

# ANNUAL LEAVE PROCEDURE

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Associated Documents:	Work-life Balance and Special Leave Guidelines Family Leave Policy Attendance Management Procedure Healthroster Management Policy Local Agreement on Working Time Regulations Payroll Overpayment Procedure Induction Policy and Procedure Mandatory Training Policy Medical and Dental Annual Leave Policy Working Time Regulations (1998) Induction Policy and Procedure Mandatory Training Policy

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# Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V2	March 2017	Claire Parnell/Clare Hammond	Review and update	Change in formatting and using plain English
V3	January 2020	Clare Hammond	Periodic Review	Added specific guidance regarding requesting leave for religious festivals
V3.1	06 February 2023	Clare Hammond	Extension to review date due to pressures to review	Extended the review date from March 2023 to June 2023
V4	March 2023	Cheryl Quinlan	Periodical Review	Re-write

# **Consultation Table**

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
Operational HR		February 2023
Stakeholders	Payroll	June 2023
Workforce Policy Subgroup		November 2023

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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#### 1. Introduction

Our People Strategy (<u>People Strategy (esht.nhs.uk</u>)), which is based on the NHS People Plan (<u>NHS England » NHS People Plan</u>), prioritises a culture that supports and grows our people.

Looking after our people means creating a positive, engaging working environment and keeping colleagues safe and healthy – both physically and psychologically. It is everyone's responsibility to contribute to an inclusive culture where all colleagues feel that they are treated according to trust values and demonstrate those values in our own compassionate behaviour, to inspire each one of us to thrive and develop to our full potential.

Effective management of annual leave by the individual and their manager will help develop a positive working environment, create good working relationships, and support the wellbeing of our colleagues.

This policy aims to provide a consistent and equal approach to taking and calculating annual leave. It will inform colleagues on their leave entitlement, how leave is calculated, how to request leave and how annual leave entitlement is affected by other factors such as sickness absence.

This policy has been written in accordance with the Working Time Regulations (1988) and explains how annual leave works for all colleagues who are employed under the NHS Terms and Conditions of Service (Agenda for Change).

#### 2. Principles

This policy applies to all colleagues who are employed on the Agenda for Change Terms and Conditions. Medical colleague's annual leave entitlements are set out in the Medical & Dental colleague's Annual Leave Policy.

Our Trust supports its colleagues in having a healthy work-life balance and encourages them to take their full entitlement within the current leave year.

#### 3. Accountabilities and Responsibilities

All managers will ensure, through an open and supportive culture, that applications for annual leave are dealt with consistently and fairly whilst balancing the needs of service provision.

It is the managers' responsibility to calculate annual leave and bank holiday entitlement and to communicate this to their colleagues.

Managers will inform their colleagues on how to request annual leave; all departments should be using Healthroster to record annual leave and bank holiday entitlements.

Managers have a responsibility to ensure that leave is appropriately recorded and authorised in line with service requirements.

In some departments/wards, managers may need to ask their colleagues to take a proportion of their annual leave in each quarter (3 months) of the year. This is to ensure colleagues are not left with lots of hours to take towards the end of the leave year which can have an adverse effect on service provision. Healthroster can help you and your colleagues plan their leave during each quarter within the leave year.

Managers should be mindful of when religious festivals occur within the leave year as these generally take place on normal working days eg Hindu festivals of Diwali and Dasara/Dussehra, the Muslim festivals of Eid-ulFits and Eid-ul-Adha and the Jewish festival of Yom Kippur. For colleagues of other faiths to celebrate their main religious festivals in a like manner to the UK Christian festivals, managers are encouraged to give priority to annual leave requests on these occasions, unless service provision would be compromised.

Managers should refer to the Annual Leave Procedure Guidelines for Managers on the HR Solutions page of the extranet (<u>Annual Leave (esht.nhs.uk)</u> for further information on managing colleagues' annual leave.

Colleagues must plan and request their leave in accordance with this Policy and the local arrangements for service delivery.

Colleagues have the responsibility to check their leave entitlement calculation is correct and in line with their length of service under Agenda for Change Terms and Conditions handbook.

Colleagues should highlight any possible errors with their manager as soon as possible.

Colleagues should refer to the Annual Leave Procedure Guidelines for Colleagues on the HR Solutions page of the extranet (<u>Annual Leave (esht.nhs.uk)</u>, for further information on requesting annual leave.

#### 4. Human Resources (HR) Solutions

HR Solutions are accountable for updating this policy in line with good practice, changes in national terms and conditions and/or employment legislation.

HR Solutions will offer training and guidance to line managers on the practical implementation of this policy and will monitor the consistent application of the policy by managers.

#### 5. Policy in Practice

#### Table One: Annual leave entitlement

Length of Service	Annual leave and bank holidays
On appointment	27 days + 8 bank holidays
After five years' service	29 days + 8 bank holidays
After ten years' service	33 days + 8 bank holidays

#### 5.1 Entitlement:

The annual leave year for colleagues will run from 1<sup>st</sup> April until 31<sup>st</sup> March however if a colleague is on a term-time only contract it is easier to work out entitlements on the basis that the leave year runs from 1<sup>st</sup> September to 31<sup>st</sup> August instead.

Table One, as above, is an example of annual leave entitlement which is based on an employee working 37.5 hours per week. Full time hours are defined as 37.5 hours per week and part time hours are regarded as anything less than 37.5 hours. A colleagues' entitlement is calculated in hours not days. This is to ensure colleagues who work variable hours/shifts are not disadvantaged.

The number of bank holidays vary each year, so please consider this when calculating bank holiday entitlement.

If you are on a term-time only contract your pay will have been calculated including your annual leave entitlement. You have no entitlement to take any annual leave outside the school holidays. If an emergency arises during term-time you should discuss this with your manager as you may be able to ask for time off under the terms of the Special Leave policy. As schools are closed on bank holidays you will not be required to work as we will count that day as a school holiday.

If your annual leave entitlement changes during the year your manager must inform The Sussex Health and Care Payroll Hub by completing a Notification of Staff Changes Form (NOSC), as your pay will need to be recalculated.

Annual leave entitlement is based on continuous completed years of NHS Service. Reckonable Service for annual leave purposes includes all service with an NHS employer. This means all the different periods an employee has worked anywhere in the NHS are added up to get a total number of years' service and use this number when calculating the colleagues' entitlement to leave.

Part time colleagues will be granted annual leave entitlements on a pro rata basis of the full-time allowance e.g., if a colleague works part time, the entitlements shown in Table One above are proportioned down according to the number of hours worked. Colleagues should refer to the table on the HR Solutions page of the extranet <u>Annual Leave (esht.nhs.uk)</u> which shows how to work out leave if a colleague is part-time. Hours have been rounded up or down to the nearest <sup>1</sup>/<sub>2</sub> hour.

The calculation of annual leave entitlements pertaining to all colleagues under Agenda for Change Terms and Conditions can also be undertaken using the Annual Leave Calculator (Excel) on the HR Solutions page on the extranet <u>Annual Leave (esht.nhs.uk)</u>

If a colleagues' length of NHS service increase's part way during a leave year the annual leave entitlement increases proportionately for the rest of that leave year.

Colleagues should aim to evenly spread their leave into quarters (every 3 months) to avoid accumulating it at the end of the leave year. Failure to do so may result in the line manager allocating outstanding leave accordingly.

**Entitlements for new starters:** Colleagues who start work on or before the 07<sup>th</sup> of the month will accrue full leave hours during their first calendar month of employment. Colleagues who start work on or after the 08<sup>th</sup> of the month do not accrue leave hours for that month; they begin accruing leave hours at the end of the second calendar month of employment.

**Entitlement on changing contracted hours:** If contractual hours change during the leave year, whether temporarily or permanently, the number of hours/days annual leave entitlement will also change. The line manager will recalculate the new entitlement based on the new hours of work and how many complete months remain in the leave year, after the change of hours commence. A complete month will be counted if the change in hours is on or before the 7<sup>th</sup> of the month.

If a colleague takes a period of unpaid leave, whether authorised or unauthorised, then the annual leave entitlement will also be reduced accordingly as they do not accrue annual leave entitlements. Managers will be responsible for recalculating the colleague's entitlement and recording it accordingly on Healthroster.

**Entitlement on leaving:** When a colleague leaves the Trust, they will be given 1/12<sup>th</sup> of their annual leave entitlement for each complete calendar month worked in the current leave year, whist deducting any annual leave already taken. The colleague will be paid any balance of leave due in their final salary payment.

If a colleague has taken more leave than they are entitled to, the amount of overtaken leave will be taken deducted out of their final salary.

If the amount of the overtaken leave is more than the colleague's final salary, the NHS Shared Business Services (NHS SBS) team will contact the colleague to agree how the money owed shall be paid back to the Trust. This will be agreed, in accordance with the Trust's Salary Overpayments Procedure. We count it a complete month when a colleague leave's work after the 25<sup>th</sup> of the month.

**Pay During Annual leave:** Pay during annual leave will include regularly paid supplements, including any recruitment and retention premia, payments for work outside normal hours and high-cost area supplements. Pay is calculated on the basis of what the individual would have received had he/she been at work.

Annual leave added in Healthroster will be uploaded to ESR which will automatically calculate a colleague's average enhancement and overtime pay for the previous 6 months and that will be paid for a period of annual leave. This is because colleagues are entitled to average pay during annual leave (not bank holidays).

#### 5.2 Requesting annual leave:

Please refer to the Annual Leave Guidelines for Colleagues on the HR Solutions page of the extranet <u>Annual Leave (esht.nhs.uk)</u> for further guidance on requesting annual leave. However please consider these following provisions when requesting leave:

Colleagues are encouraged to plan their annual leave with their managers in advance to ensure our services to our patients run efficiently throughout the year.

All colleagues should be using Healthroster to record annual leave. Entitlements are now divided on Healthroster as annual leave entitlement and bank holiday entitlements. The correct entitlement should be selected when requesting leave. If part time colleagues have exhausted their bank holiday entitlement, they will be required to use a proportion of their annual leave entitlement towards any future bank holidays that occur within that leave year.

Applications for annual leave should be made in accordance with this policy. Failure to follow this procedure may result in time taken off being considered as unauthorised absence, which may lead to deductions in pay and/or disciplinary action.

To allow line managers to make alternative arrangements, annual leave should be requested 8 weeks in advance where possible.

Holiday arrangements should not be made prior to the receipt of authorisation from their manager. Colleagues should not make any bookings or enter any financial commitments with the belief/expectation that their request will be approved.

To balance the needs of all colleagues on a ward or department, leave of more than two weeks will only be agreed in exceptional circumstances.

Managers will ensure that authorisation for leave for popular times (e.g., school holidays, Christmas, New Year, and other religious festivals etc) will be made on a shared and equitable basis.

#### 5.3 Carry over of annual leave:

Colleagues should be able to take all their annual leave during the leave year to support their health and wellbeing.

If colleagues fail to take their annual leave within the leave year, they risk losing any leave not taken. If a colleague has received their statutory entitlement (28 days paid annual leave including bank holidays), then any excess annual leave entitlement not taken, will be lost.

In exceptional circumstances, where service demands/personal circumstances have prevented this, up to one week of basic contractual hours may be carried over to the following year, with the agreement of the colleague's line manager. As carry over of leave must be taken as soon as possible in the new leave year.

The Trust is unable to pay any unused annual leave as an alternative. Carrying over annual leave because of long-term sickness absence is separate from this arrangement.

Where long term sickness has prevented an employee from taking statutory annual leave (28 days including bank holidays) entitlements within a leave year, it may be carried over into the following year, and arrangements made for it to be taken as soon as possible. However, it cannot be carried forward into a further leave year. Statutory leave should be pro-rata for part-time staff.

#### 5.4 Sickness during annual leave:

Annual leave entitlement must not be used for the purposes of covering sickness absence.

If a colleague is sick during their annual leave, in accordance with the Trust's Attendance Management Procedure policy (section 5.27), colleagues are required to inform their manager using the normal reporting arrangements on the first day of sickness. The colleague will be deemed to be on sick leave from that day and will be reallocated the period of annual leave. The employee will be required to produce either a self-certificate for an absence lasting up to seven days or a GP medical certificate from the eighth day onwards.

For instances where annual leave has been refused and the colleague subsequently declares themselves to be sick; such circumstances may require the colleague to provide a GP certificate and/or require disciplinary action.

Members of staff do not accrue bank holiday entitlements whilst on sick leave. Any bank holiday entitlements which fall on a sick day must be deducted from their leave entitlement.

Please refer to the Annual Leave Guidelines for Managers on the HR Solutions page of the extranet <u>Annual Leave (esht.nhs.uk)</u> on managing sickness absence during a period of annual leave.

#### 6. Bank Holiday Entitlement

Colleagues are entitled to eight paid bank holidays each year however, the number of bank holidays which occur can vary each year; managers must consider this when calculating bank holiday entitlement.

Colleagues who work part-time will be entitled to a proportion of any bank holidays that occur within a leave year.

We count a bank holiday as the 24-hour period from 00:00 to 23:59 on the specific day.

Part time colleagues bank holiday entitlement is based on the number of hours they are contracted to work rather than the days of the week they normally work. This is a way of making sure we all benefit from some hours for bank holidays regardless of which days of the week we work or how many hours we work on each day.

If part time colleagues have exhausted their bank holiday entitlement, they will be required to use a proportion of their annual leave entitlement towards any future bank holiday's that occur within that leave year.

Bank holidays must be booked at the normal shift hours for that day e.g., if a colleague works 5.0 hours on a Monday, then they would book 5.0 hours on a bank holiday for that Monday. If they work 12 hours, they will book 12 hours leave.

Colleagues are not permitted to swap a non-working day for a bank holiday, for them to then take the bank holiday entitlement later in the leave year, without their manager's agreement.

Colleagues who work flexible days should treat the Bank Holiday as a working day unless their manager has agreed otherwise.

In general, the eight bank holidays are:

New Year's DayMay DayChristmas DayGood FridaySpring bank holidayBoxing DayEaster MondayAugust bank holiday

#### 7. Equality and Human Rights Statement

A Due Regard, Equality and Human Rights Analysis has been carried out and positive impacts on people with protected characteristics were identified for women and religious/faith groups as the procedure offers guidance on the management of annual leave for those working flexibly, prior to and following periods of Family leave and different religions or faiths.

#### 8. Training

Please refer to the Induction Policy and Procedure and Mandatory Training Policy and the Training Needs Analysis.

#### 9. Data Protection

Data protection When managing employees under the Resolution Procedure, the Trust processes personal data collected in accordance with its Data Protection policy. Data collected from the point at which the Trust commences action under the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their performance. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's Data Protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary procedure.

# 10. Monitoring Compliance with the Document

### Monitoring Table

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group/ Committee for review of results/report	Responsible individual/ group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
Annual Leave taken	Line Manager	Healthroster	Monthly	Line Manager	Line Manager	Line Manager

# 11. References

NHS Terms and Conditions of Service (Agenda for Change)

# Due Regard, Equality & Human Rights Analysis

# Equality Impact Assessment Form 1. Cover Sheet

Please refer to the accompanying guidance document when completing this form.

# Please refer to the accompanying guidance document when completing this form.

Strategy, policy or service name	Annual Leave Procedure Policy
Date of completion	07 November 2023
Name of the person(s) completing this form	Cheryl Quinlan
Brief description of the aims of the Strategy/ Policy/ Service	This procedure aims to provide a consistent and equal approach to taking and calculating annual leave in accordance with AfC Terms & Conditions. It will inform colleagues on their leave entitlement, how leave is calculated, and how to request leave.
Which Department owns the strategy/ policy/ function	Human Resources
Version number	V4
Pre Equality analysis considerations	None
Who will be affected by this work?	AfC Staff
E.g. staff, patients, service users, partner organisations etc.	
Review date	January 2027
If negative impacts have been identified that you need support mitigating please	To whom has this been escalated? Name: Click here to enter text.

escalate to the appropriate leader in your directorate and contact the EDHR team for further discussion.	Date: Click here to enter a date.
Have you sent the final copy to the EDHR Team?	No

# 2. EIA Analysis

	©   8	Evidence: This procedure will allow staff to understand their annual leave entitlement in accordance with AfC Terms & conditions and follow a fair process in requesting annual leave.				
Will the proposal impact the safety of patients', carers' visitors and/or staff? Safe: Protected from abuse and avoidable harm.	Positive					
Equality Consideration		Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the						
protected characteristic impact or social		Gender reassignment	Marriage & Civil Partnership	Religion and faith	Maternity & Pregnancy	Social economic
economic impact			⊠		⊠	⊠
(e.g. homelessness, poverty, income or education)				-	-	

Is the proposal of change effective? Effective: Peoples care, treatment and support achieves good outcomes, That staff are enabled to work in an inclusive environment. That the changes are made on the best available evidence for all involved with due regards across all 9 protected Characteristics	Positive	This proced annual leave Terms & col requesting a	e entitleme nditions an	ent in acco Id follow a	ordance w	ith AfC
Equality Consideration Highlight the protected characteristic impact or social economic impact (e.g. homelessness, poverty, income or		Race ⊠ Gender reassignment ⊠	Gender ⊠ Marriage & Civil Partnership ⊠	Sexual orientation Religion and faith X	Age ⊠ Maternity & Pregnancy ⊠	Disability & carers ⊠ Social economic ⊠
education) What impact will this have on people receiving a positive experience of care?	Natural					

Equality Consideration		Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the protected		⊠ Gender	⊠ Marriage &	⊠ Religion	⊠ Maternity	⊠ Social
characteristic impact or social		reassignment	Civil Partnership	and faith	& Pregnancy	economic
economic impact (e.g. homelessness, poverty, income or education)						
Does the proposal impact on the responsiveness to people's needs?	Positive	This proced annual leav Terms & co requesting a	e entitleme nditions ar	ent in acco nd follow a	ordance wi	ith AfC
Equality Consideration		Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the						⊠
protected characteristic impact or social		Gender reassignment	Marriage & Civil Partnership	Religion and faith	Maternity & Pregnancy	Social economic
economic impact (e.g. homelessness, poverty, income or education)						
What considerations have been put in place to consider the organisations approach on improving equality and diversity in the workforce and leadership?	Positive	This proced annual leav Terms & co requesting a	e entitleme nditions ar	ent in acco nd follow a	ordance wi	ith AfC

Equality Consideration	Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the					
protected characteristic impact or social	Gend reass	er Marriage & ignment Civil Partnership	Religion and faith	Maternity & Pregnancy	Social economic
economic impact (e.g.					
homelessness, poverty, income or education)					

### Access

Could the proposal impact positively or negatively on any of the following:

Patient Choice	Neutral					
Access	Neutral					
Integration	Neutral					
Equality Consideration		Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the protected characteristic impact or social economic impact (e.g. homelessness, poverty, income or education)						
		Gender reassignment	Marriage & Civil Partnership	Religion and faith	Maternity & Pregnancy	Social economic
Engagement and Involvement How have you made sure that the views of stakeholders, including people likely to face exclusion have been influential in the development of the strategy / policy / service:	Positive	Stakeholder Annual Leav			d in the dr	afting of t

Equality Consideration		Race	Gender	Sexual orientation	Age	Disability & carers
Highlight the						
protected characteristic impact or social		Gender reassignment	Marriage & Civil Partnership	Religion and faith	Maternity & Pregnancy	Social economic
economic impact						
(e.g. homelessness, poverty, income or education)						
Duty of Equality	Positive					
Use the space below to provide more detail where you have identified how your proposal of change will impact.						
Characteristic	Rating	Description				
Race	0	This procedure will allow staff to understand their annual leave entitlement in accordance with AfC Terms & conditions and follow a fair process in requesting annual leave.				
Age	٢	As above				
Disability & Carers	0	As above				
Religion or belief	0	As above				
Sex	٢	As above				
Sexual orientation	٢	As above				
Gender re- assignment	٢	As above				
Pregnancy and maternity	©	As above				
Marriage and civil partnership	0	As above				

## Human Rights

Please look at the table below to consider if your proposal of change may potentially conflict with the Human Right Act 1998

Articles		Y/N
A2	Right to life	No
A3	Prohibition of torture, inhuman or degrading treatment	No
A4	Prohibition of slavery and forced labour	No
A5	Right to liberty and security	No
A6 &7	Rights to a fair trial; and no punishment without law	No
A8	Right to respect for private and family life, home and correspondence	No
A9	Freedom of thought, conscience and religion	No
A10	Freedom of expression	No
A11	Freedom of assembly and association	No
A12	Right to marry and found a family	No
Protocol	5	
P1.A1	Protection of property	No
P1.A2	Right to education	No
P1.A3	Right to free elections	No