

EMPLOYMENT MATTERS COMMITTEE

19 NOVEMBER 2014

REVIEW OF ANNUAL LEAVE POLICY AND GUIDELINES

Report from: Tricia Palmer, Assistant Director, Organisational Services

Author: Carrie McKenzie, Head of HR and Organisational Change

Summary

The report seeks agreement to the revised Annual Leave Policy and Guidelines.

1. Budget and Policy Framework

1.1 The Policy lies within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

2. Background

2.1 The Annual Leave Policy and Guidelines was last considered at the Employment Matters Committee in June 2012 and the policy has been reviewed following the implementation of Medpay in April 2014.

2.2 The Policy has been revised to incorporate changes introduced via Medpay and provides further guidance on the Council's expectations on the requesting and approval processes involving the use of Selfserve4you. The revised policy is attached at Appendix 1.

3. Advice and analysis

3.1 The policy will apply to all employees of Medway Council engaged under Medpay terms and conditions of employment (employees employed under other arrangements i.e. Soulbury terms, will continue to follow their existing terms.

3.2 This policy does not apply to schools based staff. This is because schools do not have to adopt the Council's policies. This policy will be recommended to schools for adoption.

3.3 The purpose of this policy is:

- to ensure a uniform and equitable approach to the calculation of annual leave entitlement under a number of scenarios
- to provide clarity and guidance on the annual leave request and approval process
- to provide guidance to the Council's approach where annual leave is disrupted through sickness

4. Risk Management

- 4.1 It is important that all staff are made aware of this policy and their responsibilities within it.
- 4.2 Failing to implement the policy in a fair and consistent manner may result in successful legal challenges.
- 4.3 Failing to adhere to the policy could expose the Council to a breach of the Working Time Directive.
- 4.4 It is therefore necessary for the new policy, included at Appendix 1 to the report, to be promoted throughout the council.

5. Diversity Impact Assessment (DIA)

- 5.1 A Diversity Impact screening has been undertaken and it is considered that a full DIA is not required. This is included at Appendix 2 to the report. This also includes details of consultation undertaken with the trade unions.

6. Financial and legal implications

- 6.1 It is not envisaged that there will be any additional financial implications with the implementation of this policy.
- 6.2 Implementation of this policy enables the Council to comply with its various statutory obligations. Implementation of the policy is within the council's powers. In the application of this policy it is essential that a fair and consistent approach is to be applied to all staff in order to minimise successful legal challenges. The council must ensure that in the application of the policy due regard must be given to all relevant legislation and in particular the Equality Act 2010 and The Employment Rights Act 1996.

7. Recommendations

- 7.1 That the Employment Matters Committee approves the revised Annual Leave Policy and Guidelines as set out in Appendix 1 to the report.
- 7.2 That this policy is reviewed in two years time and any proposed changes are referred to this Committee.

Lead officer contact

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Background papers

None

Medway Council

Annual Leave Policy and Guidelines

Issue Date: November 2014
Review Date: November 2016

Lead Officer: Carrie Mckenzie, Head of HR and Organisational Change



Medway Council Annual Leave

1. Aim of the Policy

The aim of this policy is to ensure a uniform and equitable approach to the calculation of annual leave entitlements, and arrangements for the request and approval of annual leave requests.

2. Scope

This policy covers all Medway employees engaged under Medpay arrangements including those employed under part-time and fixed term contract arrangements.

Employees engaged under other terms and conditions of employment or schools based staff will continue to follow their current arrangements.

3. Annual leave entitlement

3.1 The annual leave period runs from 1 April to 31 March (unless otherwise agreed locally). The following table sets out the current annual leave provisions:

Range	Annual Leave Entitlement in Days (and hours)	
	Before 5 years service	After 5 years continuous service
1	23 (170.20)	27 (199.80)
2	24 (177.60)	28 (207.20)
3	25 (185.00)	29 (214.60)
4-7	27 (199.80)	30 (222.00)
NQSW – SW4	27 (199.80)	30 (222.00)

3.2 In addition to statutory and public holidays, two extra-statutory days are included as part of the annual leave entitlements shown above.

3.3 Employees engaged on part-time or fixed-term arrangements will receive a pro-rata entitlement, including statutory and public holidays

3.4 Employees are entitled to an ex-gratia day to be taken at Christmas as per the table below:

When Christmas Day falls on :	Establishments (subject to service requirements) will be closed on:
Sunday, Monday, Tuesday	Monday, Tuesday and Wednesday
Wednesday, Thursday	Wednesday, Thursday and Friday
Friday	Thursday, Friday and Monday
Saturday	Friday, Monday and Tuesday

4. New Entrants

- 4.1 New entrants shall receive an annual leave entitlement proportionate to their date of commencement of service. ~~completed service during the leave year of entry.~~
- 4.2 If a new employee to the council wants to take more than their pro-rata entitlement within that leave year (i.e. if they had a pre-booked holiday that is being honoured) then any days above their entitlement must be taken as unpaid leave.

5. Continuous service and annual leave entitlement

- 5.1 Continuous service for the purposes of calculating entitlement to annual leave will include previous continuous service with any public authority to which the Redundancy Payments Modification Order 1983 applies. An employee who returns to Medway Council employment following a break for maternity reasons will be entitled to have previous service taken into account provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.
- 5.2 Employees initially employed on a temporary contract which becomes substantive with no break in service, shall have the period of their temporary contract taken into account when calculating annual leave entitlement.

~~6. Extra-Statutory Days~~

~~In addition to statutory and general national holidays, employees are entitled to two extra-statutory days to be taken as part of the annual leave entitlement. The figures above indicate the annual leave entitlement inclusive of the two extra-statutory days.~~

6. Five years continuous service

If five years continuous service is completed part way through a year, employees will receive the additional entitlement pro-rata from the date of reaching five years service.

7. Break in Service

A break in service which does not exceed six weeks may be ignored for the purposes of entitlement to additional leave.

8. Long-term Sickness absence and Statutory annual leave

- 8.1 Paid statutory holiday entitlement accrues during sickness absence regardless of how long an employee is off sick. Employees are therefore able to take paid statutory annual leave while on sick leave if they wish to do so. This will normally affect those on long term sickness absence as they may be unable to take their leave at another time during the leave year. Arrangements have been put in place to deal with such cases and are detailed in **Section 16**.
- 8.2. Employees engaged on Term Time Only contracts will continue to receive their statutory leave entitlement paid into their monthly salary throughout their period of sick leave.
- 8.3 Note: a payment in lieu of statutory annual leave is not permitted unless the employment is terminated.

9. Requests for and Approval of leave

- 9.1 Leave may only be taken with the prior approval of the line manager using Selfserve 4you (or other locally agreed system where Selfserve4you cannot be readily accessed). When considering the request, the manager will have due regard for service needs, work demands and other agreed leave requests.
- 9.2 Holiday hours are credited for Bank Holidays, Statutory and Ex-Gratia days in the annual leave entitlement on Selfserve4you, and the employee will need to book these hours as leave when they fall on their normal working day

10. Short notice annual leave days

Employees can take either a day or half day off work classed as “short notice annual leave”. This allows employees to take time off work as part of their annual leave entitlement without advance written notice. Line managers will determine the number of short notice leave days an employee can take during the leave year and will advise staff in advance.

11. Notification of short notice annual leave days

- 11.1 An employee who decides to take short notice annual leave must ask their line manager either the day before the intended day off or first thing on the morning of the day itself that they would like to take leave (in this case, as appropriate, contact should be made by telephone). ~~Such notification should be given no later than the set time prescribed by the line manager.~~
- 11.2 Employees are not required to state the reason for wanting to take short notice annual leave.
- ~~4.3 Employees are not entitled to any additional days of holiday as a result of this policy.~~
- 11.3 The employee will record the leave as soon as possible on Selfserve4you and the manager will authorise.

~~4.5.0 Eligibility~~

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~~4.5.1 All employees, including part-time employees, are entitled to benefit from this policy except where line managers believe the operation of the scheme will have a seriously adverse effect on service delivery.~~

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~~4.5.2 Part-time employees' entitlement to short notice annual leave days will be pro-rata'd according to the number of hours per week that they work.~~

12. Other conditions attached to short notice annual leave days

12.1 There may be some specified times when short notice annual leave days are not permitted and employees will be advised of these by their line manager.

12.2 The granting of short notice annual leave days is a benefit granted to employees and where the scheme is in operation, the council expects employees to exercise reasonable common sense and discretion as to when they choose to take short notice annual leave days. It is the responsibility of employees to ensure that their choices of short notice annual leave days do not prejudice their work, or inconvenience their colleagues. It is not therefore permitted for an employee to elect to take a short notice annual leave day if, for instance on that day, he or she is scheduled to attend a meeting or complete an important piece of work and in this situation it is likely that the request will be denied unless there are exceptional circumstances.

~~13. Calculating Annual Leave Entitlement~~

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~~5.0.1 Recording your absence and submitting a request for Authorisation~~

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~~5.0.2 All annual leave and flexi-time / time off in lieu should be booked and approved through this system. Guidance notes are available for staff and managers within the leave management area of self-serve 4 you.~~

~~5.1.0 Full-time employees~~

13. Annual Leave and Termination of Employment

13.1 Full-Time Employees who leave during the annual leave year will have their annual leave entitlement pro-rata to the number of complete days of service during that year.

13.2 If an employee who is leaving has taken more than their pro-rata entitlement during that leave year, then any balance must be deducted from their final salary payment. Managers should notify the Personnel/Payroll Operations Team on [Form PMC002 \(2000\)](#) of the number of days (hours) to be reclaimed.

14. Payment in lieu of Annual Leave on Termination of Employment

14.1 Payment in lieu shall only be made in respect of any entitlement to statutory leave not taken by the date of termination of employment. The statutory entitlement to paid annual leave is 28 days per year, inclusive of Public Holidays and ex-gratia days.

- 14.2 In normal circumstances, it would be expected that all outstanding leave should be taken during the notice period. However, in exceptional circumstances e.g. where the requirements of the service mean that the full leave entitlement cannot be taken in accordance with the provisions of this scheme, payment in lieu greater than the untaken statutory leave entitlement may be authorised by the appropriate Director.

15. — Employees

~~Part-time employees shall be entitled to annual leave, calculated on a pro rata basis according to the hours worked.~~

15. Carry Forward

- 15.1 In normal circumstances all annual leave should be taken in the leave year that it is due. However, the Council will permit an employee to (subject to line management approval) a carry forward up to three days. ~~which must be taken before 31 May in the following leave year after which any remaining carry forward will be lost.~~, if agreed by the line manager. Carry forward for Part-Time and Fixed-Term contract employees will be on a pro rata basis according to their contractual hours and/or term of contract of employment. Where employees have been unable to take their full entitlement during the leave year because of specific service requirements and the line manager confirms this, the Deputy/Assistant Director may approve up to a total of five days annual leave to be carried forward. In both circumstances, this carry-over leave must be taken within two months into the following leave year after which this leave will be lost.
- 15.2 In specific circumstances and subject to service requirements, the Director may approve requests from employees to carry forward annual leave in excess of five days, for example, for employees who wish to take extended leave to visit relatives abroad.
- ### **16. Sickness absence and statutory annual leave carry forward**
- 16.1 Different carry over arrangements exist where an employee has been off sick and has not been able to take their full statutory annual leave entitlement.
- 16.2 Where an employee is on long term sick they may take annual leave during their period of sickness if they wish to do so and get paid for it. Any entitlement to contractual or statutory sick pay will cease during the period of annual leave and, as in line with the employees individual entitlement will recommence at the end of the period of annual leave. Annual Leave must be requested and authorised using Selfserve4you. Any outstanding statutory annual leave entitlement will be carried over to the next annual leave year.
- 16.3 The Director has the discretion to apply different provisions where it is considered necessary following advice from HR Services.
- 16.4 Line managers and employees should contact hradvice@medway.gov.uk if in any doubt.

17. Payment In lieu of Annual Leave at the end of the Leave Year.

Payment in lieu shall not be made in respect of any leave not taken at the end of a leave year, other than in exceptional circumstances as authorised by the appropriate Director, e.g. where the requirements of the service mean that the full leave entitlement cannot be taken in accordance with the provisions of this scheme and that carry forward arrangements are not appropriate in the specific circumstance.

18. Sickness while on annual leave

18.1 ~~If an employee falls sick during a period of annual leave, sick leave will apply from the date of the medical statement (any costs to be met by the employee) and annual leave suspended from that date. For those on long term sick provisions for taking statutory annual leave apply as detailed in para. 6.3.~~ the employee should notify their line manager as soon as is reasonably practicable and follow the sickness reporting procedure as detailed in Appendix 1 of The Managing Sickness Absence Policy. However in this specific circumstance, the employee MUST provide a Fit Note (or medical statement) to cover the period of sickness absence.

18.2 Subject to satisfying the requirements at 18.1 the annual leave will cease from the first day of recorded absence. The employee is required to request the cancellation of the relevant period of annual leave on Selfserve4you and must be approved by the line manager.

19. Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Failure to maintain accurate records may lead to a breach of the Working Time Regulations. Failure to use Selfserve4you as the single point for requesting and approving annual leave may result in a loss of control of the overall annual leave position.	All employees are required to have taken a minimum amount of annual leave to comply with the Working Time Regulations.	Provide clear guidance on the requesting and approval arrangements using a single system (Selfserve4you) to record annual leave	E4

TITLE <i>Name/description of the issue being assessed</i>	The Annual Leave Policy and Guidelines
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DATE <i>Date the DIA is completed</i>	29 October 2014
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LEAD OFFICER <i>Name of person responsible for carrying out the DIA.</i>	Carrie Mckenzie Head of HR and Organisational Change
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- 1 Summary description of the proposed change**
- *What is the change to policy/service/new project that is being proposed?*
 - *How does it compare with the current situation?*

The Annual Leave Policy and Guidelines document has been revised to incorporate changes to Annual Leave entitlements following the introduction of the Medpay arrangements in April 2014.

Further, it re-enforces the Selfserve4you automated annual leave request and approval arrangements and it has been refreshed to align with current guidelines to best practice.

- 2 Summary of evidence used to support this assessment**
- *Eg: Feedback from consultation, performance information, service user records etc.*
 - *Eg: Comparison of service user profile with Medway Community Profile*

The primary driver for the review was to align the policy and guidelines to the new Medpay arrangements introduced in April 2014. There was significant levels of consultation and communication with staff prior to the Medpay implementation and there has been six months post implementation experience to assess any negative impact.

Consultation was invited from the Trade Unions and Staff Forum's between the period 22 September 2014 to 27 October 2014, comments were received from Unison and have been incorporated into the

document, primarily at Section 8.2

3 What is the likely impact of the proposed change?

Is it likely to :

- *Adversely impact on one or more of the protected characteristic groups?*
- *Advance equality of opportunity for one or more of the protected characteristic groups?*
- *Foster good relations between people who share a protected characteristic and those who don't?*

(insert ✓ in one or more boxes)

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age			X
Disability			X
Gender reassignment			X
Marriage/civil partnership			X
Pregnancy/maternity			X
Race			X
Religion/belief			X
Sex			X
Sexual orientation			X
Other (eg low income groups)			X

4 Summary of the likely impacts

- *Who will be affected?*
- *How will they be affected?*

The policy covers all Medway employees engaged under Medpay arrangements, there is no impact.

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- *Are there alternative providers?*
- *What alternative ways can the Council provide the service?*
- *Can demand for services be managed differently?*

Not applicable

6 Action plan

- *Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence*

Action	Lead	Deadline or review date
Not applicable		

7 Recommendation

The recommendation by the lead officer should be stated below.

This may be:

- *to proceed with the change implementing action plan if appropriate*
- *consider alternatives*
- *gather further evidence*

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why.

Not applicable

8 Authorisation

The authorising officer is consenting that:

- *the recommendation can be implemented*
- *sufficient evidence has been obtained and appropriate mitigation is planned*
- *the Action Plan will be incorporated into service plan and monitored*

**Assistant
Director**

Date

Contact your Performance and Intelligence hub for advice on completing this assessment

RCC: phone 2443 email: annamarie.lawrence@medway.gov.uk

C&A: phone 1031 email: paul.clarke@medway.gov.uk

BSD: phone 2472 or 1490 email: corppi@medway.gov.uk

PH: phone 2636 email: david.whiting@medway.gov.uk

Send completed assessment to the Corporate Performance & Intelligence Hub (CPI) for web publication