



Cannock Chase Clinical Commissioning Group
East Staffordshire Clinical Commissioning Group
North Staffordshire Clinical Commissioning Group
South East Staffordshire and Seisdon Peninsula Clinical Commissioning Group
Stafford and Surrounds Clinical Commissioning Group
Stoke-on-Trent Clinical Commissioning Group

Annual Leave and Bank Holiday Policy Includes Buying Annual Leave

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	Staff Engagement Group	May 2019
Caroline Lawrence	Head of HR	May 2019
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APPROVALS & RATIFICATION SCHEDULE

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Version	Version/Description of amendments	Date	Author/amended by
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2			
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Impact Assessments – available on request

	Stage	Complete	Comments
Equality Impact Assessment	1	Aug 2019	No amendments required
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Contents

Section	
1.	Introduction
2.	Scope
3.	Policy Statement
4.	Authority and Responsibilities
4.1	Scheme of Delegation
4.2	Responsibilities of the Head of Governance
4.3	Responsibilities of the CCG's Commissioning Support Provider
4.4	Responsibilities of Managers
4.5	Responsibilities of Employees
5.	Policy in Practice
5.1	Leave Year
5.2	Entitlement
5.3	Procedure for Booking Annual Leave
6.	Term Time Staff
7.	Bank/Public Holidays
8.	Sickness and Annual Leave
9.	Unpaid Leave
10.	Buying Annual Leave
11.	Carry Over of Leave
12.	Appeals Equality and Diversity Monitoring and Review

Appendices

- Appendix 1** Annual Leave Entitlement
- Appendix 2** Example Leave Calculations
- Appendix 3** Equality and Human Rights Impact Assessments for this policy

1. Introduction

- 1.1 All contracted staff are entitled to a period of paid annual leave inclusive of bank holidays each year. The individual entitlement is dependent upon the employee's length of service and working hours.
- 1.2 This policy will be applied equally to all staff covered by the policy and in accordance with the principles of the CCG's Equality and Diversity Strategy. The fair and equitable implementation of this policy will be monitored by the CCG's Head of Governance.
- 1.3 The purpose of this policy is to provide managers and employees with guidance on the application and management of all annual leave and bank holiday entitlements to ensure that all staff take adequate rest away from work whilst maintaining the needs of the service.
- 1.4 The CCG is committed to assisting its employees to achieve a healthy balance between their work and personal life, in the best interests of both service delivery and the wellbeing of individuals. To support this, employees have the option to request to buy their annual leave. The Buying of Annual Leave procedure will allow employees to "Buy" holiday entitlement and is designed to give employees extra flexibility with regards to their working lives.

2. Scope

- 2.1 This policy will apply to all staff employed by the CCG with the exception of:
 - a) Medical and Dental staff who should refer to the Terms and Conditions for Hospital, Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service;
 - b) Any Staff who have retained their right to remain on local terms and conditions of employment, who should refer to their contract of employment;

3. Policy Statement

- 3.1 Employees should take the full annual entitlement each year and managers should endeavour to ensure that the workloads of employees do not prevent any employee from taking their entitlement to annual leave
- 3.2 It is the policy of the CCG to ensure that the application and management of annual leave and bank holiday entitlements, is applied fairly to all staff irrespective of their sex, race, belief, religion, disability, age or sexual orientation.
- 3.3 The CCG is committed to improving working lives and as such does not expect any staff to fulfil working commitments during periods of annual leave. Annual leave should enable a member of staff to take time away from work to relax and enjoy a break. If staff feel pressured into fulfilling work commitments during annual leave they should seek advice from their manager or from HR/the Executive Services Manager.

4. Authority and Responsibilities

4.1 Scheme of Delegation

The Operational Scheme of Delegation sets out who has responsibility for HR decisions.

4.2 Responsibilities of the Head of Governance

4.2.1 Ensure policy is monitored and reviewed as determined by the HR Committee, or as required by any changes in legislation or national requirements.

4.2.2 Ensure that the policy is communicated to all staff and also that managers have the knowledge and skills to implement the policies effectively and are supported to do so as required.

4.3 Responsibilities of the CCG's Commissioning Support Provider

4.3.1 Provide advice, support and training to managers in the application of the policy.

4.4 Responsibilities Managers

4.4.1 Ensure that this policy is applied fairly to all, irrespective of their age, sex, religion, belief, disability, age or sexual orientation.

4.4.2 To calculate leave for all direct reports.

4.4.3 Ensure that employees are made aware of the procedure for requesting annual leave within their own team and to ensure that each employee is aware of their own entitlement.

4.4.4 Manage leave arrangements within their team to ensure there is adequate cover at all times to meet the services needs and priorities of the CCG.

4.4.5 Keep accurate annual leave records for all employees in their team and to monitor the uptake of annual leave to ensure that employees are taking regular breaks away from work.

4.5 Responsibilities of Employees

4.5.1 Request annual leave in line with local team arrangements.

4.5.2 Manage their annual leave in a reasonable way, ensuring full entitlements are taken over the leave year and requests for leave are submitted in accordance with team procedures.

5. Policy in Practice

5.1 Leave Year

5.1.1 The leave year runs from 1 April - 31 March. Staff should ensure that they take their full entitlement of annual leave in consultation and agreement with their manager.

- 5.1.2 In exceptional circumstances as detailed below, with prior agreement of their manager, an employee's leave may be carried into the next year subject to a maximum of 1 week, pro rata to the number of hours worked per week;
- I. Where employees are prevented from taking the full allowance of annual leave before the end of the leave year because of business needs.
 - II. Where employees are prevented from taking annual leave because of maternity leave (see CCG Maternity policy).
 - III. On application and consideration of an individual's personal circumstances subject to the exigencies of the service.
- 5.1.3 Employees who have been unable to take their annual leave as a result of long-term sickness absence should refer to the CCG's Attendance Management Policy.

5.2 Entitlement

- 5.2.1 An employee's annual leave entitlement is determined by the length of aggregated NHS service, with leave entitlements increasing on the completion of 5 and 10 years aggregated NHS service as shown in **Appendix 1**.
- 5.2.2 An employee's continuous previous service with an NHS employer will count as reckonable service in respect of annual leave.
- 5.2.3 In addition, aggregated NHS service, i.e. any period of time that has been worked in the NHS, regardless of whether or not there has been a break in service, will count as reckonable service for annual leave.
- 5.2.4 For purposes of aggregated service, time spent employed in a highly relevant role in organisations other than the NHS, may be counted as aggregated service, i.e. GP Practices, General NHS Dental Practices, relevant overseas employment and local authorities. Locum agency service will not count. Agreement should be reached between the manager and advised by the commissioning support providers HR Team on the application of highly relevant service, to ensure consistent application of this provision.
- 5.2.5 Any aggregated service should be agreed on appointment to an employee's first post within the CCG. There is no provision for retrospective application of the above.
- 5.2.6 Annual leave entitlements are calculated in hours for part-time employees, rounded up to the nearest full hour, including bank/public holidays. Entitlements for full time staff may be calculated in hours or days. Employees whose working day is either greater or fewer than 7.5 hours a day, on any day, will calculate their annual leave and public holiday entitlement in hours. This ensures that this group of employees do not receive either more or less leave than colleagues who work a standard pattern.

On each occasion an employee takes paid time off on a general public holiday as part of their basic week, the appropriate deduction of their normal basic hours per day will be made from their overall entitlement.

- 5.2.7 Employees who wish to take more than 2 weeks leave in any one block must discuss their request with their line manager at least 3 months in advance to ensure that adequate cover is maintained.
- 5.2.8 If any employee falls ill during a period of annual leave, and wishes their annual leave to be recorded as sickness, they must comply with their local sickness absence reporting procedure and produce a medical certificate to cover the period of sickness. In the absence of a doctor's medical certificate the period of absence will continue to be recorded as annual leave. Employees will not be entitled to an additional day off if they are sick on a bank holiday that they would have otherwise have worked as part of their normal pattern of work.
- 5.2.9 For the purposes of new starters to the CCG, leavers from the CCG and any changes in employment, all annual leave will be calculated in accordance with completed months of service. New starters and employee changes will be calculated with effect from the first of the following month.
- 5.2.10 On leaving the organisation any leave taken (including general public holiday entitlement) which is in excess of that which the staff member would have been entitled to (on a pro-rata basis) will be deducted from the final salary payment.
- 5.2.11 Employees who are on sick leave, adoption leave and maternity leave will continue to accrue annual leave in accordance with the relevant policies
- 5.2.12 Pay during annual leave will include regularly paid supplements and payment for work outside normal hours. Pay is calculated on the basis of what the employee would have received had he/she been at work.

5.3 Procedure for Booking Annual Leave

- 5.3.1 Employees must ensure that their line manager has approved all annual leave before they take their leave. If any employee takes a period of annual leave without prior approval then the CCG may consider that the employee has taken unauthorised absence and this may be unpaid.
- 5.3.2 All requests for annual leave should be made on the appropriate annual leave request form.
- 5.3.3 Employees should not commit themselves to any holiday plans until they have received approval from their manager.
- 5.3.4 The employee and line manager should both ensure that they have an up to date copy of the annual leave record.

6. Term Time Staff

- 6.1 Where an agreement has been made that staff will work during term time only, holiday entitlement will be calculated based on the average number of

hours worked per week across the whole year. The calculation is the number of hours worked multiplied by the number of weeks worked then divided by 52.143 (the number of weeks in a year). This gives the average hours worked per week. The annual leave entitlement is then calculated by taking the average hours per week, divided by the full time equivalent for a week and then multiplying by the number of days entitlement.

7. Bank/Public Holidays

- 7.1 The term bank holidays in this policy refer to the 8 bank and public holidays that normally occur each annual leave year.
- 7.2 Full-time employees are entitled to all 8 bank holidays in the leave year. Part-time employees are entitled to bank holidays pro-rata to the full-time allowance. On each occasion an employee takes paid time off on a general public/bank holiday as part of their basic week, the appropriate deduction of their normal basic hours per day will be made from their overall entitlement.
- 7.3 There will be years where more or less than 8 general public/bank holidays fall in the leave year. When this situation arises, the appropriate hours adjustment will need to be made and you should refer to the leave calculator on the intranet. Any further additional bank holidays which occur will be factored into calculations using the same methodology applied to existing bank holidays as and when they are granted.

8. Sickness and Annual Leave

- 8.1 Employees still accrue annual leave whilst on sick leave. Therefore, in the event that an employee has remaining annual leave following a period of sickness, reasonable opportunity should be given to allow the employee to take this leave within the same holiday year.
- 8.2 Where an employee is considered long term sick between the months of January and March and annual leave is still outstanding, with no likely return to work date during this period, employees will be given the opportunity to take their annual leave as opposed to sick leave during this period.
- 8.3 If an employee on sick leave does not have the opportunity to take their annual leave entitlement because of illness, within the current holiday year, they may have the opportunity to carry their statutory holiday entitlement (currently 20 days for full time employees) over to the next holiday year. This will only be agreed in exceptional circumstances by their line manager and any outstanding leave must be taken at the end of the sickness period. Where possible any outstanding holidays should be used as part of any phased return to work plan.
- 8.4 No lieu of bank or public holidays will be given if an employee is off sick on a statutory holiday.

9. Unpaid Leave

- 9.1 Where a member of staff is given unpaid leave of a month or more in any given leave year (apart from unpaid maternity or adoption leave) this will have the effect of reducing the total entitlement for the year. The entitlement will need to be re-calculated and the number of months of unpaid leave deducted from the full year entitlement.

10. Buying Annual Leave

10. 1 The amount of annual leave that can be bought is a maximum of 10 working days / two weeks which is equivalent to the employee's total contracted working hours for a week. Larger proportions exceeding 10 days / two weeks cannot be bought.

Approved applications will exist for the leave year in which the application was made. Approved applications will not continue into the next leave year; therefore, a new application will need made when the leave year ends should the employee wish to continue to buy annual leave. The Buying of Annual Leave procedure is open to both full time and part time employees alike, part time cost or benefit will be as per existing pro rata entitlement in hours. Staff must have successfully completed their probation period to apply to participate in the scheme.

10.2 Buying Annual Principles

- 10.2.1** The buying and selling of annual leave will normally be given consideration prior to the commencement of each leave year. Employees who request to buy extra weeks' holiday (pro rata for part time staff) will have their annual salary reduced appropriately, and this deduction will be spread evenly across each month's salary, i.e. if one extra week is purchased, one week's salary will be recovered over a 12-month period.
- 10.2.2** The first deduction will be taken from the salary paid in April this will then be followed by 11 equal monthly payments spread over the remainder of the annual leave / financial year. As deductions will be taken from the individual's net pay, tax, Insurance and pension contributions will be deducted as if the normal salary has been paid. For further information regarding impact on pension, employees can contact the NHS Pensions Agency Contact Details: 0300 3301 346.
- 10.2.3** Managers will also consider requests for buying leave during the annual leave year, where an employee's circumstances change, finding they need to take additional leave. Employees will need to be reminded and understand that the cost per month of buying additional leave at a later date will be increased due to the time period to pay for the leave being reduced. For example, six larger equal payments over six months instead of 12 smaller equal payments over 12 months as payments will only be made within the leave year that the additional leave is required.
- 10.2.4** Employees can buy extra leave with the approval of their Line Manager after considering the potential impact on service
- 10.2.5** delivery. The additional annual leave will be added to the employee's normal annual leave entitlement and will be authorised in the same way as normal annual leave requests.
- 10.2.6** There is no requirement that this additional annual leave will need to be taken as a block. However, if leave is bought it must be taken within the current leave year there is not an option for this

leave to be sold back to the organisation at a later date.

10.2.7 If an employee who has opted into the buying annual leave terminates their employment part way through the year any remaining payment will be deducted from their final salary payment. Employees leaving the CCG will ensure as far as possible that any outstanding annual leave is taken prior to their termination date.

10.2.8 New employees will usually only be able to purchase annual leave from the new holiday year.

10.2.9 Applications to buy additional leave must be made by the 31st December for the following leave year commencing on 1st April.

10.3 Procedure

10.3.1 Employees should note that, by completing and submitting the application form for additional annual leave, the form will also act as their consent to the applicable salary adjustments if the leave is approved.

10.3.4 It remains the employee's responsibility to ascertain how much the monthly deduction from their salary will be.

10.3.5 Applications must be made on the Buying Annual Leave application form (Appendix A) or the Selling Annual Leave application form (Appendix B).

10.3.6 Both the employee and manager must sign the relevant application form before being submitted to payroll for processing. The correctly completed application form must be

10.3.7 received within payroll by the 2nd working day of the month to guarantee deductions from salary for those buying leave within that same month. Failure to meet this deadline will result in increased monthly payments.

10.3.8 All requests for buying annual leave will be given full consideration by the line manager and a response provided within 10 working days of the application being received by the manager. The presumption is to allow the employee as much flexibility as possible while operating within the needs of the service. The line manager will assess each application on its merits and may reject applications where, for example, the cost of backfill is prohibitive or where there will be a significant impact on service delivery etc.

10.3.9 Where it is not possible to accommodate the request, a written response detailing the reasons why the application has not been successful will be provided by the line manager within ten working days of receipt of the application request from the employee.

10.4 Eligibility

10.4.1 Before an employee can request to buy annual leave, they must;

- Have successfully completed their probationary period with the CCG.
- Have completed statutory and mandatory training must be accurate and up to date.
- No annual leave is carried over from the previous year (i.e. employees can only sell their annual entitlement).

10.5 Recording

10.5.1 A record of all employees entering the scheme will be kept by Senior Corporate services Manager please copy Senior Corporate Services Manager into all emails to payroll regarding buying or selling annual leave.

10.5.2 Managers must also keep a record of all their employees who have bought and sold annual leave and whenever there is a member of their team who has a change in Terms & Conditions or leaves the CCG, then Managers **MUST** state clearly on the change or termination form that the employee is subject to the Buying and Selling Annual Leave procedure.

11. Carry Over of Annual Leave

11.1 Employees will ensure that all annual leave is taken within the leave year and not carried over. If all annual leave is not taken it will be lost

12. Appeals

12.1 The appeals process for Buying Annual Leave will be via the Grievance policy.

13. Equality and Diversity

13.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

14. Monitoring and Review

14.1 The CCG will have responsibility to monitor the effectiveness of this policy and review it every 3 years in conjunction with Human Resources and Trade Union representatives. Where a review is necessary due to legislative change, this will happen immediately. Minor changes may be approved by the Chief Executive.

Annual Leave Entitlement

(refer to the leave calculator on the intranet when there are more or less than 8 bank holidays)

Annual leave entitlements are calculated in hours for all part-time employees, rounded up to the nearest full hour, including bank/public holidays. Entitlements for full time staff may be calculated in hours (see table below), or days (see top row of the table below). Employees whose working day is either greater or fewer than 7.5 hours a day, on any day, will calculate their annual leave and public holiday entitlement in hours.

Weekly Contracted Hours	On appointment 27 + 8 = 35 days	After 5 years service 29 + 8 = 37 days	After 10 years service 33 + 8 = 41 days
37.5	263	278	308
37	259	274	304
36.5	256	270	299
36	252	267	295
35.5	249	263	291
35	245	259	287
34.5	242	255	283
34	238	252	279
33.5	235	248	275
33	231	244	271
32.5	228	241	267
32	224	237	263
31.5	221	233	258
31	217	230	254
30.5	214	226	250
30	210	222	246
29.5	207	218	242
29	203	215	238
28.5	200	211	234
28	196	207	230
27.5	193	204	226
27	189	200	222
26.5	186	196	217
26	182	193	213
25.5	179	189	209
25	175	185	205
24.5	172	181	201
24	168	178	197
23.5	165	174	193
23	161	170	189
22.5	158	167	185
22	154	163	181
21.5	151	159	176
21	147	156	172
20.5	144	152	168
20	140	148	164

Weekly Contracted Hours	On appointment 27 + 8 = 35 days	After 5 years service 29 + 8 = 37 days	After 10 years service 33 + 8 = 41 days
19.5	137	144	160
19	133	141	156
18.5	130	137	152
18	126	133	148
17.5	123	130	144
17	119	126	140
16.5	116	122	135
16	112	119	131
15.5	109	115	127
15	105	111	123
14.5	102	107	119
14	98	104	115
13.5	95	100	111
13	91	96	107
12.5	88	93	103
12	84	89	99
11.5	81	85	94
11	77	82	90
10.5	74	78	86
10	70	74	82
9.5	67	70	78
9	63	67	74
8.5	60	63	79
8	56	59	66
7.5	53	56	62
7	49	52	58
6.5	46	48	53
6	42	45	49
5.5	39	41	45
5	35	37	41
4.5	32	33	37
4	28	30	33
3.5	25	26	29
3	21	22	25
2.5	18	19	21
2	14	15	17
1.5	11	11	12
1	7	8	8

Example Annual Leave Calculations

The following examples are provided for illustrative purposes based on the Annual Leave Entitlement table (**see Appendix 1**).

Example One

Employee A works 20 hours per week and is a new starter to the CCG. They have no previous NHS Service. Their annual leave entitlement (inclusive of bank holidays) is 140 hours per year.

Where a bank holiday falls on Employee A's normal working day then they must deduct the hours that they would have normally worked on that day (as if it had not been a bank holiday) from their annual leave entitlement.

Example Two

Employee B works full time and has 5 years NHS Service. Their annual leave entitlement (inclusive of bank holidays) is 278 hours (29 days + 8 days) per year. They must deduct 7.5 hours/1 day from their annual leave entitlement for each of the 8 bank holidays in the leave year if their entitlement has been calculated to include public/bank holidays rather than their leave card showing only annual leave and the public/bank holidays are taken as they arise.

Example Three

Employee C works 30 hours per week and has 10 years NHS Service. They join the CCG on 1st June. Their annual leave entitlement for the remainder of the leave year (inclusive of bank holidays) is:

$$246 / 12 \times 10 = 205 \text{ hours.}$$

Where a bank holiday falls on Employee C's normal working day then they must deduct the hours that they would have normally worked on that day (as if it had not been a bank holiday) from their annual leave entitlement.

- 4.1. Employees who wish to request flexible working should complete the Flexible Working Request Form (Appendix A), detailing the flexibility required and the impact upon the service.
- 4.2. The employee's line manager will respond and arrange to meet with the employee no later than 28 days after the request was received.
- 4.3. At this meeting the individual will have the opportunity to explain the reasons for the request and what flexibility they require. The employee may be accompanied at this meeting if they wish by a colleague or Trade Union rep.

4.4. The content of the meeting should also include a discussion about the contractual issues, hours, minimum unpaid breaks in line with EWTD regulations, health and safety issues, training requirements, changes to annual leave entitlement and any other terms and conditions affected following the proposed change.

4.5. Advice may be sought from HR department or payroll.

5. CONSIDERATION AND DECISION

5.1. Following the meeting, the line manager will write to the employee within 14 days to inform them of the outcome to the request and the reason for this decision.

5.2. If the request is granted, this should also include any special requirements upon the employee, for example, attendance at work outside the revised hours to attend training sessions/meeting etc.

5.3. If the request is denied the reason for the denial should be given using the list in Section 9.

5.4. The employee has the statutory right to re-apply after 12 months.

5.5. The Flexible Working Request Form and any related paperwork should all be retained on the employee's personal file, and any changes notified to payroll.

6. TRIAL PERIODS

6.1. In some circumstances the manager and/or employee may have reservations about the potential success of a new arrangement. In these circumstances, the manager may agree to a trial period of up to 3 months to assess the impact of the arrangement.

6.2. There should be a midway review to discuss the impact and consider any further adjustments, or the continuation/ending of the arrangement.

7. REASON FOR DECLINING A REQUEST

7.1. Any refusal to a request must be explained to the applicant and must be based on one or more of the following reasons:

- The cost burden to the CCG
- There will be a detrimental effect on the ability of the CCG to meet its service needs
- An inability to reorganise work amongst existing staff
- An inability to recruit additional staff
- A detrimental impact on quality or performance
- Insufficient work at the times requested to work
- Planned structural changes
- A detrimental impact on other staff

8. APPEALS PROCEDURE

An employee who has had their request refused by their line manager can appeal using the CCG Grievance procedure.

APPENDIX A - FLEXIBLE WORKING REQUEST FORM

1. Personal Details

Name: Directorate/Department.....

Manager:

2. To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided in law

- I have not made a request to work flexibly under this right during the past 12 months.

3 a. Describe your current working pattern (days/hours/times worked):

b. Describe the working pattern you would like to work in future (days/hours/times worked): (you may continue on a separate sheet if necessary)

c. I would like this working pattern to commence from:

Date:.....

4. Impact of the new working pattern

I think this change in my working pattern will affect my employer and colleague as follows:

5. Accommodating the new working pattern

I think the effect on my employer and colleagues can be dealt with as follows:

Name:..... Date:.....

NOW PASS THIS APPLICATION TO YOUR MANAGER

Manager's Confirmation of Receipt (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on: Date:.....

I shall be arranging a meeting to discuss your application within 28 days following this date. You have the right to be accompanied at the meeting by a colleague or Trade Union Rep

Signed:

Manager's Acceptance or Rejection (to be completed and returned to the employee)

Dear:

Thank you for meeting with me on.....to discuss your flexible working request.

Either

I confirm that I am able to agree to change the change to your working pattern from.....

I confirm that I am un able to agree to change the change to your working pattern due to

.....

You have the right of appeal against this decision if you are dissatisfied through the CCG Grievance Policy.

Signed