



Dear Colleague

## ANNUAL LEAVE AND PUBLIC HOLIDAYS DURING THE COVID-19 PANDEMIC

1. Given the significant pressures on NHS Scotland services at this time, employees may not have been able to utilise their full annual leave entitlement (2019-20) and may also have been required to work during their planned annual leave or public holidays.
2. NHS Scotland employers should, where possible, still consider annual leave requests as staff rest and recuperation at a time of the pandemic is vital.
3. Employers will need to consider how they ensure that staff have enough rest in order to maintain their own physical and mental wellbeing.
4. Due to these exceptional circumstances, there will be difficult choices to make and there will be instances where pre-booked leave may need to be delayed in order to provide continuity of services for patients and support for other members of staff.
5. In these particular circumstances, this position will need to be discussed with the individual in a sensitive manner. All other avenues should be explored with the member of staff before a decision is taken. Decisions to cancel leave must be very carefully considered as part of emergency preparedness planning.
6. NHS Scotland Health Boards should engage in partnership with their local partnership representatives, and their Area Partnership Forums to discuss their arrangements for annual leave in situations of staff shortage and increased demand for clinical services.
7. Annual leave and public holiday provisions set out in employees' terms and conditions remain in place.
8. The principles in this guidance apply to all staff but because medical and dental terms and conditions are different, the specific approach to be applied for these staff is covered separately in Annex A.

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### Addresses

#### For action

Chief Executives, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)  
Directors of Human Resources, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)

#### For information

Members, Scottish Partnership Forum  
Members, Scottish Terms and Conditions Committee  
Members, Scottish Workforce and Governance Group

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### Enquiries to:

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## **Working Time Regulations in Relation to Annual Leave**

9. The overriding principle during this time of national emergency is to ensure NHS Scotland staff are well supported and are able to maintain their health and wellbeing, so they are able to provide the care people rely on. Any decision to cancel or delay requests for annual leave should be given very careful consideration, while ensuring safety and care of patients.

10. The culture of NHS Scotland has traditionally been for voluntary working of as many hours as necessary during an emergency. In emergency situations, staff are renowned for their heroic efforts in working as many hours as necessary voluntarily. However, working prolonged and sustained excessive hours is not good for staff or patient care and managers have a responsibility to communicate this message to clinical colleagues to ensure rest breaks are taken where they can.

## **Carry Forward of Annual Leave**

11. The intent of this policy is to establish arrangements for staff to have the flexibility to carry forward untaken annual leave where they have been unable to take their full annual leave entitlement as a consequence of COVID 19. The expectation is that for the year ending 31 March 2020 the majority of staff would have taken their full annual leave entitlement unless they had significant leave planned for the last quarter of 2019-20 and were unable to take leave.

12. Any member of staff who has untaken annual leave as at 31 March 2020 may carry this annual leave forward. This untaken annual leave will be added to the employee's annual leave entitlement for the leave year ending 31 March 2021. The employee's annual leave can be discharged as:

- All employees should at least take their statutory leave of 28 days (includes 20 days of their leave entitlement and 8 public holidays), in the leave year that ends on 31 March 2021.
- For any annual leave that was carried forward from the leave year ending 31 March 2020, the employee can choose to either use the carry forward annual leave or, request payment for some or all of the carry forward annual leave.
- Due to uncertainty of the long term impact of COVID 19 on staffing and services, employees have until 31 March 2022 to use or receive payment for their untaken annual leave from the leave year ending on 31 March 2020.
- Payment for untaken annual leave from the annual leave year 2019-20 will be on the basis of what the individual would have received had he/she been at work.

13. Employers in partnership with staff organisations will likely have arrangements in place for handling the management of annual leave and payment for any untaken leave. These arrangements should be reviewed and employers and staff side should work together to develop appropriate revisions to system and process for managing this arrangement, to ensure all staff are treated fairly and consistently.

14. For staff that have already booked leave for the annual leave year 2020-21, but would like to reschedule their dates, they need to discuss their request with their manager to explore options, appreciating that the managers priority is to ensure that they are able to fairly and consistently meet the needs of their whole department whilst delivering a service. Any requests should not be unreasonably refused.

15. Appreciating the need to ensure all staff are treated fairly and consistently, Health Boards should oversee the fair application of this policy through their Area Partnership Forums. If there are any disputes or disagreements on the application of this policy in the first instance this should be resolved by individual Board Area Partnership Forums. If there is failure to resolve, the Joint Chairs of the individual Board Area Partnership Forum may refer the matter to STAC.

### **Public Holidays**

16. NHS Scotland Boards currently agree through their Area Partnership Forums the designated Public Holidays for their employees and there is no need to change this arrangement. If there is any need to amend individual Boards arrangements this should still be done in partnership with their Area Partnership Forums for Agenda for Change staff and with the Local Negotiating Committee for medical and dental staff.

17. As a consequence of increased/different demand, Boards will be revising staffing levels and these may be different from the norm. Employees asked to work on a designated public holiday that they were not scheduled to work will be recompensed as set out in their terms and conditions of employment.

### **Review**

18. Given the uncertainty of the duration of the current circumstances in relation to COVID19 and the impact this may have on annual leave STAC will keep this policy under review. The first review date will be 30 September 2020.

### **Action**

19. NHS Boards and Special Health Boards should ensure that this policy is widely publicised to staff and managers.

Yours sincerely



Stephen Lea-Ross  
Deputy Director of Health Workforce

## **ANNUAL LEAVE CARRY FORWARD AND PUBLIC HOLIDAY ARRANGEMENT FOR MEDICAL AND DENTAL STAFF**

### **Annual Leave**

1. The terms and conditions for medical and dental staff result in consultants and SAS doctors having personal leave years starting from the date of appointment in post and the majority of junior medical staff having leave years which commence in the summer.
2. With regard to their individual 2019-20 leave year (i.e. for leave accrued from 2019 through to 2020) for medical and dental staff, where they have been unable to take their full annual leave entitlement as a consequence of Covid 19, they will be entitled to carry forward all untaken leave into their 2020-21 leave year and it will be added to their existing contractual entitlement. The carried forward leave can either be taken as annual leave or they can request payment for the full amount of carried forward leave, or they can opt to request payment for some of the days and take the remainder as annual leave. The option of taking the leave or payment in lieu of the leave will be available to the individual doctor/dentist up until the end of their own leave year in 2022.
3. Payment for all leave carried forward in the circumstances described above will be on the basis of what the individual doctor/dentist would have received had they been at work.

### **Public Holidays**

4. Medical and dental staff are contractually entitled to 10 public holidays. In some boards there is agreement (in line with General Whitley Council provisions) that two of the public holidays will be converted to 3 days of annual leave and in these situations the medical and dental public holidays mirror those of other staff. In other Board areas where the 10 medical and dental public holidays remain, the two medical and dental public holidays are agreed with the Local Negotiating Committee and this arrangement should prevail. If consultant or SAS medical and dental staff are required to work on a public holiday, they are entitled to premium rates for work done and a day off in lieu. Doctors and dentists in training are entitled to a day in lieu if they are required to work on a public holiday.