

NB: This policy is subject to review pending the outcome of Flowers v. East of England Ambulance Service NHS Trust case

| Annual Leave Policy | |
|---|--|
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Executive summary

This policy 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 policy sets out Leeds Community Healthcare NHS Trust's Policy in respect of Annual Leave. It sets out the entitlements for staff on Agenda for Change and rules around requests for and use of annual leave.

The policy incorporates a scheme whereby employees can request to purchase additional annual leave on top of their contractual entitlement, should they wish to. These requests would be made on an annual basis and would be subject to services reviewing the likely impact on capacity.

Further, the policy sets out how other leave, such as sick and maternity leave, may impact on Annual Leave.

Equality Analysis

Leeds Community Healthcare NHS Trust's vision is to provide the best possible care to every community. In support of the vision, with due regard to the Equality Act 2010 General Duty aims, Equality Analysis has been undertaken on this policy (see Appendix 1).

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1. Introduction

This document sets out the Leeds Community Healthcare NHS Trust's (Trust) standard Annual Leave Policy and procedures. It has been drafted to comply with statutory requirements and following ACAS guidance. This should be read together with other relevant Trust policies, procedures and local guidance.

Annual leave is an important part of work-life balance; equally the good management of annual leave by the individual and the manager is essential to the health and safety of the employee and the organisation.

The Policy and Procedures may be reviewed at the request of Management or Staff Side by giving four weeks' written notice with reasons for the review.

2. Aims and Objectives

The aim of this Policy is to provide a uniform and equitable approach to the calculation of annual leave and bank holiday entitlements that take into account the entitlements and arrangements defined under Agenda for Change and other terms and conditions of employment.

The Policy applies to all employees.

3. Definitions

Electronic Staff Record (ESR)

HR and payroll system, which records personal data of all employees.

4. Responsibilities

4.1 Joint Responsibility

Good working relations are vital for the Trust to operate successfully and provide its essential services. Management, trade unions and employees accept the responsibility of working together on issues in good faith and with goodwill with the shared intention of facilitating good working relations.

4.2 Management Responsibility

It is up to the Line Manager to:

Calculate the correct annual leave entitlement for their members of staff.

Monitor and ensure that individuals are taking their annual leave as planned and agreed;

Monitor and ensure that there are appropriate cover arrangements to assure service needs.

Ensure changes in individuals' employment circumstances (e.g. hours of work) are submitted to the Workforce department in a timely manner.

4.3 Employee's Responsibility

It is the responsibility of the individual to:

Ensure that annual leave is planned as far as possible to be taken throughout the leave year, so as to avoid a situation whereby all leave must be taken towards the end of the leave year.

Request after consideration of the team and service needs;

Where requesting to purchase additional annual leave, to first discuss this with their line manager to ensure the request can be accommodated with the needs of the service;

Agree with the line manager prior to commencing or booking holidays, wherever possible giving at least 2 weeks' advance notice.

4.4 Workforce Responsibility

Work in partnership with Managers and Employee Representatives to ensure employees are treated fairly and consistently within the framework of the policy.

To process changes to employees' details on ESR in order that the system accurately reflects the current employment circumstances

5. Reckonable Service

Continuous service with other employers who provide NHS funded services, when an individual has formally transferred to NHS employment under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) or other relevant Statutory Instruments that transfer individual's employment between one employer and another will count as reckonable service in respect of annual leave.

An employee is required to provide documentary evidence of reckonable service to their line manager before this can be recognised for annual leave purposes. The line manager may then complete an Annual Leave sheet on the Trust intranet for the purpose of amending the entitlement on ESR.

6. Entitlement

The basic annual leave provisions under Agenda for Change are contained in Table 1 below. Annual leave entitlements for other groups of staff on different terms and conditions of service may be different and advice should be sought from the HR department.

The annual leave period is from 1st April to 31st March of the following year.

Annual Leave and General Public Holidays shall be defined as a period of normal duty that starts within the period of 24 hours from midnight to midnight.

Table 1

Length of Service Annual Leave Entitlement

| Length of service | Annual leave + General Public Holidays |
|--------------------------|---|
| On appointment | 27 days (202.5 hours) + 8 days |
| After 5 years service | 29 days (217.5 hours) + 8 days |
| After 10 years service | 33 days (247.5 hours) + 8 days |

The above table is based on full time employee and will be pro-rata to contracted hours for part time employees.

Annual leave and Bank Holiday entitlement should be calculated on an hourly basis. Please note that the entitlements remain as above in leap years; there is no additional entitlement owing to the year having an extra day.

Employees who join the Trust part way through a leave year the Bank Holiday hours entitlement will be based on the number of Bank Holidays remaining in the current leave year from the date of joining.

Staff who leave the Trust will have their annual leave entitlement re-calculated on a pro-rata basis based on their leaving date less any annual leave taken plus the benefit of any outstanding Bank Holiday hours/days for Bank Holidays that have occurred in the leave year prior to the date of leaving. Payment will then be made for any holiday entitlement owing less any annual leave taken. Where total leave taken exceeds the accrued total leave entitlement an appropriate deduction will be made from the final salary payment.

Where staff change their contracted hours during the annual leave year, this will result in a re-calculation of their annual leave entitlement. This will be based on completed days on the new and the old contracted hours to give the full year entitlement.

Where an individual's annual leave entitlement increases partway through a leave year, their new entitlement is calculated on a pro rata basis for the rest of the year.

Staff moving internally between team/directorates will carry forward their remaining annual leave allowance for that holiday year.

7. Bank Holidays

In addition to annual leave, employees are entitled to paid General Public Holidays (Bank Holidays). Generally there are 8 bank holidays per leave year:

- Christmas Day
- Boxing Day
- New Year's Day
- Good Friday
- Easter Monday

- May Day
- Spring Bank Holiday
- August Bank Holiday

When a General Public Holiday falls on a Saturday or Sunday, the following Monday or Tuesday is normally designated as a General Public Holiday for leave purposes.

In the case of all part-time employees the bank holiday allowance will be calculated on a pro rata basis to full time allowance of 8 days.

Bank holidays will be accrued as they fall. There will be some years when more (or less) than 8 Bank Holidays fall within the leave year because Bank Holidays follow the calendar year and the Easter Bank Holidays can be in March or April. When this situation arises the calculation for accrual of Annual Leave for the leave year will alter, meaning the pattern of accrual of Bank Holidays will be:

| Leave year | Bank Holidays |
|-------------------|---------------------------------|
| 2014-15 | 8 |
| 2015-16 | 10 (Easter 2016 falls in March) |
| 2016-17 | 6 |
| 2017-18 | 9 |
| 2018-19 | 7 |

8. Calculation And Use Of Leave Entitlement

The primary way of managing annual leave entitlements within Leeds Community Healthcare should be on ESR. All staff have access to Employee Self Service and managers should approve or reject requests for annual leave via their ESR notifications. ESR provides an Absence Calendar which managers can use to view absence information for their team and may be used to support decisions about Annual Leave.

However, there is some set up involved with using Annual Leave on ESR and staff / managers must ensure this is completed. Further information can be found on the ESR pages of the intranet. In addition, an annual leave ready reckoner is available on the intranet. This will calculate annual leave & bank holiday entitlement including for part years and for staff who change their working hours during the course of the leave year.

Staff who work 5 days a week, full-time and are not required to work on bank holidays would not normally include bank holidays within their leave entitlement. However staff who work part-time or compressed hours (such as a 9-day fortnight) must both include bank holidays in their entitlement and deduct a day's worth of leave each time they do not work on a bank holiday which falls on a day they would normally work.

For example:

Employee A: - works 3 days/week, Monday- Wednesday

- Where a bank holiday falls on a Monday (and they do not work that day) they should deduct one day's leave.
- Where a bank holiday falls on a Friday no leave is used, as this is not a normal working day.

On each and every occasion an employee takes paid time off as annual leave or on a bank holiday as part of their basic week, the appropriate deduction of their normal basic working hours for that day will be made from their overall entitlement. Annual leave should be taken throughout the leave year. Requests for annual leave which exceed a two week period will be considered on an individual basis in line with the needs of the service.

It is good practice to deduct any bank holidays which fall on working days from the leave entitlement at the beginning of the annual leave year in order that employees can be clear how much leave they can book.

9. Sickness occurring during Annual Leave or Bank Holidays

If an employee falls sick whilst on annual leave, then in accordance with the Sickness Absence Policy, the period covered will be treated as sick leave, allowing the employee to take the annual leave another time. An employee should report the sickness to their manager on the first day and submit a medical certificate for this period in order that the leave can be reclaimed.

In accordance with Agenda for Change terms and conditions, employees will not be entitled to an additional day off if sick on a Bank Holiday that they would otherwise have been required to work as part of their basic week.

10. Accrual during Maternity Leave, Adoption Leave, Shared Parental Leave and Sickness Absence

10.1 Maternity, Adoption and Shared Parental Leave

Employees accrue annual leave during paid and unpaid periods of maternity leave, adoption leave and shared parental leave. An employee will be encouraged to take any outstanding annual leave prior to maternity leave or before returning to work.

10.2 Sickness Absence

Employees accrue annual leave during paid and unpaid periods of sickness absence but this should not exceed statutory entitlement in any given year.

11. Carry Over of Leave

The Trust expects that within the annual leave year staff should be provided with the opportunity to take all their annual leave.

Where staff have, exceptionally, been prevented from taking their leave due to service demands then a request may be made to carry the remaining amount forward. For example, if a member of staff has had leave previously agreed and then for service reasons this has been cancelled by management request. An Annual Leave Carry Over request form can be found on the Trust intranet in the Human Resources section and must be used for this request. The request must be approved at director-level.

Under no circumstances can a payment be made in lieu of untaken Annual Leave (except at termination of employment as set out in section 6).

Where a long-term sickness has prevented staff from using their annual leave entitlement during a particular leave year, i.e. there has been no opportunity for them to use it before the end of the leave year, this leave will be carried forward into the following leave year. It should then be used within 15 months.

Staff due to go on maternity leave should take Annual Leave either before or directly after the period of maternity leave so as to use it within the leave year in which it is accrued. Where a member of staff has been unable to do this however, e.g. due to an earlier than expected birth, the leave will be carried forward into the following leave year.

Except in circumstances of long-term sickness, any untaken Annual Leave remaining at the end of an Annual Leave year for which no request is made to carry into a following leave year, will be lost.

Please note, only statutory holiday entitlement (20 days) can be carried over to the next Annual Leave year, less any holidays already taken.

12. Unpaid Leave

There may be circumstances when it is appropriate for a manager to allow an individual to take unpaid leave. For example;

- To enable the employee to take an extended period of annual leave, if it is acceptable to the service needs;
- If an employee has just started with the organisation, and has a pre-booked holiday for which they would not have enough annual leave entitlement.

The request for unpaid leave should be made in the normal way to the manager and, if supported, the manager should record the unpaid leave on ESR.

13. Purchase of Additional Annual Leave Entitlement

The Trust recognises the benefits of flexible working practices to meet business needs and improve the working lives of the employees. To this end, employees shall be permitted to 'buy' annual leave in addition to their contractual entitlement; subject to business needs and minimum and maximum ceilings and with a commensurate adjustment to salary.

Employees will be able to request to vary their holiday entitlement to help plan for times when they need more holiday or time off than usual to meet individual and service needs. Should an application be accepted it will constitute an amendment to the contract of employment so must be signed by both the employee and line manager.

Additional annual leave may be purchased in units of **full weeks only** – for a part time member of staff each week purchased will entitle the employee to the number of hours extra annual leave that they are contracted to work in a normal week. Staff joining the scheme part way through the annual leave year will still purchase between 1-6 full additional weeks for use in that leave year. However, the monthly deduction from salary will be proportionately higher than if they had joined the scheme at the start of the leave year.

Where staff have purchased additional annual leave and subsequently been unable to take this within the Annual Leave year due, for example, to maternity or sick leave of one month or longer, then a request may be made to carry the leave over to the following year. The request should be made to the relevant director, with the agreement of the line manager. Should the request not be supported due to service need, the deductions made to the salary would be refunded to the member of staff.

When making an application, employees should note that the purchase of additional annual leave is not a contractual entitlement and will be granted on an annual basis. Approval of a request in one year will not in any way guarantee approval of such a request for a subsequent year.

13.1 Conditions

Up to 6 (six) weeks of additional annual leave may be purchased in any one annual leave year. As such a request may be made to purchase between 1-6 additional full weeks of annual leave. Please note the number of additional weeks requested is separate to the employee's standard annual leave entitlement.

Where staff wish to purchase additional leave in amounts smaller than one week, this should be taken as unpaid leave in the normal manner (which may be requested in days). The deduction from salary will be taken in one amount and not spread across the year.

13.2 Salary Adjustments

Where staff purchase additional annual leave the salary is reduced by the additional number of hours purchased; this figure will be calculated on the employee's individual salary. However, for pension purposes the Trust and the employee would continue to pay pension contributions based on the employee's substantive salary before reduction. This is in line with NHS Pension Scheme regulations around unpaid leave.

Employees should be aware that redundancy, sick pay and maternity pay will be calculated on the reduced salary and that certain state benefits, such as State Pension, Maternity Pay, Job Seekers Allowance etc are dependent on the employee paying a minimum amount of National Insurance Contributions.

13.3 Process

Applications for each holiday year must be submitted to line managers, ideally before the start of the holiday year in April. Reminders will be issued in January each year.

The employee must discuss and agree their request to buy Annual Leave with their Line Manager, normally before the beginning of the holiday year. This discussion should include an indication of at which point in the year the additional leave would be used.

The Line Manager should, in discussion with the appropriate General Manager or equivalent, consider and, if appropriate, authorise the Purchase of Annual Leave Request Form.

On receipt of the authorised request Payroll will make the necessary adjustments to the employee's pay for the holiday year.

At the end of the holiday year the employees' holiday entitlement will revert back to the normal amount, unless another request to purchase leave is authorised for the new holiday year.

The request to use the additional annual leave should be made to the line manager in the normal way.

14. Monitoring Compliance and Effectiveness

Managers are primarily responsible for ensuring that staff are aware of their entitlement to annual leave and book and take the leave appropriately.

Workforce will monitor any concerns around the policy through feedback and enquiries from members of staff. Uptake of the purchase of Annual Leave scheme will be monitored through applications received.

Staff survey results and rates of staff turnover will be examined to understand the relationship between Annual Leave and the extent to which Leeds Community Healthcare is able to offer its staff a good work-life balance.

15. Approval and Ratification process

This policy will be approved by JNCF, it will then be ratified by the REM committee.

16. Dissemination and Implementation

The primary source of information for staff around policies is the Trust intranet, however the policy will also be disseminated by line managers and the workforce department.

Implementation will require Operational Directors/General Managers/Heads of Services to ensure that they and their staff understand their responsibilities for adhering to the policy.

17. Review arrangements

The Annual Leave Policy will be reviewed sooner if required by changes in legislation.

18. Associated documents

- Sickness Absence policy
- Purchase of Annual Leave Request Form
- ESR Employee Self Service Training Manual

19. References

NHS Employers (2012) NHS Terms & Conditions of Service Handbook

Appendices

The following appendices are attached:

- Purchase of Annual Leave: Request Form
- Equality Analysis

Purchase of Annual Leave: Request Form

| Purchase of Annual Leave: Request Form | | | |
|---|--------------------------|---|----------|
| For completion by member of staff: | | | |
| Name: | Joe Bloggs | Employee Number: | 12345678 |
| Job Title: | Staff Nurse | Base: | Seacroft |
| Contracted weekly hours: | 25 | Band / Grade: | 5 |
| Preferred contact details (Email / 'phone): | joe.bloggs@nhs.net | | |
| Holiday year to which the request applies: | 2014-15 | | |
| Date of joining scheme: | 1 st Apr 2014 | | |
| Extra weeks Annual Leave to be purchased: | 4 | | |
| Proposed reduction in annual salary: | £253.02 | <i>Please contact your pay clerk to obtain this figure.</i> | |

Employee Declaration

For the leave year noted above I wish to purchase additional annual leave as stated above. By signing below I accept the following terms & conditions:

- I agree that there will be a reduction in salary as noted above. I understand that this is calculated based on my current salary, working hours etc. and that any change to these may alter the nominal amount of the deduction. I understand that the deduction will be made over the course of the annual leave year with the first deduction being from April's salary (unless the scheme is joined mid-year).
- I understand that the request is for the above noted annual leave year only and approval of this request does not guarantee approval of requests for future years.
- In the event I leave the Trust during this leave year I understand that I am responsible for ensuring that I have taken all annual leave due (including the additional amount) and that any outstanding payments will be deducted from my final salary.
- I understand that by purchasing additional annual leave I waive my right to request to carry over annual leave into a future annual leave year. The only exception to this would be in case of maternity or sick leave of one month or longer which made it impossible to take the full entitlement within the leave year.
- I understand that I will continue paying pension contributions based on my substantive salary (i.e. prior to the deduction). I understand that the Trust will equally pay contributions based on the higher salary.
- I confirm acceptance of this amendment to my contract of employment by signing below.

Signed: _____ Date: _____

PRINT NAME: _____

Manager Authorisation

I agree to the above-noted request.

Signed: _____ (Manager) Date: _____

PRINT NAME: _____

Email address: _____

A copy of this document is available on the intranet

Equality Analysis (EA) – Relevance Screening Form

| | | | | |
|--|---------------------|---------------|------------|-------------------|
| 1. Name of the document | Annual Leave Policy | | | |
| 2. What are the main aims and objectives of the document | | | | |
| 3. Is this a key strategic document? | Yes | | No | |
| | | | X | |
| 4. What impact will this document have on the public or staff? | High | Medium | Low | Don't know |
| | | X | | |
| Explain: | | | | |
| 5. Is there any evidence, or reasons that different groups have different needs, experiences, issues and priorities in respect of this particular document? | Yes | | No | Don't know |
| | | | X | |
| Explain: | | | | |

If you have answered **Yes** to question 3, you should move straight onto EA.

If, for question 4 you have answered **Low**, there is no need to continue to conduct an EA.

If for question 4 you have answered **Medium** and **No** for question 5, there is no need to conduct an EA.

If, for question 4 you have answered **Medium** or **Don't Know**, and have answered **Yes** or **Don't Know** for question 5 you should move on to a **Stage One** EA.

If, for question 4 you have answered **High**, you need to conduct an EA.

| | | |
|--|--------------------------|-------------|
| | Equality Analysis | None |
| 6. Based on the result of the screening, is an EA required? | | |

Insert name, job title and signature of person completing the Relevance Screening Form and date

Insert name of Head of Service

More EA information is available on the Equality and Diversity pages of the Inet.