

Appendix One – Cosla Guidance

Guidance on the Treatment of Annual Leave during COVID-19

The following key principles around the use of Annual leave during COVID 19 have been discussed and agreed at national level to ensure a fair balance between:

- Employee choice around when to take their leave entitlement
- Employee Wellbeing
- Management requirements and the need for service delivery both during and after the COVID pandemic

Key Principles

- Personal circumstances will need to be taken into account in discussions with individuals about their annual leave. A blanket approach – in either cancelling all leave or forcing employees to use up their leave during the crisis - is unlikely to assist the organisation or retain the motivation of the workforce.
- Employees and managers should, as usual, discuss and agree what leave can be taken during this period taking into account service delivery requirements and the need for employees to be able to rest and recharge.
- Unless there are any extenuating circumstances it would be good practice to honour any leave which was approved before Covid-19.
- New leave requests should to be considered and approved, wherever possible, by line managers. It is important to ensure that employees are not working for protracted periods without a break.
- There is an expectation that employees will continue to take some annual leave.
- If due to the current situation employees wish to cancel or amend annual leave this should be discussed and agreed with line management.
- When the normal delivery of services resume, annual leave requests will need to be managed in line with our operational requirements, the conditions of service and the Government's extension to the leave carry-over period.
- In addition to statutory leave councils may also consider allowing carry over contractual leave, and particularly so where the employee has been unable to take the leave because of work related to recovering from or responding to the COVID-19 pandemic.
- Given the fluid circumstances to the Covid-19 situation, these arrangements will be kept under regular review.

The detail below outlines how these principles will be applied:

Staff Health & Wellbeing

As part of the employer's duty of care and the health and safety commitment to employees, it is important to understand that regardless of what role is undertaken, everyone needs to take a break. This is key to ensuring good health and wellbeing of all staff.

The proportionate use of annual leave across the calendar year can be a health and safety and wellbeing concern. This is even more relevant at the current time when employees are facing this unprecedented crisis. The fact that a planned trip away cannot be undertaken does not mean that annual leave cannot be taken but it may mean that employees will not be able to enjoy their leave to its fullest given the lock-down restrictions. It will be good practice to encourage employees to adhere to their conditions of service and use a proportionate amount of leave entitlement during this period where this is possible.

Taking annual leave from the workplace is the best way to do this in these unprecedented times. This is particularly important if employees are experiencing stress, work related or otherwise, due to the current crisis.

It is important now more than ever that personal circumstances are taken into account in discussing an employee's annual leave with them.

No employee should be forced to take annual leave that was booked prior to the crisis just because it is in the diary. If a planned trip can no longer be taken it is not unreasonable for an individual to wish to change their arrangements to make the most of their leave when they can.

Managers need to be flexible in responding to requests to change leave to accommodate changed individual circumstances and service needs.

Employers will need to understand individual circumstances and how best to offer support – for some that will be a break from work, for others taking leave might exacerbate feelings of isolation and may not be the best outcome for that individual. Attention needs to be paid to employees mental, as well as physical, health needs.

Key Workers

It is recognised that some key workers may need to cancel leave to assist with the crises but managers should try to avoid enforcing the cancellation of leave wherever possible – those workers still need to take a break to remain fresh and effective. It may be that two weeks off may not be possible at the current time but discuss how employees can reasonably take a break taking into account service demands and make sure they are able to schedule longer periods of leave later in the year.

Workers who are off sick

Remember that those who are off sick continue to accrue leave whilst they are absent from the workplace. The current crisis has not changed that.

Workers who are shielding, have underlying health issues or caring responsibilities

An employee who is not doing essential work and who can't work from home or are shielding, have childcare or other caring responsibilities or are in a higher risk category, should be encouraged to schedule a reasonable period of annual leave and their manager should discuss and agree this with them.

It is important that all staff in this category understand and observe this guidance for their own health and wellbeing and avoid accruing too much leave for the second half of the

leave year. Councils should ensure they treat all categories of employee in a fair and equal manner when considering annual leave arrangements. It is unlikely that they will be able to enjoy a full period of relaxation and leisure in the current circumstances.

As a rough guide the amount of leave accrued per month (depending on length of service) could be used, but as above there may be circumstances where it would be appropriate for an employee to use less (or more) annual leave during the period of special leave and individual circumstances should be discussed between manager and employee. Agreement on what a reasonable period of leave in the individual circumstances should be agreed which balances the wellbeing of the employee and the needs of the service in line with the above stated principles.

Term-time

Care will have to be applied in calculating the leave entitlements for any term time workers who are working out-with and in addition to their normal term-time contracts. Getting this wrong could lead to legal implications.

Records should be kept by managers and submitted to the Pensions and payroll team where this occurs to ensure that appropriate recalculations can be made.

Leave Carry-over

The Government has relaxed the rules around carry-over of statutory leave in response to Covid-19 easing the requirements on business to ensure that workers take the statutory amount of annual leave in any one year and allowing up to 4 weeks of unused leave to be carried into the next 2 leave years. <https://www.gov.uk/government/news/rules-on-carrying-over-annual-leave-to-be-relaxed-to-support-key-industries-during-covid-19>

Many employees will currently not be in roles where the demands of the job will prevent them from taking their planned annual leave. It is therefore anticipated that there will not be a need for many staff to arrange to carry forward their annual leave unless operational requirements prevent them from doing so.

Council employees total annual leave entitlement will be dependent on their length of service (pro rata for part time employees). Annual leave is made up of Statutory and Contractual leave. In the event that an employee is unable to take all of their leave during this leave year ALL employees will be entitled to carry forward up to 28 days leave (the statutory element of their leave) to be used before December 2022.

Employees will not normally be allowed to carry forward a balance of more than 28 days which means their contractual leave (the remaining balance) should be used during the leave year in agreement with their line manager.

In exceptional circumstances where an employee has been asked by their line manager not to take a period of leave due to service requirements linked to COVID 19 then a balance of more than 28 days may be approved and carried forward.

Table One: Leave Explanation

Years' Service	Total Days leave Entitlement	Statutory element (can be carried forward for use by December 2022)	Contractual Element (to be taken during current leave year)
Up to 5 Years	32	28	4
5-10 Years	37	28	9
10 years and over	40	28	12

There is no requirement for employees to carry forward leave. Employees are encouraged to use their leave where appropriate during the year to allow downtime and maintain their wellbeing. Employees are entitled should they wish, to use their full leave entitlement during the current leave year. This table outlines the maximum that can be carried forward where employees have been prevented due to covid from taking their leave.