

**ANNUAL LEAVE AND PUBLIC / FIXED HOLIDAY
ENTITLEMENT AND CALCULATION
(This policy does not apply to Teachers)**

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ANNUAL LEAVE AND PUBLIC / FIXED HOLIDAY ENTITLEMENT AND CALCULATION (This policy does not apply to Teachers)

1.0 OVERVIEW: Annual Leave

- 1.1 The leave year runs from 1 January to 31 December.
- 1.2 Annual Leave entitlement is calculated on contracted hours.
- 1.3 Annual leave entitlement increases by 5 days FTE (35 or 37 hours FTE depending on contract) following 5 **full** years of continuous service.
- 1.4 An element of annual leave entitlement of 8.3% is paid on any additional non-contractual hours worked, i.e. overtime. This is calculated and applied automatically by payroll.
- 1.5 Employees who commence or leave employment part way through a leave year will be entitled to a proportion of annual leave (based on days) in accordance with the table set out below (Table 1), which is based on a full time employee working 5 days per week.
- 1.6 Business World uses your recorded work pattern to calculate your leave entitlement in hours not days. Employees can request annual leave via the Business World Self Service Web Application and the approval process will be through this application. Leave entitlement including public/ fixed holidays will be calculated automatically by this application and a balance of leave will be available to view. More information can be found on the Intranet under 'Your Job' - Business World – HR.
- 1.7 Public and Fixed Holidays are as follows:
New Year's Day & 2nd January – Public
May Day – Fixed
St Andrew's Day – Fixed
Christmas & Boxing Day – Public
- 1.8 Term time employees receive payment for all leave entitlement, (see 10.0)
- 1.9 Chief Officers receive 36 days' annual leave for a full calendar year, which includes the 3 days' closure during the Christmas period plus 6 public/ fixed holidays, irrespective of length of service.
- 1.10 For teaching staff please see SNCT Guidelines for holiday calculation and leave entitlement.

Employees who are absent on sick leave can choose to take annual leave during this time, although cannot be forced to do so.

Annual leave during sick leave will be paid at the contractual rate of pay even if the employee is on half pay or has exhausted sick pay.

Employees can only carry forward a maximum of 5 days' (based on contracted hours) unused annual leave to the next leave year, even if they have been off sick. The only exception is if the length of their time off work means they were at work for 14 days or less during the previous year (see Para 13).

Any unused annual leave carried forward into the following leave year should be taken by 31 March, at the discretion of the Line Manager. Please note any carried forward leave not taken by 30 June will be automatically deducted by Business World.

- 1.11 Employment legislation (Working Time Directive; Working Time Regulations; Work and Families Act; Part time Workers (Prevention of Less Favourable Treatment) Regulations and Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations) requires that all employees/workers must receive holiday entitlement including those on temporary, part time and supply/casual contracts.

Line Managers must ensure that all employees/workers receive paid time off.

2.0 Annual Leave Entitlement for Full Time Employees

- 2.1 The leave year runs from 1 January to 31 December each year. Annual leave entitlement is calculated in hours based on your work pattern and contracted hours.

Full year of annual leave entitlement based on 35/37 hours per week at 7/7.4 hours per day, this includes the 3 days which are assigned to the Christmas closure for some staff groups.

Table 1

| Employees with less than 5 years' continuous service at the beginning of leave year | Employees with 5 years' continuous service or more at beginning of leave year | Chief Officers |
|---|---|---------------------|
| 29 days (203 hours 35 hour week) (214.6 hours 37 hour week) | 34 days (238 hours 35 hour week) (251.6 hour week) | 36 days (252 hours) |

- 2.2 Employees who start or leave part way through the leave year are entitled to a proportion of annual leave based on actual days worked.

Examples:

New employee starts on 24 May contracted to 35 hours per week

$$\frac{222 \text{ days (24 May to 31 Dec)}}{365} \times 29 \text{ days} = 17.64 \text{ days} \times 7 \text{ hours per day} = 123.47 \text{ hours}$$

New employee starts on 24 May contracted to 37 hours per week:

$$\frac{222 \text{ days (24 May to 31 Dec)}}{365} \times 29 \text{ days} = 17.64 \text{ days} \times 7.4 \text{ hours per day} = 130.52 \text{ hours}$$

Following resignation employee's last day of work is 23 April, employee has more than 5 years' service contracted to 35 hours per week:

$$\frac{113 \text{ days (1 Jan to 23 April)}}{365} \times 34 \text{ days} = 10.53 \text{ days} \times 7 \text{ hours per day} = 73.68 \text{ hours}$$

Following resignation employee's last day of work is 23 April, employee has more than 5 years' service contracted to 37 hours per week:

$$\frac{113 \text{ days (1 Jan to 23 April)}}{365} \times 34 \text{ days} = 10.53 \text{ days} \times 7.4 \text{ hours per day} = 77.89 \text{ hours}$$

3.0 Public/ Fixed Holiday Entitlement for Full Time Employees

3.1 Employees are entitled to 4 public holidays per year on the following days:

- New Year's Day
- 2nd January
- Christmas Day
- Boxing Day

When staff are required to work on any of these days, employees will receive an allowance of either:

- (a) Additional single time plus time off with pay at a later date **or**
- (b) Additional double time for all hours worked.

In the first instance employees will receive additional single time plus time off in lieu rather than double time.

3.2 All staff will be entitled to two fixed holidays as below, normally taken on the closest **Monday** to:

- May Day
- St Andrew's Day

3.3 Where staff are required to work on these days they will be given time off in lieu in accordance with the table below or, alternatively, be paid additional single time.

Table 2

| Time Worked | Time Off |
|--|---|
| Half of a normal day/night/shift or less | Half of a normal working day/night/shift |
| Over half of a normal day/night/shift | The whole of a normal working day/night/shift |

In the first instance employees will receive time off in lieu rather than payment.

4.0 Annual Leave Entitlement for Part Time Employees

4.1 Calculations for part time employees will be pro-rata against the full time equivalent as shown in Table 1 using the following formula:

$$\frac{\text{Hours per week}}{5 \text{ (days)}} \times \text{full time entitlement due in days} = \text{entitlement due in hours}$$

Examples:

An employee with 10 years' continuous service, employed for 15 hours per week

$$\frac{15}{5} \times 34 \text{ days annual leave} = 102 \text{ hours}$$

An employee with no continuous service commences on 24 May and works 12 hours over 3 days per week. They would be entitled to 17.6 days' FTE entitlement (222 days/365 x 29 days FTE entitlement).

$$\frac{12}{5} \times 17.6 \text{ days annual leave} = 42.24 \text{ hours}$$

5.0 Public/ Fixed Holiday Entitlement for Part Time Employees

5.1 Entitlement to public and fixed holidays will be calculated on a pro rata basis for part time staff.

Calculation

The days and hours which part time employees work can vary widely, therefore public/fixed holiday entitlement is calculated automatically in Business World and shown as a "Public Holiday Entitlement". To calculate manually see below example:

An employee working 17.5 hours per week will be entitled to 21 hours' public/fixed holidays per annum based on the full time equivalent of the 6 public/ fixed days. This entitlement is not affected by the number of days worked per week or the pattern of working.

$$\frac{17.5}{5} \times 6 = 21 \text{ hours}$$

5.2 Depending on which days the public/fixed holidays fall each year an adjustment will need to be made at the start of each year for part time employees. To calculate the total amount of annual leave and public/fixed holidays for part time staff, please see below:

Example

Employee works 17.5 hours per week, Monday 3.5 hours, Tuesday 7 hours, Wednesday 7 hours, and has less than 5 years' service:

$$\frac{17.5 \text{ hours per week}}{5} \times 29 \text{ annual leave days} = 101.5 \text{ hours}$$

$$\frac{17.5 \text{ hours per week}}{5} \times 6 \text{ public/fixed hols} = 21 \text{ hours}$$

As the public/fixed holiday entitlement has been added to the initial calculation, any normal working hours that fall on public/fixed holidays will need to be deducted.

Using the above example:

| | |
|----------------------------------|----------|
| 2023 Public/fixed holidays taken | |
| 2 & 3 Jan (Mon & Tues) | 10.5 |
| 1 May (Mon) | 3.5 |
| 27 Nov (Mon) | 3.5 |
| 25 & 26 Dec (Mon & Tues) | 10.5 |
| Total | 28 hours |
| Public holiday allowance | 21 hours |
| Adjustment | -7 hours |

In the above example the employee has an entitlement to 21 hours for public/fixed holidays and due to the working pattern they have during the year will have taken 28 hours' leave on Public/fixed holiday days. As a result there is an adjustment of 7 hours against the employee's full leave entitlement.

- 5.3 Business World will calculate annual leave and public holiday entitlement based on the employee's recorded working pattern. Employees will be able to see their total balance of leave, book leave and get approval for leave through the Business World Self Service Web Application. More information can be found on the intranet under 'Your Job' – Business World – HR.
- 5.4 The above calculations do not disadvantage a member of staff working part time and ensures that there is no loss in entitlement to annual leave and public/fixed holidays.

6.0 Annual leave for Employees working Compressed Hours

- 6.1 Within SBC there are employees who work an agreed compressed working pattern. For example: 4 day week or 9 day fortnight.
- 6.2 To work out the annual leave entitlement of an employee who works compressed hours, the leave entitlement should be calculated using the same formula as for part time employees (see 4.1). The appropriate number of hours is then deducted when a day's holiday is taken.

Example

An employee with more than 5 years' service and works 35 hours over 4 days per week (8.75 hours per day) is entitled to 34 days' annual leave.

$$\frac{35 \text{ hours}}{5} \times 34 = 238 \text{ hours}$$

When taking annual leave 8.75 hours per day are taken from the overall balance of hours.

7.00 Public/Fixed Holiday Entitlement for Compressed Hours

- 7.1 Public/fixed holidays are calculated in a similar way to part time employees. For a full time (35 hour) employee the 6 public/fixed holidays = 42 hours (based on 7 hours per day).

Using the above example:

Annual leave 238 + 42 hours = 280 hours.

- 7.2 Depending on which days the public/fixed holidays fall each year an adjustment will need to be made at the start of each year on Business World this is shown as “Public Holiday Entitlement” please see 5.2 for example of calculation .
- 7.3 Business World will calculate annual leave and public holiday entitlement based on the employee’s recorded working pattern. Employees will be able to see their total balance of leave, book leave and get approval for leave through the Business World Self Service Web Application. More information can be found on the intranet under ‘Your Job’ – Business World – HR.
- 7.4 The above calculations do not disadvantage a member of staff working compressed hours and ensures that there is no loss in entitlement to annual leave and public/fixed holidays.

8.0 Public/Fixed Holidays Entitlement for Variable Working Weeks

- 8.1 Where a part time employee works irregular hours each week, then annual leave and public/fixed holiday entitlement is based on an average working week calculated on the previous 12 weeks (based on the Working Time Regulations and Employment Rights Act).
- 8.2 Where a part time employee has annualised hours, the public/fixed holiday entitlement is based on the average working week for the year.
- 8.3 The above calculation for part time employees (see 5.1) should be used to ensure public/fixed holidays are correctly applied to the overall leave entitlement.

9.0 Public/Fixed Holidays for Part Years

- 9.1 Where employees start or finish part way through a year, the public/fixed holiday entitlement must be calculated based on the number of public and fixed holidays which have fallen/will fall in the period of employment.

Example:

Employee leaving in September will have been due 3 public and fixed holidays pro rata for the year, i.e. New Year’s Day, 2 January and May Day.

- 9.2 See 2.2 for annual leave entitlement for employees who leave part way through the year.
- 9.3 Business World will calculate annual leave and public holiday entitlement based on the employee’s recorded working pattern. Once a leave date has been processed the balance of total leave entitlement up until the leave date will be available to view through the Business World Self Service Web Application. More information can be found on the intranet under ‘Your Job’ – Business World – HR.

10.0 Term Time Working

- 10.1 The above calculations do not apply to this group as the annual leave and public/fixed holiday entitlements are included in the calculation of annual salary.
- 10.2 Term time employees are only employed during school term, i.e. 39 weeks. As they cannot take annual leave during the school term they are paid for the annual leave and public/fixed holidays, please see table 3 below for figures used in the calculation.
- 10.3 The total weeks payable are paid to the term time employee depending on actual weeks worked and length of service. This amount is then split over the 12 months so they receive a salary each month.

10.4 Term time employees

Table 3

| Term Time Employee – Actual weeks worked | Length of Service | Total weeks payable per annum |
|---|----------------------------|--------------------------------------|
| 38 Weeks | Less than 5 years' service | 43.88 |
| | Over 5 years' service | 44.88 |
| 39 Weeks | Less than 5 years' service | 45.04 |
| | Over 5 years' service | 46.06 |
| 40 Weeks | Less than 5 years' service | 46.19 |
| | Over 5 years' service | 47.24 |
| 41 Weeks | Less than 5 years' service | 47.35 |
| | Over 5 years' service | 48.42 |
| 42 Weeks | Less than 5 years' service | 48.50 |
| | Over 5 years' service | 49.60 |
| 43 Weeks | Less than 5 years' service | 49.66 |
| | Over 5 years' service | 50.78 |

10.5 Any changes in contracted hours, whether additional hours or reduction in hours worked, sabbatical or new start/leaver within the school session, will have an effect on annual leave entitlement and a calculation will be carried out and pay adjusted in the first available pay period.

11.0 Supply Contracts Annual Leave Entitlement

11.1 Those on Supply or “As and When” contracts are entitled to annual leave (or payment in lieu where paid time off is not possible). If an individual is required to work continuously for a period of four weeks or more a temporary contract must be issued.

11.2 The calculation for those working on an “as and when” basis, i.e. supply workers, who cannot for operational reasons be given paid time off is based on 28 days (5.60 weeks’ entitlement as per Working Time Directive) and is calculated as 12.06%.

12.06% should be added for holiday entitlement for any hours worked and claimed under a supply post. Line managers should ensure this is added to supply timesheets for payment.

12.0 Carry Forward of Annual Leave

12.1 The Council uses the Calendar Year for annual leave purposes. Employees are given their annual leave entitlement at the beginning of January each year normally to be taken by 31st December.

12.2 However, with the exception of employees on Maternity Leave, some employees for a variety of reasons, do not take their full entitlement during the leave year. They may be permitted to carry forward the untaken leave up to a maximum of 5 days FTE (35 or 37 hours FTE depending on contract), pro-rata for part time employees. Whilst there are no significant issues anticipated in these circumstances, agreements should always be made with the Line

Manager. Business World will cap any carry forward balance of annual leave at 5 days, pro-rata for part time employees.

Any unused annual leave carried forward into the following leave year should be taken by 31 March, at the discretion of the Line Manager. Please note any carried forward leave not taken by 30 June will be automatically deducted by Business World.

- 12.3 In special circumstances, more than 5 days, pro-rata for part time employees, may be carried over to the following year with the approval of the Line Manager.

Special circumstances may include:

- Where the employee has been unable to take pre-booked annual leave because of business requirements, such as pressure of work or shortage of staff.
- Where a period of annual leave is converted to special leave because of a change in circumstances, for example, the death of a close relative (see Guidelines on Special Leave).
- Where a member of staff wishes to take an extended period of leave, for example, to visit relatives overseas or to undertake a religious pilgrimage.
- Sickness absence (see section 13.0)

Where additional carry forward leave has been agreed the Line Manager must send an email to businessworld@scotborders.gov.uk after the end of the leave year and advise the additional carry forward balance that is to be added to the employee's entitlement.

- 12.4 Managers are reminded that employees should be encouraged to take their full annual leave entitlement within the appropriate leave year and must, unless through long term sickness or maternity leave, always have opportunity to take the statutory annual leave of 4 weeks per year (20 days).

- 12.5 The statutory annual leave entitlement of 20 days is not additional to public or fixed holidays. There is no statutory right to take public or fixed holidays.

13.0 Sickness and Annual Leave

- 13.1 Employees who are sick during the course of their annual leave and who wish to claim back their annual leave will only be regarded as being on sick leave from the date of a valid doctor's medical certificate. In such circumstances, the employee must obtain and pay any fee incurred in asking for a doctor's note. Any days' leave covered by such a certificate will be added back on to the employee's leave entitlement to be taken, wherever possible, at a later date.

- 13.2 Employees will not be entitled to a day in lieu if off sick on a public/fixed holiday.

- 13.3 Employees continue to accrue annual leave when they are absent from work due to sickness. They may elect to take annual leave during their period of sickness absence but cannot be compelled to do so.

- 13.4 Employees who are unable to take annual leave during the leave year due to sickness absence may carry forward leave up to a maximum of 20 days. However, employees can only carry leave forward under this provision if they have had no opportunity to take annual leave as they were physically absent from work.

- 13.5 An employee who has been at work for part of the year has the opportunity to take annual leave during their time at work. They would only carry forward leave if they had been at

work for less than 20 days during that leave year. They would then carry forward the difference between the number of days they have been at work and the maximum 20 days permitted under this provision.

- 13.6 Where the difference is 5 or less, the employee would carry forward 5 days (35 or 37 hours FTE depending on contract) as per section 12.2.

Examples:

- An employee is not at work for the entire leave year and does not request annual leave during the year – 20 days annual leave is carried forward to the next leave year.
- An employee has two long periods of absence but is at work for 10 days during the leave year, when they had the opportunity to take annual leave – balance of leave carried forward is 10 days.
- An employee has a long period of absence but is at work for 16 days during the leave year, no annual leave is requested – 5 days annual leave are carried forward.

- 13.7 Statutory annual leave is pro-rata'd for employees who work part time.

- 13.8. Term time employees are paid for their annual leave within their salary, (see 10.0), and therefore not entitled to annual leave if off sick. The only exception to this would be if the term time employee had been off for most of the year and not had the opportunity to take the statutory leave of 20 days, any balance of leave should be calculated and taken as soon as possible.

Example:

Term time employee absent from February until September has FTE 20 days' statutory, prior to sick leave 5 days were taken in January, on return from sick leave 12 days taken until the end of the annual leave year, therefore a balance of 3 days is owing to the employee.

- 13.9 Any outstanding annual leave balance can **only** be paid should the employee leave SBC.
- 13.10 Following long term sick leave, during any confirmed phased return to work the employee will be paid for their normal hours. The phased return period should not normally exceed 4 weeks.

14.0 Related Policies and Enquiries:

- [Annual Leave Purchase Scheme](#)
- [Special Leave Policy](#)
- [Guide to the Working Time Regulations](#)
- [Attendance Management Policy](#)

For further information regarding Annual Leave Entitlement please contact your Line Manager in the first instance or [HR Shared Services](#) at Council HQ on 01835 825052/5053.