

# Annual Leave and Public Holiday Policy

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# Contents

## **Part 1: Annual Leave and Public Holiday Policy for all non-teaching staff**

1. Introduction .....	3
2. Background.....	3
3. Legislation/Conditions of Service .....	3
4. General .....	3
5. Annual Leave Entitlement .....	3
6. Notice of Leave .....	4
7. Bank & Public Holidays.....	4
8. Part-time, Job-Share & Temporary Employees.....	4
9. Holiday Pay.....	4
10. Managing & Carrying over of annual leave .....	5
11. Sickness & Annual Leave .....	5
12. Holiday accrued during Maternity leave .....	5
13. Leave during Suspension.....	6
14. Places of work subject to closure periods .....	6

## **Part 2: Procedure for Calculation of Annual Leave and Public Holidays**

Part Time or Job Share employees.....	7
Temporary or Fixed Term Employees.....	7
Term Time Employees .....	8

# Part 1: Annual Leave and Public Holiday Policy

## 1. Introduction

The purpose of this policy is to provide standard guidelines on entitlement to annual leave and public holidays, the process of application for leave and calculating entitlement for part time employees.

## 2. Background

Background for this process is contained in the overview of allowances outlined in Appendix 3 to the Collective Agreement for Local Implementation of the National Single Status Agreement for Staff of Southend-on-Sea Borough Council 1<sup>st</sup> November 2005. This policy is applicable to non-teaching staff relative to their working pattern.

## 3. Legislation/conditions of service

NJC for Local Government Services (Green book) Part 2, 7.1 - 7.4 refers to entitlement to Annual Leave, Extra Statutory Holidays and Public Holidays.

The Working Time Regulations 1998, introduced a statutory entitlement to paid holiday. The Working Time (Amendment) Regulations 2007 amended the Working Time Regulations 1998, which allowed four weeks' holiday entitlement, to provide for an additional 0.8 week's holiday entitlement from 1 October 2007 and a further 0.8 week's entitlement from 1 April 2009.

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 introduced the statutory entitlement for part-time workers not to be treated by their employer less favourably than a comparable full-time worker unless there is objective justification for doing so.

## 4. General

***For the purpose of this policy, holiday leave is defined as follows:***

'Statutory annual leave' means the minimum period of 5.6 weeks' paid holiday to which all non-teaching employees are entitled under the amended Working Time Regulations 1998. This **includes** bank and public holidays.

'Contractual annual leave' means any additional paid holiday leave that the Trust grant over and above the statutory 5.6 weeks.

## 5. Annual leave entitlement

Leave entitlement for full-time non-teaching staff accrues monthly during the first year of employment at the rate of 1/12<sup>th</sup> per month of the annual leave entitlement. Leave

may be taken from (and during) the first month of employment but such leave may be restricted to the amount of leave that has been accrued.

In practice, the Trust generally allows new employees to take more leave than has actually accrued, subject to operational requirements, and wherever possible honours commitments to pre-booked holidays.

In subsequent years full leave entitlement for full-time non-teaching staff is available from the beginning of the leave year.

The annual leave year for full-time non-teaching staff runs from the 1<sup>st</sup> of the month in which they commence employment with the relevant School/Trust. Each employee with the terms of the Local Collective Agreement (November 2005), will receive **23 days'** basic annual leave entitlement **plus 8 bank holiday statutory days**.

**After five years' service**, an additional 5 days' annual leave will be awarded in line with NJC for Local Government Services (Green book) to all non-teaching staff; up to a maximum of 45 weeks for staff who do not work Inset days and 46 weeks for other staff unless they have a 52-week contract.

## **6. Notice of Leave**

Employees are expected to give a reasonable amount of notice for the leave they wish to take. The Working Time Regulations stipulate what notice should be given, and also provide for employers to refuse requests for leave and to give notice of when leave should be taken.

## **7. Bank and Public Holidays**

Employees are entitled to paid leave for each of the bank/public holidays in the leave year (normally 8) in addition to their annual leave entitlement.

## **8. Part Time / Job Share / Temporary Employees**

***Entitlement to annual leave and public holidays is calculated on a pro rata basis according to the number of hours worked.***

Where a temporary change of hours has been agreed in writing and notified to payroll, the annual leave allowance should be re-calculated to reflect the increase or decrease in hours.

## **9. Holiday Pay**

Employees usually receive their normal pay for contractual hours for annual leave, bank and public holidays and extra-statutory days. Normal pay includes all earnings that would be paid during a period of normal working, but excluding any payments not made on a regular basis. Overtime is not included except where it is worked on a regular basis and is stated in the contract of employment. It will then be included in normal pay.

If, at the termination of employment an employee has any outstanding annual leave entitlement, they will normally be required to take that leave during their period of notice. If, on their last day of service there is still annual leave due which management are satisfied has not been taken for a legitimate reason (e.g. because of sickness or maternity absence or because management has required the individual to work up to the leaving date), payment will be made in respect of those days, the calculation being based on the employee's hourly rate of pay. (In the case of dismissal on conduct/performance grounds, payment would only be in respect of any outstanding entitlement to statutory leave).

If an employee leaves to take up a post in another local authority, they may be able to transfer their outstanding leave entitlement to that authority (this will be for the employee to ascertain). If the new authority does not allow this, the employee will be expected to take any outstanding leave, as above.

*If an employee leaves employment within the Trust and annual leave has been taken over and above that already accrued, the Trust retains the right to make a deduction from the employee's final salary. This will be the net equivalent for each day of annual leave taken.*

## **10. Managing and Carrying Over of Annual Leave**

Employees should be encouraged to take their annual leave in the appropriate leave year. In exceptional circumstances and by agreement with the appropriate line manager, individuals may carry over up to 5 days' annual leave in excess of the statutory minimum holiday entitlement (pro rata for part time employees) into the next leave year. The 28 days' entitlement will **include** all public holidays that fall within the leave year.

Managers should monitor their employees' leave-taking during the year to ensure that individuals do not end up with so much outstanding leave at the end of the leave year, that they risk losing the leave. Monitoring of excessive shortfalls in leave-taking should take place for employee health and welfare reasons. Employees should also be encouraged to consider how they may make best use of their annual leave to ensure a work/life balance.

## **11. Sickness and Annual Leave**

Employees who fall sick whilst on annual leave are regarded as being on sick leave from the date of their GP's statement and are entitled to take their annual leave at a later mutually acceptable date. No adjustment will be made for uncertified or self-certified illness.

## **12. Holiday accrued during Maternity Leave**

During both ordinary and additional maternity leave, annual leave continues to accrue.

An employee who has indicated an intention to take maternity leave will be advised by her line manager before she starts her ordinary maternity leave whether she has any outstanding holiday entitlement. The department may:

- require the employee to take any such outstanding holiday before commencing maternity leave; or
- agree in conjunction with the relevant line manager that the employee should carry the leave over and take it on return to work after maternity leave

Where it is not practicable to operate the 5 day carry forward provision, in these circumstances, returners may be allowed to use their accrued annual leave entitlement over the two years following their return to work.

### **13. Leave during suspension**

Should an employee be suspended from work, for disciplinary investigation or other purposes (e.g. medical reasons, or because the normal place of work is temporarily closed) and they wish to take leave, this should be booked in the normal way by arrangement with the manager or named contact.

### **14. Places of work subject to closure periods**

Employees working in academies that close at certain times during the year may be required to take their annual leave during these closure periods. This should be specified in the contract of employment or should be notified to the employee in writing by the School/Trust.

## Part 2: Procedure for Calculation of Annual Leave and Public Holidays

Annual leave is calculated each leave year. Part time employees must be treated no less favourably than full time employees.

Where calculations result in fractions of days these should be rounded up to the nearest half or full day. In the case of part time workers whose leave is calculated in hours, rounding up should be to the nearest hour.

*The following calculation should be used to determine the “part month” entitlement:*

$$\frac{\text{Annual leave entitlement}}{12} = \text{Entitlement per month}$$

*All calculations should be rounded up to the nearest half day.*

### Part Time or Job Share employees

Part time employees are entitled to annual leave and bank/public holidays pro-rata to comparable full-time employees. The following formula should be used to calculate the leave entitlement in hours:

$$\frac{\text{Hours worked per week}}{\text{Full time hours per week}} \times \text{full time Leave entitlement (hours)} = \text{Pro-rata hours entitlement}$$

There may be occasions where an employee will exceed their annual entitlement for leave on Public Holidays for example, where an employee works longer hours on Monday than the rest of the week, as most public holidays fall on Mondays. This will mean that they may be required to use some of their annual leave allowance to cover their absence. Alternatively, where this may be appropriate and subject to operational needs, the employee may elect to work the excess hours over an agreed period. This will be at the discretion of the line manager.

When all other alternatives have been exhausted and provided the hours are contracted and follow the employee’s recognised pattern of work, it may be necessary to adjust the allowance given for public holidays to ensure that the employee does not suffer any detriment. The overriding factor must be that they are not treated any less favourably than a comparable full-time employee unless there is objective justification for doing so.

### Temporary or Fixed Term Employees

Leave should be calculated from the 1st of the month in which the employee commences employment with the Trust based on the hours/pattern of work undertaken. Leave should be taken in the normal way. Leave should be calculated to the end date of the contract. Where the contract is extended the leave entitlement should be recalculated for the whole of the contract period (original and extended contract together).

Where the contract is for less than 12 months the calculation for term time employees may be more appropriate as it adds the leave entitlement to the actual weeks worked.

### **Term Time Employees**

Employees working a shorter year normally during Academy term time say, in total, 38 weeks, have their annual leave calculated according to their length of service and number of weeks worked. Payment for the leave is made monthly, with salary, and the leave is taken during non-work periods (usually academy holidays).

Hours worked      Weeks worked (including full time  
per week      x annual leave and public holiday entitlement) = Full Time Equivalent

Full Time Equivalent x full time annual leave entitlement (days) = Pro rata days  
entitlement

Pro rata days entitlement x 7.4 = Pro rata hours entitlement to annual leave and  
Public Holidays per year