

## Annual Leave Procedure for Staff on Agenda for Change Terms and Conditions

**CONTROLLED DOCUMENT**

<b>CATEGORY:</b>	Procedure
<b>CLASSIFICATION:</b>	Human Resources
<b>PURPOSE</b>	To provide knowledge to all staff on Agenda for Change terms and conditions regarding issues relating to annual leave
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## 1. Annual Leave

- 1.1 This procedure covers all staff employed by University Hospitals Birmingham NHS Foundation Trust (the Trust) excluding medical and dental staff and bank only staff.
- 1.2 Everyone has busy working lives, and annual leave provides an opportunity to get away from the work environment and recharge. Under The Working Time (Amendment) Regulations 2003 it is a requirement that all staff have a minimum of 28 days paid leave per year including annual and Bank Holidays (pro rata for part-time staff).

## 2. Annual Leave Year

The annual leave year within the Trust runs from 1 April to 31 March.

## 3. Entitlement

### 3.1 Overall entitlement

The Agenda for Change annual leave and bank holiday entitlements are shown below:

Length of service	Annual Leave	Calculation of Annual Leave in hours (based on 37.5 hour week)	Bank Holidays	Calculation of Bank Holiday in hours (based on 37.5 hour week)
On appointment to NHS	27 days	202.5	8 days	60
After 5 years NHS service	29 days	217.5	8 days	60
After 10 years NHS service	33 days	247.5	8 days	60

3.1.1 For the calculation of annual leave in days, the day is based on a 7.5 hour day. This applies to all staff regardless of the usual length of the working day.

3.1.2 Annual leave entitlement must be expressed in **hours not days** for all staff regardless of whether they are full-time or part-time. The benefit of this approach is that calculating entitlement in hours ensures equity for all by ensuring that staff who work variable hours/shifts do not receive either more or less annual leave than staff who work a standard pattern.

- 3.1.3 The calculation of annual leave entitlements pertaining to all staff is contained in Appendix A. Hours have been rounded up or down to the nearest 0.5 decimal point (i.e. the nearest ½ hour).
- 3.1.4 In addition to annual leave entitlement, staff are entitled to 60 paid Bank Holiday hours. In the case of part-time staff the Bank Holiday entitlement is pro rata to the full-time allowance of 60 hours. In this way, all staff have a fair and equitable, static entitlement rather than eligibility based solely on the normal days of work which would result in some part-time members of staff, staff on term-time only contracts and staff working annualised hours contracts, never receiving the benefit of Bank Holidays unless they fall on their normal days of work. This is in line with the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000. See Appendix 2.
- 3.1.5 Total annual leave entitlement is inclusive of the Bank Holiday hours. Whether a member of staff is required to work a Bank Holiday is determined by their contractual arrangement and service need.
- 3.1.6 For the purposes of pay enhancement the Bank Holidays (General Public Holidays) in the year are:
- |                |                     |                     |
|----------------|---------------------|---------------------|
| New Year's Day | Good Friday         | Easter Monday       |
| May Day        | Spring Bank Holiday | August Bank Holiday |
| Christmas Day  | Boxing Day          |                     |
- 3.1.7 When a Bank Holiday falls on a Saturday or Sunday, the following Monday or Tuesday is designated as a Bank Holiday for annual leave purposes.
- 3.1.8 The Bank Holidays are calculated as running from midnight to midnight.
- 3.1.9 Staff who are not required to work on a Bank Holiday(s) will deduct Bank Holiday hours not worked from their total annual leave entitlement. Staff who are required to work designated Bank Holidays will have the entitlement to take as they wish as part of their total annual leave entitlement.
- 3.1.10 Where the annual leave year incorporates more or fewer bank holidays than 8 i.e. when Easter falls early or late, the number of Bank Holidays given will need to reflect this.

3.1.11 Any additional/extra Bank Holidays within a leave year above the Agenda for Change entitlements will be calculated pro rata for part time staff.

### 3.2 Calculation of NHS service

3.2.1 For the purpose of calculating annual leave entitlement, all NHS Service is aggregated and will be confirmed.

3.2.2 For the purposes of calculating annual leave entitlements, NHS direct service and any service of staff transferred into the Trust will be counted.

### 3.3 Entitlement on joining the Trust

All new members of staff will accrue annual leave on commencement of employment with the Trust, on a pro-rata basis; based on contracted hours.

3.3.1 Annual leave is accrued from the first day of employment and for a part year must be pro rata to the number of completed months remaining in the annual leave year since joining (based on 1/12th for each complete calendar month) and for any incomplete months, the number of days remaining in that month.

3.3.2 The General Public Holiday hour entitlement will be based on the number of General Public Holidays remaining in the current leave year from the date of joining.

3.3.3 Annual leave entitlements will not be carried forward from any other employer. Any existing holiday commitments made prior to joining the Trust will be honoured as far as possible, subject to operational commitments. This should be discussed at the point of interview or at the point of offering the job.

3.3.4 Total annual leave entitlement for part years can be calculated using appendix A and B attached, but this must be pro rata to the number of months and part months in the leave year since joining.

### 3.4 Entitlement on leaving the Trust

3.4.1 The annual leave entitlement on leaving the Trust will be calculated pro-rata from the 1st April to the termination date less any annual leave and General Public Holidays already taken.

3.4.2 Staff must try to use their leave entitlement prior to leaving the Trust, any outstanding accrued leave that cannot be taken prior to their termination date will be paid in the final salary.

3.4.3 In the event where annual leave taken exceeds the entitlement an appropriate deduction will be made from final salaries.

### 3.5 Fixed term working

3.5.1 Any members of staff who are employed on a fixed term contract for part of a year must have their total annual leave entitlement calculated on a pro rata basis.

### 3.6 Anniversary during the year

3.6.1 Where a member of staff has an anniversary of 5 or 10 years' service part way through a leave year, the service for the year must be calculated on a pro rata basis for the appropriate months.

3.6.2 For example, if a member of staff comes to their 5<sup>th</sup> year of service anniversary in November, then the annual leave for the first part of the year – from April to November – will be calculated on 202.5 hours (27 days) and the rest of the year on 217.5 hours (29 days). The same calculation for fixed term working as per 3.5 above must be used.

## 4. Carry over of Annual Leave

4.1 With the agreement of the line manager, up to one week contracted hours (maximum of 5 days or 37.5 hours for full-time staff, pro-rata for part-time) annual leave may be carried over to the following year. The manager must explore the reasons why annual leave entitlement has not been taken and agree measures (on an individual basis) to avoid the need to carry over annual leave in the following year. The annual leave carried over should be taken within the first month of the new annual leave year, unless otherwise agreed with the line manager.

4.2 In exceptional circumstances it may be necessary for staff to carry over more leave than one week's contracted hours. This must be agreed on an individual basis with the designated manager, and this annual leave should be taken within 6 weeks of the start of the new annual leave year.

4.3 Exceptional circumstances are those where ***meeting the needs of the service, sickness, or an entitlement to leave accrual***, have had a direct impact on a member of staff's ability to identify time to take annual leave, or to take leave as previously planned.

## 5. Sickness and Annual Leave

5.1 If staff are sick during scheduled annual leave, in order to have annual leave restored the sickness must be reported in the normal way. A Fit Note must be provided to cover the period to be changed from annual

leave to sickness absence, even if the duration is no more than 7 calendar days. Any charge by the GP for issuing a Fit note where the duration has not been of 8 or more days will be paid by the member of staff. Advice should be taken from Human Resources. If a member of staff falls sick on a designated Bank Holiday, they will not be entitled to an additional day's annual leave.

- 5.2 During a long-term absence a member of staff may wish to benefit from a period of annual leave as part of their recovery and health and wellbeing. Normal arrangements for requesting leave will apply i.e. to be arranged through the line manager. Pay associated with annual leave entitlements will be made for any authorised period.
- 5.3 Staff continue to accrue annual leave entitlement during sickness absence. If a member of staff is unable to take all their annual leave before the end of the leave year, they will be able to carry over the remainder based on a calculation of the statutory entitlement of 20 days/150 hours (pro-rata for part-time staff) less any leave already taken.

## **6. Special Leave (personal crisis and emergencies)**

The Trust has a number of policies which allow managers to grant leave other than, and in addition to, annual leave entitlement. These include the Work Life Balance Policy and the Special Leave Procedure. Staff should discuss their needs/problem with their manager or Human Resources First Contact for guidance.

## **7. Guidance for Staff and Managers on Annual Leave**

- 7.1 Everybody has an annual leave entitlement, and the underlying principle for all leave allocation should be one of equity. Therefore, every member of staff has an equal right to apply for annual leave during the year, and everyone has an equal chance of this leave being granted. However, it is not possible for everybody to be on leave at the same time, particularly during popular "holiday" periods of the year, and thus it is possible that some requests may not be granted.
- 7.2 Both staff and managers have an equal responsibility to ensure that an accurate record of the annual leave and Bank Holidays taken is maintained. A recommended form for requesting and recording annual leave is attached in Appendix D. Managers have a specific responsibility to ensure that the allocation of annual leave is equitable. Members of staff have a responsibility to contribute towards this by considering work colleagues when making annual leave requests.
- 7.3 Staff must submit requests for annual leave allowing as much notice as possible to the manager; ideally requests should be submitted at

least 6 weeks prior the requested leave dates. Unless otherwise agreed.

7.4 Managers should respond and provide a decision to the member of staff requesting leave in a timely and appropriate manner and ideally within 5 working days where a decision is not possible within this timescale the manager must communicate this to the member of staff.

7.5 Annual Leave: Staff Guidance

7.5.1 There are very few situations in which it is not possible for staff to take annual leave allowance, and if these arise there is guidance below on how to approach this.

7.6 Preparing to Take Annual Leave

7.6.1 Best practice means that staff should be planning to request, book and take annual leave within the leave year. Staff should ideally aim to take approximately 75% of their annual leave entitlement before the end of December each year.

7.6.2 A request for annual leave remains a request until the leave has been approved. All members of staff have an equal right to request leave and an equal chance of having that request granted.

7.6.3 All staff are advised that they should not book flights or holidays prior to having received a written agreement granting the leave request.

7.6.4 If flights, holidays etc. are booked prior to an annual leave request being granted, then this is at the member of staff's own risk.

7.6.5 Letters requesting annual leave should clearly state the last working day prior to the holiday, and the day of return to work. It is the staff member's responsibility to ensure that an annual leave request covers all the leave requirements/ days required.

7.6.6 How many staff can be on leave at any one time?

- The maximum number of staff who can be away from a work area at any one time depends on the number of staff in that area, and the skill mix that is required to ensure that the service can be delivered safely and is not compromised. Consideration also needs to be made for other planned leave such as study leave.



## 7.7 Annual Leave: Manager's Guidance

### 7.7.1 Informing staff about the process for requesting annual leave.

It is important that each area has a robust and transparent system in place to inform staff about:

How many staff can take leave at any one time;

- The number of staff from each band that can be on leave at any one time;
- The process that staff must follow in order to request leave;
- Who may "grant" leave requests for that area;
- How staff will be informed that their request has been granted. Where a request has been denied this should be given in writing.
- How "granted" leave is publicised so that all members of staff are aware of which weeks are "filling up". A number of areas use Planners for this purpose, and to serve as a visual "reminder" for staff. This practice is to be encouraged and should commence at the beginning of each holiday year.

## **8. Failure to Return to Work Following Annual Leave**

Staff who fail to return to work on the allotted day should contact their line manager at the earliest opportunity with the reason for this. On their return, there should be a discussion with the line manager around how the additional time off is to be categorised. Depending on the circumstances it may be necessary to investigate under the Trust's Disciplinary Policy.

## **9. Who can grant an Annual Leave request?**

### 9.1 Up to Two Weeks Leave

The line manager or their nominated deputy can grant an annual leave request for up to two weeks' leave.

### 9.2 Above Two Weeks' leave

Requests for a period of annual leave greater than two weeks can only be granted by the General Manager or equivalent. Requests must be made in writing with copies of this letter also sent to the line manager and, if necessary, the manager for that area.

Staff are advised that the maximum amount of annual leave which will be granted at any one time is four weeks.

## **10. Best Practice for Annual Leave during Peak Holiday Periods**

- 10.1 During peak holiday periods it is important that we aim to ensure that as many of our staff, as is reasonable, have the opportunity to share this time with family and friends. However, service needs must also be met during this holiday period, and for this reason the following is considered to be Best Practice.
- 10.2 Staff working in areas which remain fully operational during peak holiday periods may request annual leave to ensure equity for all staff. Staff are advised, however, that all leave over these period will be considered in line with service needs.
- 10.3 In areas which are not fully operational during this holiday period, staff may reasonably expect to request leave over the period where there is no service demand for their presence.

## **11. What happens if staff are unhappy with any aspect of annual leave requests and entitlements?**

In the first instance, staff should identify their issue to their manager and if possible discuss in order to find a resolution. If this is not successful, staff should inform their manager that they intend to bring this issue to the attention of the line manager's manager for this area. The manager will review the issue, and if a local resolution is not achieved, then the involvement of staff-side representatives will be sought. Failure to resolve an issue at this level will be brought to the attention of the Associate Director of Nursing for the division or Corporate equivalent, General Manager or Senior Manager.

## **12. References**

NHS Terms and Conditions of Service

Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

## **13. Associated Policy and Procedural Documentation**

Sickness Absence and Attendance Procedure

Special Leave Procedure

Work Life Balance Policy

TABLE 1 - ANNUAL LEAVE ENTITLEMENTS IN HOURS

WEEKLY BASIC CONTRACTED HOURS	ON APPOINTMENT	AFTER 5 YEARS SERVICE	AFTER 10 YEARS SERVICE
	<b>LEAVE IN HOURS</b>		
37.5	202.5	217.5	247.5
37.0	200.0	214.5	244.0
36.5	197.0	211.5	241.0
36.0	194.5	209.0	237.5
35.5	191.5	206.0	234.5
35.0	189.0	203.0	231.0
34.5	186.5	200.0	227.5
34.0	183.5	197.0	224.5
33.5	181.0	194.5	221.0
33.0	178.0	191.5	218.0
32.5	175.5	188.5	214.5
32.0	173.0	185.5	211.0
31.5	170.0	182.5	208.0
31.0	167.5	180.0	204.5
30.5	164.5	177.0	201.5
30.0	162.0	174.0	198.0
29.5	159.5	171.0	194.5
29.0	156.5	168.0	191.5
28.5	154.0	165.5	188.0
28.0	151.0	162.5	185.0
27.5	148.5	159.5	181.5
27.0	146.0	156.5	178.0
26.5	143.0	153.5	175.0
26.0	140.5	151.0	171.5
25.5	137.5	148.0	168.5
25.0	135.0	145.0	165.0
24.5	132.5	142.0	161.5
24.0	129.5	139.0	158.5
23.5	127.0	136.5	155.0
23.0	124.0	133.5	152.0
22.5	121.5	130.5	148.5
22.0	119.0	127.5	145.0
21.5	116.0	124.5	142.0
21.0	113.5	122.0	138.5
20.5	110.5	119.0	135.5
20.0	108.0	116.0	132.0
19.5	105.5	113.0	128.5

**TABLE 1 Cont'd - ANNUAL LEAVE ENTITLEMENTS IN HOURS**

WEEKLY BASIC CONTRACTED HOURS	ON APPOINTMENT	AFTER 5 YEARS SERVICE	AFTER 10 YEARS SERVICE
	LEAVE IN HOURS		
19.0	102.5	110.0	125.5
18.5	100.0	107.5	122.0
18.0	97.0	104.5	119.0
17.5	94.5	101.5	115.5
17.0	92.0	98.5	112.0
16.5	89.0	95.5	109.0
16.0	86.5	93.0	105.5
15.5	83.5	90.0	102.5
15.0	81.0	87.0	99.0
14.5	78.5	84.0	95.5
14.0	75.5	81.0	92.5
13.5	73.0	78.5	89.0
13.0	70.0	75.5	86.0
12.5	67.5	72.5	82.5
12.0	65.0	69.5	79.0
11.5	62.0	66.5	76.0
11.0	59.5	64.0	72.5
10.5	56.5	61.0	69.5
10.0	54.0	58.0	66.0
9.5	51.5	55.0	62.5
9.0	48.5	52.0	59.5
8.5	46.0	49.5	56.0
8.0	43.0	46.5	53.0
7.5	40.5	43.5	49.5
7.0	38.0	40.5	46.0
6.5	35.0	37.5	43.0
6.0	32.5	35.0	39.5
5.5	29.5	32.0	36.5
5.0	27.0	29.0	33.0
4.5	24.5	26.0	29.5
4.0	21.5	23.0	26.5
3.5	19.0	20.5	23.0
3.0	16.0	17.5	20.0
2.5	13.5	14.5	16.5
2.0	11.0	11.5	13.0
1.5	8.0	8.5	10.0
1.0	5.5	6.0	6.5
0.5	2.5	3.0	3.5

**TABLE 2 - BANK HOLIDAY ENTITLEMENTS (Based on 8 bank holidays)**

<b>WEEKLY BASIC CONTRACTED HOURS</b>	<b>HOURLY ENTITLEMENT FOR FULL LEAVE YEAR</b>
37.5	60.0
37.0	59.0
36.5	58.5
36.0	57.5
35.5	57.0
35.0	56.0
34.5	55.0
34.0	54.5
33.5	53.5
33.0	53.0
32.5	52.0
32.0	51.0
31.5	50.5
31.0	49.5
30.5	49.0
30.0	48.0
29.5	47.0
29.0	46.5
28.5	45.5
28.0	45.0
27.5	44.0
27.0	43.0
26.5	42.5
26.0	41.5
25.5	41.0
25.0	40.0
24.5	39.0
24.0	38.5
23.5	37.5
23.0	37.0
22.5	36.0
22.0	35.0
21.5	34.5
21.0	33.5
20.5	33.0
20.0	32.0
19.5	31.0

**TABLE 2 Cont'd - BANK HOLIDAY ENTITLEMENTS (Based on 8 bank holidays)**

<b>WEEKLY BASIC CONTRACTED HOURS</b>	<b>HOURLY ENTITLEMENT FOR FULL LEAVE YEAR</b>
19.0	30.5
18.5	29.5
18.0	29.0
17.5	28.0
17.0	27.0
16.5	26.5
16.0	25.5
15.5	25.0
15.0	24.0
14.5	23.0
14.0	22.5
13.5	21.5
13.0	21.0
12.5	20.0
12.0	19.0
11.5	18.5
11.0	17.5
10.5	17.0
10.0	16.0
9.5	15.0
9.0	14.5
8.5	13.5
8.0	13.0
7.5	12.0
7.0	11.0
6.5	10.5
6.0	9.5
5.5	9.0
5.0	8.0
4.5	7.0
4.0	6.5
3.5	5.5
3.0	5.0
2.5	4.0
2.0	3.0
1.5	2.5
1.0	1.5
0.5	1.0

The tables in appendix A and B are based on the following calculation:

$$A/B \times C = X \times Y = Z$$

Where: A = Number of days worked in the week

B = 5 (days of the week)

C = Leave entitlement in days for full time person based on length of service/Bank Holidays (taking into consideration the number of designated bank holidays in the year or the remaining leave year for new starters)

X = Leave entitlement in days

Y = The number of hours worked each day

Z = Leave entitlement in hours

For part-time staff, the number of hours' Bank Holiday entitlement should be rounded up to the nearest 0.5 hour.

EXAMPLES

For a member of staff who works 7.5 hours each day and 5 days per week and has 7 years' service:

$$5/5 \times 29 = 29 \times 7.5 = 217.5$$

$$+ 5/5 \times 8 = 8 \times 7.5 = 60 \text{ (Bank Holiday entitlement)}$$

Total leave allowance is 277.5 hours for the leave year

For a member of staff who works 4 hours each day and 5 days a week (20 hours per week) and has less than 5 years' service:

$$5/5 \times 27 = 27 \times 4 = 108 \text{ hours entitlement}$$

$$5/5 \times 8 = 8 \times 4 = 32 \text{ hours (Bank Holiday entitlement)}$$

Total leave entitlement = 140 hours for the leave year

For a member of staff who works 3.5 hours each day and 4 days per week (14 hours per week) and has 8 years' service:

$4/5 \times 29 = 23.2 \times 3.5 = 81.2$  hours entitlement

$4/5 \times 8 = 6.4$  (rounded up to 6.5)  $\times 3.5 = 22.75$  hours (Bank holiday entitlement)

Total leave entitlement = 103.95 hours for the full leave year

For a member of staff who works 12.5 hours each day over 3 days a week (full time working long days) and has more than 10 years' service:

$3/5 \times 33 = 19.8 \times 12.5 = 247.5$  hours entitlement

$3/5 \times 8 = 4.8 \times 12.5 = 60$  hours (Bank Holiday entitlement)

Total leave entitlement = 307.5 hours for the leave year

For a member of staff who works 6.5 hours days, working 2 days and 3 days on alternate weeks and has less than 5 years' service:

$2/5 \times 27 = 10.8 \times 6.5 = 70.2$  hours

$3/5 \times 27 = 16.2 \times 6.5 = 105.3$  hours

$2/5 \times 8 = 3.2$  (rounded up to 3.5)  $\times 6.5 = 22.75$  hours (Bank Holiday entitlement)

$3/5 \times 8 = 4.8$  (rounded up to 5)  $\times 6.5 = 32.5$  hours (Bank Holiday entitlement)

Total leave entitlement = 115.5 hours for the leave year (230.75 divided by 2)



