their pay figure at the 1st January it will be re-calculated. Any changes with an effective date after 1st January will not be taken into account.</p>

For Further Information Contact: Human Resources lpt.hradvisoryteam@nhs.net

1.2 Key individuals involved in developing and consulting on the document

Name	Designation
Julie Hamore	HR Business Partner
Wider Consultation	All LPT Staff Bands 7 and above Trust Policy Experts

1.3 Governance

Level 2 or 3 approving delivery group	Level 1 Committee to ratify policy
Strategic Workforce Group	People and Culture Committee

1.4 Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

If you would like a copy of this document in any other format, please contact lpt.corporateaffairs@nhs.net

1.5 Due Regard

LPT will ensure that due regard for equality is taken and as such will undertake an analysis of equality (assessment of impact) on existing and new policies in line with the Equality Act 2010. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination.
- LPT complies with current equality legislation.
- Due regard is given to equality in decision making and subsequent processes.
- Opportunities for promoting equality are identified.

Please refer to due regard assessment (Appendix 5) of this policy.

1.6 Definitions that apply to this policy.

Salary Sacrifice Scheme	A tax efficient way of receiving staff benefits. Essentially, the employee gives up part of their taxable salary in return for another benefit (e.g. extra holiday).
Buying Annual Leave	To obtain extra annual leave by way of deductions from salary.

Selling Annual leave	Exchanging annual leave for extra salary.
Due Regard	<p>Having due regard for advancing equality involves:</p> <ul style="list-style-type: none"> • Removing or minimising disadvantages suffered by people due to their protected characteristics. • Taking steps to meet the needs of people from protected groups where these are different from the needs of other people. • Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

2.0 Purpose and Introduction

Leicestershire Partnership NHS Trust is committed to assisting its employees to achieve a healthy balance between their work and personal lives, in the best interests of both service delivery and the wellbeing of individuals.

All employees receive paid annual leave as set out in their contract of employment. This policy allows employees the flexibility to alter that entitlement, either by buying some additional leave or by selling some of their current entitlement. The scheme is about giving staff some additional choice and flexibility to their total reward package.

The scheme allows employees to request to buy extra annual leave up to the equivalent of 2 working weeks per annum and sell up to a maximum of the equivalent of one working week per annum and is designed to give employees extra flexibility to their working lives.

Extra holiday may appeal for all sorts of reasons - the chance to spend more time with family, special holidays or time to complete a special project. Alternatively, if employees wish to use less than their full leave entitlement, this scheme gives them the opportunity to exchange some of it for extra salary.

3.0 Policy Requirements

The policy arrangements are totally discretionary - employees do not have a contractual right to buy or sell leave. Support must first be obtained from the line manager and the final decision will be made by the Head of Service / Director linked to the criteria stipulated in Section 6. There is no right of appeal for unsuccessful applications.

The opportunity to request to buy annual leave will only arise once a year for the following leave year. The deadline for applications is stipulated in Appendix 3. Employees will need to plan ahead when considering their choices as **once a decision has been made to buy or sell annual leave for the year, employees cannot change their mind**. Therefore, if an employee has sold annual leave, and runs out of leave before the end of the year, they cannot buy back any extra days. Alternatively, if an employee has bought annual leave and cannot use it before the end of the year, they cannot sell it back and receive salary in lieu of benefit. Any outstanding leave at the end of the year will be managed in line with the Annual Leave and General Public Holiday Policy and can only be carried forward to a new leave year in exceptional circumstances.

The deadline for applications is stipulated in the flowchart in Appendix 3 of this policy.

4.0 Duties within the Organisation

4.1 The Duties of Managers and Supervisors

- Each line manager has a responsibility to ensure compliance with this procedure. Managers need to ensure that staff are aware that they have a right to make a request to buy or sell annual leave.
- Communicate to all staff the closing date of scheme to ensure timely applications.
- Treat all applications fairly and consistently. Part-time employees, regardless of their working pattern, will be treated on no less favourable terms than their full-time equivalents.
- Think creatively about how they can accommodate the request being made and to consider all requests to buy or sell annual leave with a default position of accepting a request unless there is a clear objectively justified reason for not approving an application.
- Check Section 1 of the application form (completed by the employee) for accuracy and completeness. For example, that the correct Service has been selected and that the employee has completed all fields.
- To complete Section 2 of the application form, indicating whether or not they support the employee's application, taking into account the considerations detailed within this policy and forward to Lpt.hrinputting@nhs.net by the deadline specified.
- Once decisions have been confirmed to take account of any annual leave entitlements and ensure employees annual leave is booked in line with the Annual Leave and General Public Holiday Policy.

In the case of successful applications:

- To ensure that the appropriate adjustments are taken account of in respect of the employee's annual leave entitlement for any approved applications and a copy off application added to the personal file of the employee.
- To ensure all applications are submitted to the HR Employee Services Department via Lpt.hrinputting@nhs.net by the deadline stipulated in Appendix 3.
- Manage an individual's leave to ensure all additional leave is taken prior to the end of the leave year
- Ensure arrangements are in place to monitor and review all aspects of additional annual leave purchase scheme including any impact on the service.
- Any leavers mid-year are flagged to payroll using a Termination (H5) form.

4.2 Head of Service/Director Responsibility

- To review all applications made within their Service following national living wage checks and make the final decision regarding whether these will be approved or declined, taking into account the considerations detailed within the guidance and complete section 4 of application form.
- To ensure fairness and consistency in the application of this Policy.
- The column marked "Head of Service/Director Approval Y or N" on the spreadsheet is to be completed by Head of Service/Director using "Yes" to approve the application and "No" to decline application.

4.3 Responsibilities for Staff

- To ensure that, on making a request to buy additional leave, they have not only considered their own individual needs and circumstances but those of the Trust, their team and colleagues. Enshrined in the application process is the need to consider the impact of their request on the team and service delivery and how this impact can be mitigated. If the request cannot be met in its entirety, it may be able to be partially met and both parties may need to consider compromise.
- To read and fully understand the policy guidance (including the salary sacrifice guidance at Appendix 2) ensuring they fully consider the financial implications for themselves of the deduction from salary prior to submitting an application to their line manager using the Appendix 1.
- To ensure that **all** fields in Section 1 of the application form are completed correctly, missing fields may result in applications being declined.
- To give their application to line manager by the specified deadline.
- To ensure any additional annual leave purchased is booked in accordance with the Trust Annual Leave and General Public Holiday Policy, and any locally agreed guidance, and is used in the leave year it is purchased.

4.4 Responsibility of Human Resources teams

- To promote, communicate and raise awareness of the scheme through appropriate channels.
- To arrange meetings to review all applications with the Heads of Service/Directors and finance.
- To inform payroll of the details of any approved applications for the appropriate adjustments to be made to their salary.
- To inform the HR Workforce team of all changes.
- To undertake national living wage checks on all applications for purchasing annual leave.

5.0 Policy detail

5.1. Buying Annual Leave

The principles for buying annual leave are:

- The opportunity to request to buy additional annual leave will only arise once a year and will only be considered if the employee remains compliant with the National Living Wage after purchase. See appendix 2 for more information.
- Please refer to the process stipulated in Section 5 and flowchart in Appendix 3 for timescales and deadlines.
- Once the application has been approved employees cannot change their mind and are committed to the change for the leave year.
- Employees are able request to buy up to an equivalent of two working weeks - A week relates to the exact amount of hours they are contracted to work per week as at 1 January.
- When an employee buys annual leave their salary will be reduced by the additional number of hours purchased, this figure will be calculated on the employees' individual basic salary as at 1 January. Should staff have a retrospective change to their pay the figure as at the 1 January it will be re-calculated. Any changes to pay with an effective date after 1 January will be not taken into account. This is classed as a variation to their terms and conditions of employment. Specifically, that they

agree to reduce their gross salary in return for a noncash benefit (additional annual leave).

- The buying and selling of annual leave will be based on basic pay only as of 1 January. When taken, additional leave will attract AFC absence payments in line with NHS Terms and Conditions of Service. However, staff will not be able to claim for any shift enhancements that they would have been due on the dates the additional leave is used as not physically working the shifts.
- Holiday is not a taxable benefit, so there is no income tax or national insurance (NI) payable in the value of the days bought. Please refer to Section 8 for further details.
- The cost of the annual leave will be spread over the year in 12 monthly instalments.
- If an employee has bought holidays and cannot use them before the end of the leave year, they cannot sell them back and receive a salary in lieu of the benefit.
- Any additional annual leave bought will be managed as per the Trust's Annual Leave and General Public Holiday Policy and Local Annual Leave Guidance.
- If an employee leaves during the year in which they have purchased additional leave any instalments will be recovered from their final salary. If there are insufficient sums to recover this payment the employee will be invoiced. Managers should seek advice from the HR Employee Services Team in relation to this prior to completing the Termination Form.
- Once considered by line managers the request will not be finalised until all national living wage checks have been completed to ensure compliance with legislation and they have been reviewed by the Head of Service/Directors, HR and Finance.

5.2 Selling of Annual Leave

Employees need to be aware that under the Working Time Regulations employers are required by law to ensure that adequate time off is taken by individuals. It is important therefore that employees do not deprive themselves of annual leave, which would result in a detrimental impact on health. Managers will be responsible for monitoring staff sickness levels to ensure that these do not increase as a result of staff selling leave. The law stipulates that employees are entitled to a minimum of 5.6 working weeks per year inclusive of statutory holidays (equivalent to 28 days). The entitlement for part-time workers is calculated on a pro-rata basis. No employee will be allowed to sell holiday which would mean that the total holiday taken in any one year would be less than the legal limit.

The principles for selling annual leave are:

- The opportunity to request to sell annual leave will only arise once a year.
- Please refer to the process stipulated in Section 5 and flowchart in Appendix 3 for timescales and deadlines.
- Once the application has been approved staff cannot change their mind and are committed to the change for the leave year.
- Staff are able to request to sell up to an equivalent of one working week - A week relates to the exact amount of hours they are contracted to work per week as at 1 January.
- When an employee sells annual leave their salary will be increased by the number of hours sold, this figure will be calculated on the employees' basic salary as at 1 January. Should staff have a retrospective change to their pay the figure will be re-calculated. The additional salary will be subject to tax and NI in the normal way but will not be pensionable.

- The buying and selling of annual leave will be based on basic pay only as of 1 January. Any leave sold, will not attract AFC absence payments in line with NHS Terms and Conditions of Service. However, staff will be able to claim any shift enhancements that are applicable for the additional days they work subject to Terms and Conditions.
- If an employee has sold holidays and run out before the end of the year, they cannot buy back any extra days.
- The payment for the annual leave will be in a lump sum and paid on the first payroll of the leave year, i.e. April.
- Should staff leave before the end of the leave year, they may be required to pay back some of the lump sum if they have exceeded their annual leave allowance.

5.3 Process for Buying & Selling Annual Leave

The opportunity to request to buy and sell annual leave will only arise once a year. **All applications and all relevant documentation must be submitted to the line manager by the deadline stipulated in the flowchart in Appendix 3.**

To apply to buy or sell annual leave the following process must be followed (summarised in Appendix 3):

- Discuss the desired option with the line manager.
- Complete the “Buying and Selling Annual Leave” form in Appendix 1.
- Hand or email the form to the line manager for them to complete their part of the form which asks them to indicate their support or otherwise for the request, linked to the criteria stipulated in Section 5.
- Completed forms need to be with the line manager **no later than the deadline stipulated in Appendix 3**. Late applications will not be accepted.
- Line Managers will submit all applications, whether supported or not, to the HR Employee Services Team for collation and for the National Living Wage Checks to be undertaken.
- HR Employee Services will share this information with the Senior HR Business Partners to allow discussions within each Directorate/Service to take place.
- The Head of Service / Director will make the final decision on whether to accept or reject an application linked to criteria stipulated in Section 6. Decisions will be based on the criteria set out in this guidance (including national living wage checks) and with consideration to whether the service can accommodate the request without it having a detrimental impact on the service.
- Senior HR Business Partner will confirm decisions to the HR Employee Services Team.
- HR Employee Services will write to all employees via the email address provided on the application form to confirm the decision. Where an application is approved, they will provide information of the gross deductions or payments expected. Employees whose applications have been accepted will then have an opportunity to review the financial impact of their application and decide if they wish to proceed or not and confirm via email their final decision to proceed or otherwise.
- Employee Services will inform Head of Service/Directors and line managers of the final outcomes.
- For successful applications, HR Employee Services will inform payroll to make the appropriate adjustments to the employee’s salary and Workforce to amend annual leave entitlements on ESR/Health Roster.

- For successful applications it is the responsibility of the employee and the line manager to take account of any annual leave entitlements and ensure annual leave is booked in line with the Annual Leave and General Public Holiday Policy.
- At the end of the leave year the employees' holiday entitlement will revert back to the normal contractual amount.

Declined Requests

If the request is declined, then this needs to be communicated to the employee formally, ensuring that the following issues are covered:

- The request has been declined
- Outlining the specific reasons why the request cannot be accommodated.

Reasons for declining the request may include:

- Takes pay below the national living wage, burden of additional costs
- Detrimental effect on the ability to deliver service
- Inability to cover additional annual leave due to high levels of vacancies
- Inability to re-organise work among existing staff
- Detrimental impact on quality or performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes.

There is no right of appeal against declined requests.

5.4 Criteria and Considerations for Buying & Selling Annual Leave

All requests for buying and/or selling annual leave will be given full consideration by the line manager and Head of Service / Director. The aim is to allow employees as much flexibility as possible whilst operating within the needs of service delivery. However, in making a decision the following factors detailed in sections 5.5 and 5.6 **must** be taken into account:

5.5 Buying Leave

There should be no additional cost implications for the Service. Considerations are detailed below:

- If cover is needed for the employee – ensure it is cost neutral
- Assess if employees selling leave can offset any of the costs incurred in employees buying leave
- Assess if there can be a pairing agreement linked to people buying and selling for cover arrangements
- Ensure the additional leave does not result in a waiting list initiative or overtime.
- There should be no detriment to service provision. Considerations are detailed below:
 - Ensure there is no loss of clinical/operational activity unless a planned reduction has been formally approved by the Service
 - Review and assess if there will be an impact on key service targets and to determine if these can be managed or mitigated.

- Unless there are exceptional circumstances employees should not be able to buy extra leave if they have already carried over leave from the previous year under the terms of the Annual Leave Policy. However, if the employee has carried over less than one working week, they can buy the difference up to a working week
- Unless there are exceptional circumstances (e.g. where an individual's health may benefit from taking additional leave) employees are not able to buy extra leave if their current sickness absence rate at the time of applying (calculated on a rolling 12 month period) exceeds the trigger points within the LPT Attendance Management and Wellbeing Policy and Procedure.
- If a manager does not feel that they can support an employees' full request then they may consider suggesting a proportion they would feel able to accommodate. For example if two employees request to buy 37.5 hours each, but the service could only accommodate a maximum **combined total** of 37.5 hours additional leave, the manager may suggest that each receives 18.75 hours. The final decision regarding whether any requests (or a proportion of these) are approved or declined sits with Head of Service / Director.

5.6 Selling leave

- There should be no additional cost implications for the Service/Department. Considerations are detailed below:
 - Assess if there is a balance between employees selling annual leave and those wishing to buy annual leave which will offset costs for the service
 - Where there is not an equal number of those buying and selling leave, can the cost be reasonably covered by the department budget?
 - Assess if the cost of staff selling annual leave can be offset by an expected reduction in temporary staff spend (e.g. overtime, agency) and/or increased productivity.
- Unless there are exceptional circumstances employees are not able to sell leave if their current sickness absence rate at the time of applying (calculated on a rolling 12 month period) exceeds the trigger points with the LPT Attendance Management and Wellbeing Policy and Procedure.
- If a manager does not feel that they can support an employees' full request, then they may consider suggesting a proportion they would feel able to accommodate. For example if two employees request to sell 37.5 hours each, but the service could only accommodate the purchase of a maximum **combined total** of 37.5 hours, the manager may suggest that each employee is able to sell 18.75 hours. The final decision regarding whether any requests (or a proportion of these) are approved or declined sits with the Head of Service/Director.

5.7 Calculating the Value

If an employee is selling annual leave then the employee will receive additional pay for the additional holidays. If the employee is buying annual leave then the employee will lose pay for the additional holidays bought.

Employees are strongly advised to use the following formula to ascertain the cost of buying leave, based on their annual salary or the payment they will receive if selling leave:

Annual salary ÷ 52.143 ÷ contracted hours per week = hourly rate

Hourly rate x by the number of hours bought or sold

Calculation for training grade medical staff (CT1-3.SpR 4 – 6) based on normal working week (40 hours) as above.

The calculation for Career Grade medical staff (Consultants, Associate Specialists and Speciality Doctors) on Programmed Activities (PAs) is detailed below:

Annual salary ÷ 52.143 ÷ normal PAs per week = 1 PA pay
(Annual salary excludes on call allowance and Clinical Excellence Awards CEAs)

1 PA rate x the number of PAs purchased or sold

If buying additional leave the above figure will be divided into 12 monthly instalments.

5.8 Salary Sacrifice

When employees buy annual leave this is processed as a salary sacrifice. Salary sacrifice is a tax efficient way of receiving staff benefits. Essentially, the employee gives up part of their taxable salary in return for another benefit (e.g. extra holiday).

Because the employee sacrifices gross salary it means the tax, national insurance contributions and pension contributions (if applicable) that are usually applied are reduced. However, all these deductions are dependent upon the amount the employee earns.

Below is a simple example using fictitious rates to demonstrate how the salary sacrifice works for the buying of annual leave: The example shows that a £500 salary sacrifice only costs the employee £302.80.

Salary Sacrifice – 1 weeks holiday		
	£500 Reduction on Annual Salary in Majority of Employees	£500
Less	Pension Contribution (9.3%)	-£46.50
Less	National Insurance (12%)	-£60.00
Less	Tax (20%)	-£90.70
	Cost to employee	£302.80

Because an employee's gross pay is reduced as part of a salary sacrifice scheme there may be a resulting impact on other schemes and benefits such as the pension scheme and other schemes calculated on contractual pay such as maternity pay.

Employees **must** ensure that they read the attached 'Salary Sacrifice Schemes Guidance' document at Appendix 2 in order to fully understand the potential implications prior to making any application under this scheme.

5.9 Medical Staff

Career grade medical staff need to be aware that a full week for the purposes of buying and selling annual leave is classed as the PAs they are contracted to. If there are any contracted additional PAs, these will be taken account of in the calculation i.e.:

Example below for a full time Consultant on the 5th pay threshold, in receipt of 3 CEAs, 2 PAs and a 3% on call supplement:

10 PAs	£92,372	5 th pay threshold
3 CEAs	£ 9,048	
3% on call	£ 2,771	
2 PAs	£20,284	20% of basic salary and CEAs
Total	£124,475	

To sell 1 week's leave:

Annual salary £112,656 ÷ 52.143 = £2160.52

Doctor will receive a lump sum of £2160.52 to sell one week's annual leave

To buy 1 week's leave:

Annual salary £112,656 ÷ 52.143 = £2160.52

Doctor will receive a monthly deduction of £180.04

Training grade medical staff calculations will be based on a 40hour working week. The annual leave year for training grade medical staff begins on their anniversary of commencing with the Trust (usually the 1 August). Training grade medical staff would therefore need to submit applications for the buying or selling of annual leave by January 10th for the annual leave year commencing on the following 1 August. They would need to have 12 months remaining on their contract to be eligible for this scheme.

5.10 General Guidance & Advice

All amended annual leave entitlements will be managed as per the Trust's Annual Leave and General Public Holiday Policy.

If an individual terminates their employment mid-year payroll are to be informed of the outstanding/overtaken annual leave via a termination (HR5) form. Payroll then make the normal month's salary sacrifice deduction in the terminating month and take the remainder of the outstanding monetary value as a net deduction.

For example: an individual buys 37.5 hours x hourly rate £10.00 £375.00

This is then divided over a twelve month period (Sal Sac value) £31.25

If the individual then leaves in the November of the financial year there is the usual £31.25 salary sacrifice value plus 4 x 31.25 (£125.00) as a net deduction on their final payslip.

For assistance in calculating what is outstanding where an individual has brought or sold annual leave mid-year please contact the HR Employee Services Team.

6.0 Training needs

There is no training requirement identified within this policy.

7.0 Monitoring Compliance and Effectiveness

Page/Section	Minimum Requirements to monitor	Method for Monitoring	Responsible Individual /Group	Frequency of monitoring
1	Total number of applications to buy annual leave	Number of applications approved.	Deputy Director of HR & OD	Annually
		Number of applications partially approved.	Deputy Director of HR & OD	Annually
		Number of applications rejected by management.	Deputy Director of HR & OD	Annually
		Number of applications rejected due to National living wage.	Deputy Director of HR & OD	Annually
2	Total number of applications to sell annual leave	Number of applications approved.	Deputy Director of HR & OD	Annually
		Number of applications rejected	Deputy Director of HR & OD	Annually

8.0 Standards/Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
Care Quality Commission registration standards (outcome 14) <i>Supporting Workers</i> (21) of the Health & Social Care Act (2008) (Regulated Activities Regulations 2010 CQC essential standards)	That the trust maintains compliance with CQC registration standards, this policy supports outcome standards 14

9.0 References and Bibliography

The policy was drafted with reference to the following:

- LPT Annual Leave & General Public Holiday Policy - 2020
- LPT Local Annual Guidance - 2020
- York Teaching Hospital 2020 – Buying and Selling Leave Policy.

10.0 Fraud, Bribery and Corruption consideration

The Trust has a zero-tolerance approach to fraud, bribery and corruption in all areas of our work and it is important that this is reflected through all policies and procedures to mitigate these risks.

Fraud relates to a dishonest representation, failure to disclose information or abuse of position in order to make a gain or cause a loss. Bribery involves the giving or receiving of gifts or money in return for improper performance. Corruption relates to dishonest or fraudulent conduct by those in power.

Any procedure incurring costs or fees or involving the procurement or provision of goods or service, may be susceptible to fraud, bribery, or corruption so provision should be made within the policy to safeguard against these.

If there is a potential that the policy being written, amended or updated controls a procedure for which there is a potential of fraud, bribery, or corruption to occur you should contact the Trusts Local Counter Fraud Specialist (LCFS) for assistance.

Appendix 1 Application Form

To be returned by the deadline specified in Appendix 3 of the policy.

Buying & Selling of Annual Leave Application Form for NEXT financial year									
Section 1: For completion by the employee: All information to be completed.									
Surname				First Name (not 'known as' name)					
Job title								Band	
Work E-mail (this will be used for communication of outcome)				Phone number					
Directorate				Line manager					
Base				Ward/Department					
Assignment Number (8 digit number and can be found on your payslip)								-	
Contracted hours of Employment				Continuous Service date					
Type of contract (please tick all that apply)	Permanent	Fixed-Term	All year round	Term-time only	Annualised				
Buying Leave*	<p>I would like to request to buy _____ hours annual leave</p> <p>*Please be aware if your application causes a breach of the National Living Wage it will automatically be rejected by the Trust in line with legislation irrespective of whether it has managers support or not.</p>								
<p>On approval of request to buy annual leave, I authorise a variation in my contract of employment in that there will be a reduction in my gross annual salary in return for a non-cash benefit of additional annual leave and that the deduction will be made over a 12-month period from April to March of the next financial year.</p>									
Selling Leave	<p>I would like to request to sell _____ hours of my annual leave entitlement.</p>								
<p>On approval I will forgo this amount of leave from my annual leave entitlement and that the Trust will make payment in consideration of the loss of leave. This payment will be made in a lump sum in April of the next financial year.</p>									
<p>It may not be possible for the full amount requested to be authorised, however a proportion may be authorised. E.g. requested 37.5 hours approved 18.75 hours instead. Please tick this box if you would not wish to accept a lesser proportion of your request, the request would then be declined <input type="checkbox"/></p>									
<p>Please indicate why you are making an application to either buy or sell annual leave (please only chose one option, the one that best describes your reason for applying)</p>									

<p>Buy</p> <p>More time to spend with family <input type="checkbox"/></p> <p>Travel <input type="checkbox"/></p> <p>Home improvements <input type="checkbox"/></p> <p>Other (please specify) <input type="checkbox"/></p>	<p>Sell</p> <p>Do not require full leave entitlement <input type="checkbox"/></p> <p>Would prefer to have extra money <input type="checkbox"/></p> <p>Other (please specify) <input type="checkbox"/></p>
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<p>Section 2: To be completed by employee</p>
<p>Salary Sacrifice - Important information</p>
<p>The new national NHS pension scheme is now based on career average earnings, rather than final salary. Your participation in a salary sacrifice scheme may affect your NHS pension, as salary sacrifice reduces the basic salary that your pension is based on.</p> <p>The Trust and its officers do not give pension advice. You are strongly advised to consider the impact of the reduced salary due to salary sacrifice and seek independent financial advice if you are unsure about the potential impact.</p> <p>Further information can be obtained from: www.nhsbsa.nhs.uk www.gov.uk/NHS Pension scheme for England and Wales 2015</p>
<p>Please tick the box as applicable:</p> <p><input type="checkbox"/> I have taken independent advice regarding the impact of the salary sacrifice on my pension.</p> <p><input type="checkbox"/> I have chosen not to take independent advice regarding the impact of the salary sacrifice on my pension.</p> <p><input type="checkbox"/> I am not in the pension scheme.</p> <p><input type="checkbox"/> Not applicable I am selling annual leave.</p>
<p>Please read and sign below</p>
<p>I have read and understood the information above and in the salary sacrifice guidance which can be obtained from Appendix 2</p> <p>Please note the below in relation to National Minimum Wage</p> <p>A Salary Sacrifice scheme legally must not reduce your pay to below the National Living Wage. You will not be able to take part in the salary sacrifice scheme if your hourly rate on 1st January falls below the National Living Wage in place when the deductions are to be taken. This will take into account any other Salary Sacrifice schemes you have in place. Please note there is no 'opt out' of the National Living Wage.</p> <p>I understand that the Trust cannot provide financial advice, and that I should get independent financial advice if I am unsure about how salary sacrifice may affect me financially.</p>

I can confirm the information provided on this form is correct and I accept the amendment to my salary based on the above request and what is finally approved.	
Employee Signature	
Print Name	
Date	
Please forward this form to your Line Manager by the deadline specified in Appendix 3 of the policy.	

<p>Section 3: To be completed by Line Manager once the employee application window has closed on 8 January. This is ensuring managers have a full picture of the applications they may receive prior to making a recommendation to support or not.</p> <p>When completing this section please ensure you consider the criteria stipulated in Section 6 of the Buying & Selling Annual Leave Scheme.</p>			
1) Name of Head of Service			
2) Has the employee already carried over annual leave from the previous year?	Yes		No
If yes, to the above question, please detail how many hours/days were carried over.			
3) Does the employee's sickness absence rate exceed the Trusts trigger points with the LPT Management of Ill Health Policy and Procedure.	Yes		No
If you have answered 'yes' to question 1 or 2, but do still support the employee's application please provide brief details here regarding your decision:			
<p>Please tick the appropriate option:</p> <p>Option a: I support this application (pending living wage checks being undertaken) <input type="checkbox"/></p> <p>Option b: I do not support this application. <input type="checkbox"/></p> <p>Option c: I cannot support the employee's full request; however, I can accommodate a proportion of this request. I would therefore support the application to buy/ sell* (*please delete as appropriate) a total of hours</p>			
Rationale for decision:			

Managers Signature	
Print name	
Date	
Completed application forms (whether supported or not) form to be sent to: Lpt.hrinputting@nhs.net by the date specified in appendix of the policy (late application forms <u>will not</u> be accepted – incomplete forms will be returned without action)	
*At this point managers <u>MUST NOT</u> communicate any decision to employee	

Appendix 2

Salary Sacrifice Guidance & Frequently Asked Questions

Employee Information

This document is guidance relating to Salary Sacrifice schemes for the employees of Leicestershire Partnership NHS Trust. It sets out the implications of these schemes on your salary, pension, tax etc. It is important that you read this before you make a decision to participate in a salary sacrifice arrangement.

The total value of any/all salary sacrifice must not exceed 10% of your NET annual salary after taking into account any other deductions from salary including NI, Income Tax & Pensions.

What is salary sacrifice?

Salary sacrifice schemes provide staff with an excellent opportunity to gain a benefit (benefit in kind) whilst making substantial savings by agreeing to 'sacrifice' (or give up) a portion of salary in exchange for a service or benefit.

When you join a salary sacrifice scheme you sign an agreement to vary your terms and conditions relating to pay. Savings for basic rate tax payers can be as high as 38% and for higher rate tax payers as much as 48%. Your savings are made because you pay less PAYE (income tax), National Insurance and Pension contributions.

A good example of this: An employee earning £20,000 per annum joins the Cycle 2 Work Scheme and orders a bike for £1,000. For the next 12 months, the employee agrees to sacrifice that £1,000 and therefore effectively earns £19,000 for the next twelve months and therefore pays less tax, NI and pension.

What is a benefit in kind?

“Benefit in kind” are benefits that employees receive from their company which aren't included in their salary or wages. Not all benefits in kind are treated in the same way by the tax system. Some aren't taxed, but others are. It's a good idea to consider them as cash equivalents which contribute to your income. There's a wide range of benefits in kind – from company cars to Home Electronic schemes, some of which the Trust offers as part of its staff benefits package.

Some benefits don't incur any tax. However, there are complex rules around each type of benefit and a range of circumstances which HMRC will take into account before deciding if you have tax to pay or not. You may hear the words “Taxed at Source” or “P11D”, this is the way that the Trust reports your benefits in kind. The Trust takes the Tax payment at source; this method means you pay your BIK charge monthly from your salary. The payments usually start the month after receiving your taxable benefit and end the month after the benefit ceases. This method means you do not receive a P11D form from the Trust and your tax coding is not amended by HMRC.

The Benefits that do not have a tax charge are:

- Cycle2Work
- Childcare Vouchers
- Buying & Selling Annual Leave.

Will participation in a salary sacrifice scheme affect my NHS pension?

Yes, dependent on which section of the scheme you are in Salary Sacrifice reduces the basic salary that your pension is based on. The Trust and its officers do not give pension advice. Each scheme will outline the impact on your pension so you can make an informed

decision. However, you are strongly advised to consider the impact of the reduced salary and seek independent financial advice if you are unsure about the potential impact. Further information can be obtained from: www.nhsbsa.nhs.uk - and search NHS Pension Scheme & www.gov.uk – and search NHS Pension Scheme

Will it affect my State pension and other State benefits?

Possibly, Your State pension and other benefits such as Statutory Sick Pay and Statutory Maternity Pay can be affected by the level of National Insurance contributions you make. This is unlikely to affect most staff, but would affect those whose annual pay after salary sacrifice falls below the lower earnings limit.

See HMRC guidance at:

www.hmrc.gov.uk/specialist/salary_sacrifice.htm

National Minimum Wage

A Salary Sacrifice scheme legally must not reduce your pay to below the National Living Wage. You will not be able to take part in the salary sacrifice scheme if your hourly rate on 1st January falls below the National Living Wage in place when the deductions are to be taken. This will take into account any other Salary Sacrifice schemes you have in place. Please note there is no 'opt out' of the National Living Wage.

Will participation in a salary sacrifice scheme affect my tax credits?

Possibly, Tax credits/Universal credit depends on a number of personal factors including the number of hours worked the number of children and whether eligible childcare costs are paid. We strongly suggest that you check this with your local Government benefits office before applying.

What happens if I change jobs or leave to go to another Trust?

We will recover any outstanding monies from the employee's final salary.

Is there any impact on student loans?

Student loan recovery is based on post-sacrifice amounts. Therefore, under salary sacrifice arrangements the amount of student loan repayments will go down.

Will salary sacrifice affect mortgage and credit applications?

A reduction in salary might affect general financial matters such as mortgage applications. However, the majority of lenders take into account salary sacrifice arrangements when making decisions.

Do I have to be full time to be eligible for the schemes?

No, the schemes are open to all employees. However, participation is subject to National living Wage limit. You must have completed a period of 26 weeks working for the Trust before you are eligible to participate in any of the schemes. Each scheme is administered separately and gives different opportunities to join. Each scheme has its own participation length which is advised to you in advance.

Bank worker/Fixed Term Contracts

As the schemes require staff to sacrifice part of their salary in return for a benefit, if you are a "bank" worker your monthly salary cannot be guaranteed to cover a salary sacrifice therefore you will not be able to apply. Staff with fixed term contracts can only participate in the scheme if participation can be completed before the end of the fixed term.

Once in any of the schemes can I opt out?

Participation in each scheme requires a change to your terms and conditions of service and therefore it is only possible to opt out on the scheme renewal dates or due to a life changing

event (for example that might lead to the need to change working hours). In these circumstances, the Trust may agree for you to opt of one or more of the schemes. Any outstanding monies owed will need to be paid.

Once in any of the schemes can I change the benefits I have chosen?

As above, if there is a life changing event the Trust will consider a request to change the benefits selected.

What is a life changing event?

This might include:

- A new baby
- Adoption
- Divorce/separation
- Death of a partner/child
- Changes in childcare arrangements.

This list is not exhaustive.

What happens if I leave voluntarily when I am part way through a salary sacrifice agreement?

On leaving the Trust you will be liable for any and all outstanding salary sacrifice monies still owed, this will be deducted from your final salary payment. If more than your final salary is owed after your final salary deduction you will be invoiced for the remaining amount. If you have a longer notice period than one month, you can arrange for the money to spread over this period. This can be arranged by emailing Lpt.hrinputting@nhs.net

Redundancy

When you take out a salary sacrifice scheme, you are agreeing to vary your contractual terms in respect of basic pay. However, any contractual payments in relation to redundancy including payment in lieu of notice will be based on the higher salary rate (i.e. the rate before the salary sacrifice is applied).

TUPE

If you have a salary sacrifice scheme and you are transferred to another organisation under the TUPE regulations, a discussion will be had with you over the scheme that you are part of to advise you of the next steps. Benefits programs are not a contractual right under TUPE and therefore, there is no guarantee that the new employer will take a scheme forward. Usually, the scheme is closed as if you were a leaver from the organisation and all outstanding money will be taken from your final salary.

Retire and Return

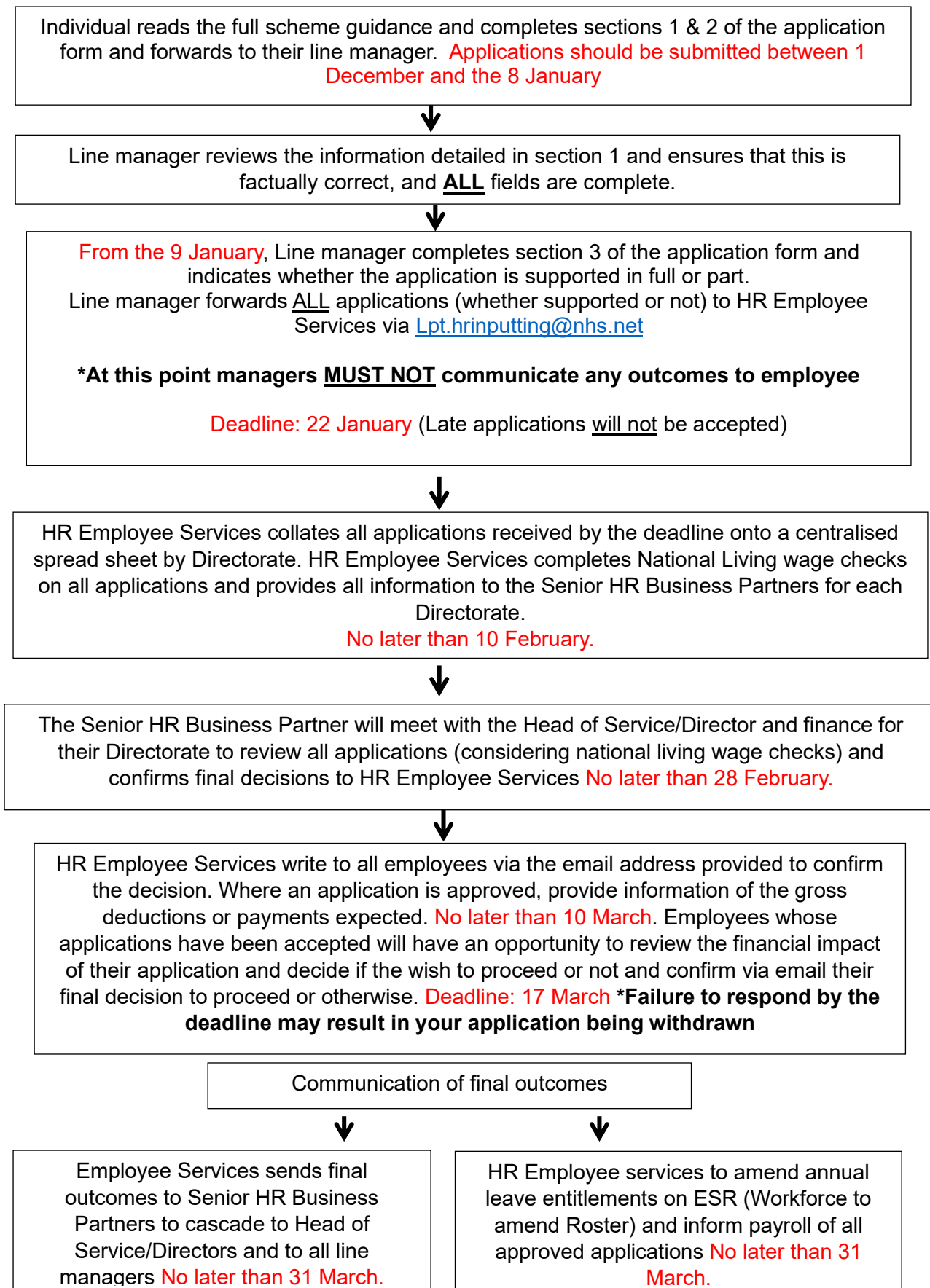
If you choose to retire and return whilst you have an existing salary sacrifice it will be the same process that would happen if you were to leave the Trust on a permanent basis. All monies owed would be taken from your final salary before you retire.

Death in Service Benefits

These benefits will also be impacted if you die in pensionable employment during the scheme. The life assurance within the NHS Pension Scheme is paid by a lump sum equal to 2 years of Pensionable Pay. As your Pensionable Pay will decrease by the amount of the Salary Sacrifice, this may have an effect on your benefits.

Appendix 3

Buying and Selling Annual Leave Scheme Process



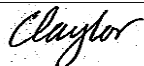
- **Please Note** Where dates quoted above fall on a bank holiday or weekend, the last working day prior will apply.

Appendix 4 The NHS Constitution

- The NHS will provide a universal service for all based on clinical need, not ability to pay.
- The NHS will provide a comprehensive range of services.

Shape its services around the needs and preferences of individual patients, their families and their carers	<input type="checkbox"/>
Respond to different needs of different sectors of the population	<input type="checkbox"/>
Work continuously to improve quality services and to minimise errors	<input type="checkbox"/>
Support and value its staff	√
Work together with others to ensure a seamless service for patients	<input type="checkbox"/>
Help keep people healthy and work to reduce health inequalities	<input type="checkbox"/>
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	<input type="checkbox"/>

Appendix 5 Due Regard Screening Template

Section 1			
Name of activity/proposal		Buying and Selling Leave Policy	
Date Screening commenced		14 August 2024	
Directorate / Service carrying out the assessment		HR and OD Directorate	
Name and role of person undertaking this Due Regard (Equality Analysis)		Julie Hamore, HR Business Partner	
Give an overview of the aims, objectives and purpose of the proposal:			
<p>AIMS: To give all employees the flexibility to alter their annual leave entitlement, either by buying some additional leave or by selling some of their current entitlement. The scheme is about giving staff some additional choice and flexibility to their total reward package.</p>			
<p>OBJECTIVES: To ensure that there is a clear process around the buying and selling of annual leave and to provide guidance regarding the application of the policy.</p>			
Section 2			
Protected Characteristic	If the proposal/s have a positive or negative impact please give brief details		
Age	Positive impact on all protected characteristics, as this policy applies to all staff.		
Disability	As above		
Gender reassignment	As above		
Marriage & Civil Partnership	As above		
Pregnancy & Maternity	As above		
Race	As above		
Religion and Belief	As above		
Sex	As above		
Sexual Orientation	As above		
Other equality groups?	As above		
Section 3			
Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please tick appropriate box below.			
Yes		No	
High risk: Complete a full EIA starting click here to proceed to Part B		Low risk: Go to Section 4. <input checked="" type="checkbox"/>	
Section 4			
If this proposal is low risk please give evidence or justification for how you reached this decision:			
The policy is low risk as the Trust has put in clear guidance to support decision-making in regards to requests to buy or sell leave. The policy is to provide further options and support to employees to enhance work life balance and to provide greater flexibility around their Total Reward package.			
Signed by reviewer/assessor	Julie Hamore	Date	14 August 2024
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>			
Head of Service Signed		Date	19 August 2024

Appendix 6 Data Privacy Impact Assessment Screening

<p>Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual's expectations of privacy.</p> <p>The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering 'yes' to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.</p>		
Name of Document:	Buying and Selling Leave Policy	
Completed by:	Julie Hamore	
Job title	HR Business Partner	Date: 14 August 2024
Screening Questions	Yes / No	Explanatory Note
1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.	No	
2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.	No	
3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?	No	
4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	No	
5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.	No	
6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?	No	
7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would consider to be particularly private.	No	
8. Will the process require you to contact individuals in ways which they may find intrusive?	No	
<p>If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via Lpt-dataprivacy@leicspart.secure.nhs.uk In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.</p>		
Data Privacy approval name:	Hannah Plowright	
Date of approval	20/08/2024	

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust