



Dear Colleague

ANNUAL LEAVE POLICY

Summary

1. Section 13 of the Agenda for Change Handbook sets out staff's annual leave and general public holiday entitlement. Additional guidance on this subject for NHSScotland was first published as HDL(2006)49, following partnership discussions by the the Scottish Terms and Conditions Committee (STAC). This was then amended by CEL31(2011).

2. The Annex to this further letter supercedes all earlier guidance on the subject and is being published following an amendment to the Agenda for Change Handbook which clarifies the law around consideration of service in other European Union member states, for the purpose of determining annual leave entitlement. Paragraph 23 has been amended to reflet this revision. All other elements of the guidance remain unchanged.

Action

3. NHS Boards and Special Health Boards should ensure that their policies on annual leave and public holiday comply with the provisions outlined in this letter.

4. This letter can be obtained on line at www.sehd.scot.nhs.uk.

Yours sincerely

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DL (2017) 4

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Addresses

For action

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AGENDA FOR CHANGE

Annual Leave Policy

ANNUAL LEAVE POLICY (NON-MEDICAL STAFF)

Introduction

1. The Terms and Conditions Guidance Group on behalf of the Scottish Terms and Conditions Committee has developed this policy in line with the Annual Leave and Public Holiday entitlements within the Agenda for Change Agreement. This policy will be applied across NHSScotland.

Purpose

2. The aim of this policy is to provide a uniform and equitable approach to the calculation of annual leave and bank holiday entitlements which take into account the entitlements and arrangements defined under Agenda for Change.

Scope

3. The policy applies to all employees who are employed on Agenda for Change terms and conditions. The principles contained within this policy also apply to bank workers. For further guidance on leave for bank/casual workers, see NHS Circular CEL 15(2011).

Annual leave year

4. The annual leave period shall be from 1 April to 31 March. This may be reviewed at some point in the future.

Exclusions

5. This policy is not applicable to Medical and Dental staff, for whom separate provisions apply.

Entitlement

Entitlement for complete years

6. The basic annual leave provisions under Agenda for Change, which apply from 1st October 2004, are contained in Table 1 overleaf.

TABLE 1
Annual leave entitlement for full time staff
 (Pro-rata for part time staff)

Length of service	Annual leave + General Public Holidays ¹
On appointment	27 days + 8 days (202.5 + 60 hours)
After 5 years service	29 days + 8 days (217.5 + 60 hours)
After 10 years service	33 days + 8 days (247.5 + 60 hours)

7. There is an expectation on every member of staff that they will fully utilise their entitlement to annual leave during the holiday year in which it accumulates. The improvements in the amount of annual leave available under Agenda for Change – and in the factors to be included when calculating that entitlement – are in line with the overall intentions of making the NHS an exemplary employer. Annual leave ensures that every member of staff has adequate time away from work for rest and respite.

8. All requests for annual leave should therefore be dealt with in accordance with the principles of partnership working in NHS Scotland. There should be mutual agreement between the member of staff and their manager. Requests for specific dates should normally be accepted and agreed and should only be refused if there are justifiable service/staffing reasons for so doing. Staff will be expected to be flexible in such circumstances.

9. Staff will be entitled to take annual leave in the periods that will most benefit them in line with the above principles, subject to the approval of their line manager.

10. It is expected that annual leave will normally be taken in periods of not less than ½ day/shift.

11. However, this national policy is to determine annual leave entitlement in hours not days for all staff regardless of whether the employee is full-time or part time. The benefit for all employees in calculating entitlement in hours is that this ensures equity for all by ensuring that staff who work variable hours/shifts do not receive either more or less leave than colleagues who work a standard pattern.

12. The calculation of annual leave entitlements pertaining to all staff is contained at Table 2. Hours have been rounded up or down to the nearest 0.5 decimal point (i.e. the nearest ½ hour).

13. In addition to annual leave entitlement, full time employees are entitled to 8 days (60 hours) paid general public holidays. In the case of all part time staff, this entitlement is pro rata to the full time allowance of 8 days. The calculation of this entitlement is always proportionate to the number of basic contracted hours worked. In this way, all employees have a fair and equitable, static entitlement rather than an eligibility based solely on the normal days of work which would result in some part time employees never receiving the benefit of public holidays unless they fall on their normal days of work. Similarly, this calculation based on the number of basic weekly contracted hours removes any potential for inequity in the case of staff whose working days vary.

¹ Hours based on 37.5 hour working week

14. Table 3 contains the public holiday entitlement for all staff per public holiday and for a full leave year. Further guidance pertaining to Public Holidays is contained in Section 13 of the Agenda for Change terms and conditions handbook.

15. To calculate an employee's total leave entitlement inclusive of public holidays, Tables 2 and 3 should be added together. They are shown separately so that the composition of an employee's full entitlement is clear.

16. For staff working annualised hours or during term time only please refer to the SPRIG guidance letter SGL/2005/011 which can be found on the MSG website – www.msg.scot.nhs.uk.

Calculation of Reckonable Service

Principles

17. An employee's previous service with any NHS employer will count as reckonable service in respect of NHS agreements on redundancy, maternity, sick pay and annual leave. On returning to NHS employment, a previous period or periods of NHS service will be counted towards the employee's entitlement to annual leave.

18. NHS employers have the discretion to take into account any period or periods of employment with employers outside the NHS where these are judged to be relevant to NHS employment. In this respect, it has been agreed that there should be a consistency of approach across NHSScotland.

Details

19. For the purposes of calculating Annual Leave entitlement for a new employee, NHSScotland employers should count as reckonable service any previous service with the following employers:

Private Sector

20. Where an employee has TUPE transferred out of the NHS to a private sector employer under a PPP/PFI contract arrangement and decides to rejoin NHSScotland.

Other NHS organisations

21. GP Employed Staff.

Voluntary Sector

22. Voluntary sector – paid employees in organisations providing a health care provision or a service closely related to health care. Examples would be Hospices, McMillan or Maggies.

Overseas

23. Overseas service should be considered in line with the relevant legislation, as set out in Annex 28 of the Agenda for Change Handbook “Guidance on Frequently Asked Questions”.

Entitlement on joining

24. All new members of staff will be entitled to annual leave plus public holidays in the year of joining the organisation on a pro-rata basis.

25. Entitlement to annual leave accrues from the date of commencement in post and entitlement in the first year is dependent on the number of days worked after the date of joining and before the end of the annual leave year.

26. Annual leave entitlement for part years can be calculated using Tables 2 + 3. The public holiday hours entitlement will be based on the number of public holidays remaining in the current leave year from the date of joining e.g. a member of staff works 25 hours per week, their joining date is 24th August and they are new to the NHS:

Leave entitlement for a full leave year would be 175 hours (Tables 2 & 3)

Entitlement from 24 August to 31 March would be 220 days $(220/365 \times 135 \text{ hours}) = 81.36$ rounded up to 81.5 hours of annual leave

Add public holiday hours to this (assume 4 days left in this leave year) = 20 hours $(4 \times 5 \text{ hours} - \text{Table 3})$

Total for this part year = 81.5 hours plus 20 hours = 101.5 hours to be taken by 31 March

Entitlement on changing contracted hours

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

General public holidays

28. Full time employees will be entitled to all paid general public holidays in the leave year. All part time staff are entitled to the public holidays pro-rata to the full time allowance based on number of contracted hours worked.

29. **There are 8 Public Holidays in the year, four of which have been agreed for NHSScotland. These are:**

25 December
26 December
01 January
02 January

30. The other four days will be determined locally.
31. All full time employees are entitled to 8 paid public holidays in the leave year subject to paragraph 13.5 of the Agenda for Change Terms and Conditions Handbook. In the case of part time staff, this will be a proportionate number of public holiday hours based on their basic weekly contracted hours. Locally, and where it is agreed in line with the Agenda for Change agreement, up to four days not designated nationally can be converted into annual leave. Table 3 identifies the actual hours entitlement pro-rata per bank holiday and for the total leave year. The total leave entitlement is calculated by adding their annual leave entitlement per Table 2 to the public holiday hours entitlement in Table 3.
32. On each and every occasion an employee takes paid time off on a public 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 (i.e. Tables 2+3 combined).
33. For example, employee A is not required to work on a Public Holiday. Their normal contracted hours of work are 18 per week. They would normally work 6 hours on a Monday and they have less than 5 years service. So, using the above principle, 6 hours will be deducted from their total entitlement of 126 hours (Tables 2+3)
34. Employee B works 30 hours per week. They would normally work 7.5 hours on a Monday and have over 10 years service. If they are required to work on the public holiday, their leave entitlement remains intact as this day has not been taken off as leave and can be taken in lieu at a later date. If they are not required to work on the public holiday, 7.5 hours will be deducted from their total leave entitlement of 246 hours (Tables 2+3).
35. Where operationally possible, and subject to mutual agreement, an employee may change their days of working during a Public Holiday week and therefore retain their leave entitlement in respect of the Public Holiday. This can then be taken as time off at another time.
36. There will be some years when more (or fewer) than 8 public holidays will fall within the leave year simply because holidays follow the calendar year e.g. Easter holidays (where designated as public holidays) can be in March or April. When this situation arises, these days should be taken from the following year's leave allocation.

Cover of leave

37. It is expected that staff will take their annual leave within the leave year. In certain circumstances up to one working week of basic contracted hours may be carried over to the following year, with the agreement of the Manager.
38. Where staff have, exceptionally, been prevented from taking their leave due to service demands then, again, the amount carried forward will be expressed in contracted hours and this should not normally exceed one working week of basic contracted hours.

Carry over of annual leave following sick leave

39. Any employee who is not able to use up their leave entitlement in a given year because of sick leave will be entitled to the difference between any annual leave and/or public holidays taken before sick leave began and the statutory entitlement. From 1st April 2009 the Working Time Directive statutory entitlement to annual leave is 5.6 weeks (28 days). This should be carried over and added to the entitlement in the new leave year or, where an employee terminates and does not return to work, should be paid at full pay rates in lieu of leave.

40. It should be noted that staff are entitled to statutory leave only and employees are not entitled to carry over (or be paid on termination) the full amount of leave provided by their NHS terms and conditions of employment.

Sickness occurring during annual leave or public holidays

41. If an employee falls sick whilst on annual leave and complies with local Sickness Notification and Certification Policies, the period covered will be treated as sick leave, allowing the employee to take the annual leave at another agreed time. In accordance with Agenda for Change Terms and Conditions, employees will not be entitled to an additional day off if sick on a public holiday that they would otherwise have been required to work as part of their basic week.

Entitlement on leaving

42. Employees leaving the service of a body constituted under the National Health Service and Health Services Acts are entitled in the leave year of cessation to annual leave proportionate to the number of calendar days between 1 April and the date of termination. The period of employment of these employees shall, if necessary, be extended so as to permit them to take any balance of leave to which they are entitled on the proportionate basis, always excepting cases where the employment is terminated on disciplinary grounds.

43. Staff who leave the employing organisation will receive their full annual leave entitlement per Table 2 for each day they have worked in the current leave year, less any annual leave taken plus any outstanding public holiday hours, i.e. for those hours still to be taken as a result of the employee working a public holiday (Table 3).

44. Where total leave taken exceeds the earned total leave entitlement an appropriate deduction will be made from final monies due.

45. Payment in lieu of annual leave shall be made only when staff are leaving the NHS Board.

46. Where an employee dies in service an allowance equivalent to that part of the annual leave entitlement, calculated on the proportionate basis, not taken at date of death shall be paid to the employee's personal representative. No deduction from the final salary payment should be made in respect of annual leave taken in excess of entitlement at the date of death.

Former Ancillary and Maintenance Whitley Staffs Council Leave rules.

47. When Ancillary and Maintenance Staff in post in the leave year beginning on 1st April 1988 leave the service they will be entitled to take the number of days of annual leave to which they became entitled on the 1st April 1989, based on their aggregated service completed by 31st March 1989 and calculated in accordance with the appropriate tables in the respective former Whitley Council Handbooks.

48. Staff shall have this entitlement once only. If it is not convenient for the employing authority to allow the whole or any part of such leave before the date of leaving the service payment in lieu shall be made at the rate in force at the date of termination and in accordance with the agreement which exists to cover payment during annual leave when the employee leaves the service. Where it is more beneficial to the employee, accrued annual leave entitlement shall be based upon the contracted hours at 31 March 1989, rather than at the time of leaving the service. Any leave in excess of that due at Table 1 above may be deducted from the total of the leave to which the employee was due on 1st April 1989.

Agreement

49. This Policy has been jointly agreed by the Scottish Terms and Conditions Committee for NHSScotland under the arrangements for implementation of Agenda for Change.

TABLE 2
Agenda for Change
Annual leave entitlement for complete years exclusive of public holidays

Weekly basic contracted hours	On appointment	After 5 years service	After 10 years service
	27 DAYS	29 DAYS	33 DAYS
	HOURS EQUIVALENT:		
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

Formula is $\frac{\text{Weekly Contracted Hrs}}{5} \times \text{No. of Days Entitlement}$

TABLE 2 (cont)
Agenda for Change

Annual leave entitlement for complete years exclusive of public holidays

Weekly basic contracted hours	On appointment	After 5 years service	After 10 years service
	27 DAYS	29 DAYS	33 DAYS
	HOURS EQUIVALENT:		
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

Formula is $\frac{\text{Weekly Contracted Hrs}}{5} \times \text{No. of Days Entitlement}$

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TABLE 3
Agenda for Change
Calculation of public holiday entitlement

Weekly basic contracted hours	Hourly entitlement for full leave year	Entitlement rounded up to the nearest half day	Hourly entitlement on each bank holiday as it occurs
(8 Bank Holidays)		(8 Bank holidays)	
37.5	60.0	60.0	7.5
37.0	59.0	60.0	7.4
36.5	58.5	60.0	7.3
36.0	57.5	60.0	7.2
35.5	57.0	60.0	7.1
35.0	56.0	56.25	7.0
34.5	55.0	56.25	6.9
34.0	54.5	56.25	6.8
33.5	53.5	56.25	6.7
33.0	53.0	56.25	6.6
32.5	52.0	52.5	6.5
32.0	51.0	52.5	6.4
31.5	50.5	52.5	6.3
31.0	49.5	52.5	6.2
30.5	49.0	52.5	6.1
30.0	48.0	48.75	6.0
29.5	47.0	48.75	5.9
29.0	46.5	48.75	5.8
28.5	45.5	48.75	5.7
28.0	45.0	45	5.6
27.5	44.0	45	5.5
27.0	43.0	45	5.4
26.5	42.5	45	5.3
26.0	41.5	45	5.2
25.5	41.0	41.25	5.1
25.0	40.0	41.25	5.0
24.5	39.0	41.25	4.9
24.0	38.5	41.25	4.8
23.5	37.5	37.5	4.7
23.0	37.0	37.5	4.6
22.5	36.0	37.5	4.5
22.0	35.0	37.5	4.4
21.5	34.5	37.5	4.3
21.0	33.5	33.75	4.2
20.5	33.0	33.72	4.1
20.0	32.0	33.75	4.0
19.5	31.0	33.75	3.9

Formula is $\frac{\text{Weekly Contracted Hrs}}{5} \times \text{No. of Days Entitlement}$

TABLE 3 (cont)
Agenda for Change
Calculation of public holiday entitlement

Weekly basic contracted hours	Hourly entitlement for full leave year	Entitlement rounded up to the nearest half day	Hourly entitlement on each bank holiday as it occurs
(8 Bank Holidays)		(8 Bank holidays)	
19.0	30.5	33.75	3.8
18.5	29.5	30	3.7
18.0	29.0	30	3.6
17.5	28.0	30	3.5
17.0	27.0	30	3.4
16.5	26.5	30	3.3
16.0	25.5	26.25	3.2
15.5	25.0	26.25	3.1
15.0	24.0	26.25	3.0
14.5	23.0	26.25	2.9
14.0	22.5	22.5	2.8
13.5	21.5	22.5	2.7
13.0	21.0	22.5	2.6
12.5	20.0	22.5	2.5
12.0	19.0	22.5	2.4
11.5	18.5	18.75	2.3
11.0	17.5	18.75	2.2
10.5	17.0	18.75	2.1
10.0	16.0	18.75	2.0
9.5	15.0	15	1.9
9.0	14.5	15	1.8
8.5	13.5	15	1.7
8.0	13.0	15	1.6
7.5	12.0	15	1.5
7.0	11.0	11.25	1.4
6.5	10.5	11.25	1.3
6.0	9.5	11.25	1.2
5.5	9.0	11.25	1.1
5.0	8.0	11.25	1.0
4.5	7.0	7.5	0.9
4.0	6.5	7.5	0.8
3.5	5.5	7.5	0.7
3.0	5.0	7.5	0.6
2.5	4.0	7.5	0.5
2.0	3.0	3.75	0.4
1.5	2.5	3.75	0.3
1.0	1.5	3.75	0.2
0.5	1.0	3.75	0.1

Formula is $\frac{\text{Weekly Contracted Hrs}}{5} \times \text{No. of Days Entitlement}$