

## Non-Medical-Staff Annual Leave Policy

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### REVIEW DATES AND DETAILS OF CHANGES MADE DURING THE REVIEW

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The previous version was agreed by Policy and Guidelines in October 2018 with a review date of October 2021. Changes have been made to update job titles, mirror wording in relation to annual leave carry over allowances in the Senior Medical Staff Annual Leave Policy and Procedure and removal of the bank holiday entitlement table.

April 2022 – People Services (formerly known as the HR Department). Review of key roles and responsibilities.

Section 5.5 altered to specify the accrual of annual leave from start date and that calculations are based on calendar days rather than completed months.

Revised calculators to reflect the change to the accrual of annual leave in days.

### KEY WORDS

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Annual leave

Change of hours

Bank Holidays

Part time

Entitlement

## **1 INTRODUCTION AND OVERVIEW**

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- 1.1 This policy outlines the entitlement to annual leave for staff on Agenda for Change terms and conditions, together with information on how to manage the use of annual leave from an individual employee and managerial perspective.
- 1.2 The Trust recognises that annual leave is an important part of an employee's work-life balance. Annual leave allows staff to take paid time off from work for the purpose of having regular breaks to rest and re-energise
- 1.3 The Trust is committed to ensuring that all employees are able to take their contractual annual leave in full during the relevant leave year period.

## **2 POLICY SCOPE**

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This policy applies to all staff on Agenda for Change terms and conditions. It does not apply to bank or agency workers. Separate UHL annual leave policies exist for Doctors in Training and Senior Medical Staff.

## **3 DEFINITIONS AND ABBREVIATIONS**

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Agenda for Change (AFC) – The NHS terms and conditions of employment handbook.

General Public Holiday – a recognised bank or public holiday in England and Wales.

Reckonable Service – The amount of NHS Service that will count towards calculating annual leave entitlement. This is aggregated NHS service, regardless of breaks in service and as defined by AFC.

Statutory amount of annual leave – the amount of leave prescribed in legislation (Working Time Regulations) as the minimum entitlement to annual leave. This is currently 28 days (5.6 weeks) per annum and this figure will be pro-rated for part-time employees.

Leave year – The entitlement to paid annual leave and general public holidays is for a pre-determined leave year from 1 April to 31 March inclusive.

## **4 ROLES**

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### **4.1 Chief People Officer – Executive Lead**

- 4.1.1 To ensure the development and implementation of appropriate guidance on the provision and use of annual leave. To ensure that any changes to terms and conditions and legal implications are reflected in the policy.

### **4.2 Managers**

- 4.2.1 To provide a written departmental protocol on taking annual leave which takes account of both individual and service needs. All departmental leave protocols must be in line with the policy and procedure statements. Managers must engage with local staff side colleagues (where areas have local representatives in place) where new protocols/changes to protocols are being considered.
- 4.2.2 To ensure all leave is appropriately recorded.
- 4.2.3 To encourage all staff to take their full annual leave entitlement during the current leave year.
- 4.2.4 To provide sufficient opportunities for staff to be able to take their entire annual leave provision within the current annual leave year.
- 4.2.5 Be responsible for identifying leave entitlement and any amendments due to change of contracted hours, reckonable service etc.

4.2.6 To consider requests for carrying over annual leave fairly and equitably.

### 4.3 Employees

4.3.1 To comply with the departmental protocol for booking annual leave and record this accurately.

4.3.2 To ensure that annual leave is planned and evenly distributed throughout the leave year. To avoid using the majority of annual leave in the last three months of the leave year and placing undue pressure on the service (unless there is prior agreement by their manager).

4.3.3 To notify their manager as soon as possible where it becomes apparent that it is difficult to take annual leave.

4.3.4 To inform their manager (or Recruitment Services at appointment) if they have NHS reckonable service that will impact on their annual leave entitlement, providing proof as required. Where satisfactory evidence cannot be provided the additional long service allowance will not be granted.

4.3.5 Provide six weeks' notice when requesting annual leave unless otherwise stated in departmental protocols. However, where possible, flexibility must be shown when requests are made in shorter timescales in line with service needs and staff needs.

4.3.6 Inform their manager if their entitlement appears to be incorrect.

## 5 POLICY IMPLEMENTATION AND ASSOCIATED DOCUMENTS

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### 5.1 Entitlements in a Full Leave Year:

5.1.1 The entitlement to paid annual leave and paid bank holiday provisions under Agenda for Change in a full annual leave year are set out below.

Length of service	Annual Leave + Bank Holidays
On appointment	27 days + 8 bank holidays (202.5hrs + 60hrs)
After 5 years' service	29 days + 8 bank holidays (217.5hrs + 60hrs)
After 10 years' service	33 days + 8 bank holidays (247.5hrs + 60hrs)

5.1.2 The annual leave year runs from 1 April to 31 March.

The above entitlements are based on full-time 37.5 hour contracts. Part-time staff are granted annual leave entitlements on a pro-rata basis of the full time allowance (see calculator on INsite for further details).

[INsite - Annual Leave Calculators \(xuhl-tr.nhs.uk\)](http://xuhl-tr.nhs.uk)

5.1.3 The Trust will calculate all paid leave entitlements in **hours** for all staff regardless of whether employees work full time or part time.

5.1.4 As a governing principle, the number of hours taken as paid leave will equal the number of hours the employee would otherwise have worked.

5.1.5 The 8 bank holidays within the year are:

Good Friday	Easter Monday
May Day	Spring Bank Holiday
August Bank Holiday	Christmas Day
Boxing Day	New Year's Day

There can be variation in the number of bank holidays that fall within a financial leave year depending upon whether the Easter Bank Holidays fall within March. For example, if two Easter Bank holidays fall within the same financial year the entitlement that year will be to 10 Bank Holidays. If a bank holiday falls at the weekend it will be reallocated in line with Annex 25 of the AFC Terms and Conditions of Service Handbook. There may also be allowances for additional bank holidays that may occur.

## 5.2 Paid Annual Leave

5.2.1 Paid annual leave entitlements in relation to basic contracted working hours are set out in Agenda for Change, with entitlements rounded up or down to the nearest half hour.

5.2.2 Annual leave will normally be taken in periods of not less than half the hours of a normal working day/shift.

5.2.3 In addition to paid annual leave entitlements, staff are entitled to paid bank holiday entitlements.

5.2.4 Where employees work varied shift patterns, at least a quarter of their annual leave entitlement must be booked on their longer working weeks unless agreed in the departmental protocol.

## 5.3 Qualifying Service for the Calculation of Paid Annual Leave

5.3.1 An employee's aggregated NHS service, i.e. any period of time that has been worked in the NHS, regardless of whether or not there has been a break in service, will count as reckonable service for the calculation of paid annual leave.

5.3.2 In addition to all aggregated NHS service, other time spent in a highly relevant role in organisations other than the NHS may, at the discretion of the Trust, following People Services' advice, be counted towards aggregated service.

5.3.3 Staff may be required to provide formal documentary evidence of any relevant, qualifying service.

## 5.4 Part-Time Staff and Bank Holidays

5.4.1 Members of staff who work part-time hours must add their bank holiday entitlement to their annual leave entitlement. Should they wish to take leave on a bank holiday this must be booked in the usual way and is subject to the needs of the service. The hours taken as leave must equate to their normal working hours for that day and must be deducted from their remaining annual leave entitlement.

5.4.2 In line with the Agenda for Change Terms and Conditions of Service and the Part-time Workers Regulations 2002, part-time workers will be entitled to paid bank holidays of an amount no less than pro-rata to the number of bank holidays for a full-time worker, rounded up to the nearest half day.

5.4.3 In cases where the department would normally close on a bank holiday, the following options can be considered and agreed with the staff member's line manager at the commencement of each leave year. Any agreements must take into account service needs.

- Use the total leave entitlement (leave entitlement + bank holiday entitlement) to book off the bank holidays. **This would be the default position where no other arrangement is in place.**
- Use TOIL /flexitime already accrued to book off the bank holiday
- Work another day of the week

## 5.5 Entitlement for New Starters and Leavers

- 5.5.1 Entitlement upon commencement is calculated and accrued from the first day of employment. The following calculation formula should be used:

$$\frac{\text{Number of hours entitlement}}{365 \text{ days}} \times \text{Number of calendar days from start date to 31}^{\text{st}} \text{ March}$$

- 5.5.2 For new employees who join part way through the leave year, the bank holiday entitlement will be calculated based on the number of bank holidays remaining in the leave year, pro rata for part-time employees.

- 5.5.3 The pre-arranged annual leave of new starters or existing staff moving to new posts in the Trust should be honoured.

- 5.5.4 An employee who resigns and terminates their contract of employment is entitled to be paid for any annual leave accrued and not taken. The annual leave is calculated on a pro-rata basis from the start of the leave year or the employee's start date (whichever is the later) until the termination date. The following formula should be used:

$$\frac{\text{Number of hours entitlement}}{365 \text{ days}} \times \text{number of days from 1}^{\text{st}} \text{ April (or start date) to termination date}$$

The number of days already taken in that leave year is then subtracted.

Where total leave hours already taken exceeds the accrued total leave entitlement an appropriate deduction will be made from the final salary.

## 5.6 Entitlement on changing contracted hours

- 5.6.1 Where staff change their contracted hours, this will result in a re-calculation of their annual leave entitlement.

## 5.7 Carry Over of Leave

- 5.7.1 All staff should be given the opportunity and would normally be expected to use all of their annual leave within the annual leave year. In **exceptional** circumstances up to one week of basic contracted hours (or 1/52 of annualised hours) may be carried over to the following year. Requests to carry over leave must be discussed, agreed, and documented with the line manager. Where a request cannot be agreed to, the reason(s) must be documented in the employee's personal file.

- 5.7.2 Where staff have been prevented from taking their leave due to service demands, the amount to be carried forward should not normally exceed one week of basic contracted hours (or 1/52 of annualised hours).

- 5.7.3 For those staff whose annual leave is managed within Health Roster, line managers must calculate the revised leave entitlement and submit requests to carry over leave to Electronic Rostering by the end of May in the next leave year, with exceptions only for staff on long-term sickness absence.

## 5.8 Sickness Occurring During Annual Leave or Bank Holidays

- 5.8.1 If an employee falls sick whilst on annual leave, then subject to their adhering to the sickness notification and certification provisions of the Trust, the period covered will be treated as sick leave, allowing the employee to take the annual leave another time.

- 5.8.2 In line with Agenda for Change terms and conditions of service, 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.
- 5.8.3 A minimum of 28 days' annual leave (including bank holidays) must be taken each financial year (pro-rated for part time staff). If, due to sickness, a member of staff has been unable to take 28 days leave by 31<sup>st</sup> March, the difference between 28 days and leave already taken may be carried over into the next leave year. This must be taken within 18 months of the end of the year in which it was accrued.
- 5.8.4 Staff on long-term sickness may choose to take a period of contractual annual leave at any time in line with the Sickness Absence Management Policy and Procedure. If the employee is on half- or no-pay and wishes to take some of their accrued annual leave, then their salary is increased to reflect the period of annual leave (i.e. ensuring that they receive full pay for this period). The total annual leave taken for this purpose must be deducted from their Annual Leave record

## **5.9 Accrual of Annual Leave**

- 5.9.1 Annual leave will continue to be accrued during maternity leave, adoption leave, and paternity leave, whether paid or unpaid (including bank holidays).
- 5.9.2 Where the amount of accrued annual leave would exceed normal carry over provisions (one working week), the person on maternity leave should take annual leave immediately before and/or after the formal (paid and unpaid) maternity leave period. If there are significant business reasons why the person on maternity leave is unable to do so, any accrued annual leave should be taken within 12 months of returning to work. All arrangements for accrued annual leave should be agreed between the manager and the member of staff.
- 5.9.3 Annual leave is calculated on an accrued basis during the leave year and when a post is terminated any excess leave taken will be recovered by the Trust. This may be deducted from employees' final salary payment or invoiced where late termination has occurred. Employees will not be paid in lieu of untaken holiday except on termination of employment. In case of retirement, all leave must be taken prior to the termination date. However, if the Trust has dismissed or would be entitled to dismiss the employee without notice or the employee has resigned without giving the required notice, such payment in lieu shall be limited to the statutory entitlement under the Working Time Regulations 1998, and any paid holidays (including paid public holidays) taken shall be deemed first to have been taken in satisfaction of that statutory entitlement.
- 5.9.4 The amount of the payment in lieu will be calculated as 1/260th of the full-time equivalent salary for each untaken day of the entitlement.
- 5.9.5 Annual leave is calculated to be 1/12<sup>th</sup> in the first year of employment, and upon termination it must be on days worked from the start of the leave year / 365.
- 5.9.6 The Trust reserves the right to require employees to take annual leave on particular dates, including during any notice period. If so, they will be given reasonable notice, which may be shorter than notice under the Working Time Regulations 1998.

## **5.10 Purchasing and selling Annual Leave**

- 5.10.1 There is the facility to purchase additional annual leave each year at the discretion of the line manager. Payment will be via a salary deduction in a maximum of 12 instalments commencing from the first available pay period after the application is approved.

- 5.10.2 Employees can apply to trade in annual leave of up to one week. Requests to trade in annual leave must be made between 1<sup>st</sup> April and 31<sup>st</sup> January and approved by the budget holder.
- 5.10.3 Electronic Rostering must be notified of the purchase or sale of any annual leave to ensure the employee record is updated where applicable.

## **6 EDUCATION AND TRAINING REQUIREMENTS**

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None.



## 7 PROCESS FOR MONITORING COMPLIANCE

7.1 The audit criteria for this policy and the process to be used for monitoring compliance are given in the table below:

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Staff have the opportunity to take their annual leave entitlements.	Line Managers	Health Roster where in use or manual audit of records to be undertaken by line managers.	Annually	Any issues are to be dealt with by the line manager to rectify. Escalation to the next level of management where appropriate. People Services advice available as and when required.
Staff have the correct entitlement for each year.	Line Managers / Recruitment Services for new starters.	Manual audit of records undertaken by line managers. New contracts are checked by supervisors within Recruitment Services. Annual leave calculator available to check entitlements.	Annually (or more frequently as necessary)	Any issues are to be dealt with by the line manager to rectify. People Services advice available as and when required.
Carry over of leave does not exceed amounts outlined in the policy	Line Managers	Health Roster where in use or manual audit of records. Leave calculator available from People Services.	Annually	Any issues are to be dealt with by the line manager to rectify. People Services advice available as and when required.

## **8 EQUALITY IMPACT ASSESSMENT**

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- 8.1 The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and treat all individuals fairly with dignity and appropriately according to their needs.
- 8.2 As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified.

## **9 SUPPORTING REFERENCES, EVIDENCE BASE AND RELATED POLICIES**

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For contractual leave entitlements:

- Agenda for Change Terms and Conditions of Service Handbook

For statutory provisions:

- Part-time Workers Regulations 2002
- Working Time Regulations 1998

Policies and Procedures Signposted:

- Sickness Absence Policy and Procedure (B29/2006)

Annual Leave calculator

[INsite - Annual Leave Calculators \(xuhl-tr.nhs.uk\)](http://xuhl-tr.nhs.uk)

## **10 PROCESS FOR VERSION CONTROL, DOCUMENT ARCHIVING AND REVIEW**

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This document will be uploaded onto SharePoint and available for access by Staff through INsite. It will be stored and archived through this system.

The updated version of the Policy will then be uploaded and available through INsite Documents and the Trust's externally-accessible Freedom of Information publication scheme. It will be archived through the Trust's PAGL system.