

PA02 - Annual Holiday Policy and Procedure

Category: Human Resources Sub-category: Absence, Holidays and Sickness







Policy Review Sheet

Review Date: 06/10/17 Policy Last Amended: 06/10/17

Next planned review in 12 months, or sooner as required.

Note: The full policy change history is available in your online management system.

Business Impact:	Low	Medium	High	Critical
		X		
Changes are important, but urgent implementation is not required, incorporate into your existing workflow.				

 Reason for this review:	Scheduled review
 Were changes made?	Yes
 Summary:	Updates to existing policy to take account of resources now contained within the Resource Centre and to slim down the policy to remove management guidance.
 Relevant Legislation:	<ul style="list-style-type: none"> • Employment Rights Act 1996 • Working Time Regulations 1998
 Underpinning Knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> • Legislation, (1996), <i>Employment Rights Act 1996</i>. [Online] Available from: http://www.legislation.gov.uk/ukpga/1996/18/contents [Accessed: 07/10/2016] • Legislation, (1998), <i>Working Time Regulations 1998</i>. [Online] Available from: http://www.legislation.gov.uk/uksi/1998/1833/contents/made [Accessed: 07/10/2016]
 Suggested action:	<ul style="list-style-type: none"> • Notify all staff of changes to policy • Share Key Facts with professionals involved in the service • Confirm relevant staff understand the content of the policy

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? 1. Purpose

1.1 To ensure that GS Social Care Solutions Ltd makes employees and workers aware of their entitlement to a minimum of 5.6 weeks pro-rata holiday under the Working Time Regulations 1998 (WTR) and the Employment Rights Act 1996 (ERA).

1.2 To support GS Social Care Solutions Ltd in meeting the following Key Lines of Enquiry:

Key Question	Key Line of Enquiry (KLOE)
SAFE	S3: How does the service make sure that there are sufficient numbers of suitable staff to support people to stay safe and meet their needs?
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.3 To meet the legal requirements of the regulated activities that GS Social Care Solutions Ltd is registered to provide:

- Employment Rights Act 1996
- Working Time Regulations 1998

2. Scope

2.1 The following roles may be affected by this policy:

- All staff

3. Objectives

3.1 That all employees and workers are aware of their entitlement to receive 5.6 weeks annual leave pro rata under the WTR.

3.2 That all employees and workers are aware of their entitlement to receive pay for holidays taken under the WTR and ERA.

3.3 That GS Social Care Solutions Ltd always meets its obligations under the WTR and ERA.

3.4 That GS Social Care Solutions Ltd ensures that there are sufficient numbers of staff to cover any periods where others may be on annual leave.

4. Policy

4.1 GS Social Care Solutions Ltd will comply with the WTR and the ERA and any subsequent amendments which may come into force and which govern annual leave entitlements.

4.2 GS Social Care Solutions Ltd will always meet its obligations to provide at least statutory minimum annual leave to all employees and workers who are entitled to it.

4.3 It is GS Social Care Solutions Ltd's policy that employees and workers should be given paid holiday every year, and that this holiday is taken.

4.4 Employees and workers should have the opportunity to take the holiday to which they are entitled. Managers are responsible for ensuring that the workload does not prevent this whilst also ensuring that the needs of GS Social Care Solutions Ltd are taken into account.

4.5 This policy does not form part of any employee's contract of employment and GS Social Care Solutions Ltd may vary or amend it at any time.

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5. Procedure

5.1 Entitlement

- Unless otherwise stated in your employment contract, you are entitled to 5.6 weeks' annual holiday per year (or the pro-rata equivalent if you work on a part-time basis)
- One "week" is defined as the average working week of the twelve weeks prior to the holiday. This may be calculated in days or hours depending on whether or not your working hours vary each week
- If your employment starts or finishes part way through the holiday year, your holiday entitlement during that year shall be calculated on a pro-rata basis

5.2 Accrual

- In your first year of employment, and for leave purposes only, you accrue leave entitlement at one-twelfth of your annual entitlement for each calendar month in which you work. Accrued entitlement for leave purposes is rounded to the nearest half-day. No service with any other employer counts when calculating your accrued entitlement
- Holidays may not usually be taken in advance of being accrued. If you wish to exceed this limit you must make your request to management at least 3 months in advance. If the holiday is approved, you are reminded that, if you leave employment with the organisation having taken holidays in excess of your accrued pay entitlement, the excess will be reclaimed and deducted from your wages. In the event that the excess owed by you exceeds the wages owed, you must refund the difference to the organisation personally
- For the purposes of holiday pay due (or to be repaid) on termination, the accrued holiday is calculated pro-rata to the actual days on which you were employed in the holiday year, irrespective of whether this is your first year of employment or not. For pay purposes, there is no half-day rounding

5.3 New Employees

- Every effort will be made to meet the needs of new employees in respect of commitments to holidays already made. If you are a new employee, you should inform GS Social Care Solutions Ltd of any holiday plans at the earliest opportunity. Where the booked holiday exceeds your annual holiday entitlement, consideration will be given to granting unpaid holiday up to a maximum of 2 weeks

5.4 Holiday Rules

- The following rules apply to all holidays:
 - There are no rules regarding people booking holidays / annual leave over the Christmas and New Year Period, we operate an on-call service 24/7.
 - Your annual entitlement includes the usual 8 Public Holidays. Although GS Social Care Solutions Ltd usually observes the usual 8 Public Holidays, GS Social Care Solutions Ltd reserves the right to require you to work on a Public Holiday. If you are required to work on a Public Holiday, you will be paid at the normal daily rate and a day in lieu will be granted to take account of the public holiday worked
 - Employees who do not regularly work on the weekday on which a Public Holiday falls, are not entitled to pay for the day in question. However, their holiday entitlement will be adjusted to ensure that they receive a pro-rata equivalent to full time employees
 - For the avoidance of doubt, the first four weeks of the leave you take in any holiday year shall be deemed to be the leave derived from Regulation 13 of the WTR and the remainder shall be deemed to be derived from Regulation 13A of the WTR
 - Where there are conflicting holiday requests, priority will normally be given to the employee whose request was received first. Management may exercise some discretion to ensure equitable treatment
 - No more than 2 weeks of annual holiday may normally be taken at one time. If you wish to exceed this limit you must make your request to management at least 3 months in advance
 - No more than 2 weeks holiday may be taken during the two quarters from April to September, and one each on the following two quarters. If you wish to exceed this limit you must make your request to management at least 3 months in advance
 - If you take annual holiday not previously approved, you will be deemed to be absent without authorisation and you may be subject to disciplinary action, which could include dismissal
 - GS Social Care Solutions Ltd may require you to take (or not to take) holiday on particular dates, including when the Business is closed, particularly busy, or during your notice period; such days to be notified to you in a reasonable time ahead of the required dates

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- If you are ill or injured whilst on holiday, to the extent that you would be unable to come to work (when you are meant to be at work) then you may choose to treat the period of incapacity as sick leave and reclaim the affected days of holiday. In these circumstances, you must comply with GS Social Care Solutions Ltd's sickness absence reporting requirements as if you were at work. If you are already on sick leave before a pre-arranged period of holiday, you may choose to cancel any days of holiday that coincide with the period of incapacity and treat them as sick leave. You will be entitled to any SSP (not holiday pay) in relation to any such days of sickness. Any dishonest claims or other abuse of these rules will be treated as misconduct under GS Social Care Solutions Ltd's Discipline Policy and Procedure

5.5 Obtaining Approval

- All annual holiday requests must receive management approval before being taken. When you wish to take part of your annual holiday entitlement you should follow the procedure set out below:
 - All requests for annual holiday should be made in writing on the appropriate form (Holiday Request Form), at the earliest reasonable opportunity and generally no later than 4 weeks before the required start date. They should be passed to the Manager
 - The Manager will consider the application, having regard to the needs of the organisation and the rules on annual holiday set out below. Where necessary, the Person Registered will be consulted before a final decision is made
 - A copy of the form marked "approved" or "not approved", with brief reasons for refusal where applicable, should be signed by the Manager and returned to you. Only on receipt of this form, duly approved, should you commit yourself to any holiday plans. If you pay a deposit for the holiday before the dates are approved, then the organisation is not responsible for any losses you may incur if the dates are refused
 - In the event you dispute the decision of management, the organisation's Grievances Policy and Procedure should be used. Once approval for annual holiday has been given it will not normally be withdrawn

5.6 Carrying Holiday Over

- The organisation's holiday year runs for the period: 1st January to 31st December
- Your full annual holiday entitlement for the year must be taken during the holiday year in which it accrues. No payment in lieu will be made for any untaken holiday, nor will you be allowed to carry it over to the next year in normal circumstances
- Untaken holiday entitlement can only be carried over into another holiday year as follows:
 - In cases involving long-term sickness absence (see below)
 - In cases of maternity, paternity, adoption, parental or shared parental leave
 - In exceptional circumstances, where your Manager has given permission in writing, or
 - If otherwise required by law
- Where an employee or worker is on maternity, paternity or parental or adoption leave, he/she is entitled to accrue statutory and contractual leave in the normal way. The holiday pay accrued during that absence may be rolled over to the following holiday year
- A woman on maternity leave must be able to take her paid annual leave during a period other than her maternity leave. This applies to the entire 5.6 weeks of annual leave under UK law. Employers, therefore, have a duty to allow the worker to take all of her annual leave before she goes on maternity leave or to allow her to carry it over into the next holiday year. Where a period of maternity or parental leave spans two holiday years, the same applies. As such, pregnant employees are encouraged to liaise with the organisation at the earliest opportunity and to plan the taking of holiday leave both before and after maternity leave
- In case of sickness, employees and workers who are ill whilst on holiday to the extent that they would be unable to come to work (when they are meant to be at work), must comply with sickness absence reporting requirements as if they were at work. If they do this, they will be paid Statutory Sick Pay (SSP) and entitled to re-take their holiday at a later date (and carry it over into the next holiday year if they are unable or unwilling to take it in the current holiday year due to sickness). Carry over under this rule is limited to the four-week minimum holiday entitlement under EU law (which includes bank holidays) and not the 5.6 weeks of annual leave under UK law, less any leave taken in the holiday year that has just ended. If the employee has taken four weeks' holiday by the end of the holiday year, he/she will not be entitled to carry any leave over into the next holiday year

5.7 Late Return



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- If, for any reason, you know that you will be late returning from holiday, you must contact the Manager and notify them of your late return as soon as possible. The Manager will then discuss your options with you. Failure to do so will render you liable to disciplinary action for unauthorised absence

5.8 Long Term Sickness Absence and Holiday Entitlement

- Holiday entitlement continues to accrue during periods of sickness absence
- If you are on a period of sickness absence which spans two holiday years, or if you return to work after sickness absence so close to the end of the holiday year that you cannot reasonably take your remaining holiday, you may carry over any unused holiday entitlement into the following holiday year. Carry over under this rule is limited to the four-week minimum holiday entitlement under EU law (which includes bank holidays), less any leave taken in the holiday year that has just ended. If you have taken four weeks' holiday by the end of the holiday year, you will not be entitled to carry any leave over into the next holiday year
- Any holiday that is carried over under this rule but is not taken within 18 months of the end of the holiday year in which it accrued will be lost
- Alternatively, you can choose to take your paid holiday during your sick leave, in which case you will be paid at your normal rate of pay

5.9 Termination

- On termination of employment you may be required to use any remaining holiday entitlement during your notice period. Alternatively, you will be paid in lieu of any accrued but untaken holiday entitlement for the current holiday year to date. You are entitled to be paid at a rate of 1/260th of your full time equivalent salary for each day of untaken entitlement
- If, upon termination of your employment, you have taken more annual holiday than you have accrued, the organisation reserves the right to deduct the equivalent of the payments made for such additional days from your final pay (calculated at 1/260th of your full-time equivalent salary for each excess day)



6. Definitions

6.1 WTR

- Working Time Regulations 1998

6.2 ERA

- Employment Rights Act 1996

6.3 SSP

- Statutory Sick Pay

6.4 ECJ

- European Court of Justice



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- Employees and workers are entitled to at least the statutory minimum holiday entitlement of 5.6 pro rata per holiday year
- Employers are entitled to provide additional contractual holiday entitlement on top of the statutory minimum. However, employers cannot agree to provide less holiday than the statutory minimum
- Employees are entitled to be paid for the holidays that they take under the WTR and ERA
- Employees are entitled to carry over any holiday entitlement that they have accrued if they have been unable to take this holiday due to long-term sickness absence, maternity leave, paternity leave, parental leave or shared parental leave
- If there are any specific concerns about annual leave entitlements, then employers should refer to the full policy

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Further Reading

As well as the information in the 'Underpinning Knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

GOVERNMENT - Holiday Entitlement - <https://www.gov.uk/holiday-entitlement-rights>

ACAS - PDF - Holidays and Holiday Pay - <http://www.acas.org.uk/media/pdf/r/c/Acas-guide-Holidays-and-holiday-pay.pdf>

Outstanding Practice

To be outstanding in this policy area you could provide evidence that:

- You can demonstrate you have offered in excess of the statutory holiday entitlement
- You can demonstrate that all staff have a full understanding of the holiday request and booking process

Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Holiday Request Form	When staff wish to request holiday time	QCS

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Holiday Request Form

Employee name	
Your job title	
Date of request	
Type of leave For example, annual holiday, jury duty, bereavement, etc.	
The first day you would like as holiday Please state the day of the week and the date	
The last day you would like as holiday Please state the day of the week and the date	
The day on which you will be returning to work Please state the day of the week and the date	
How many working days is this? Do not include in this number, days on which you would not normally be working	
How many days have you taken since the beginning of the holiday year?	
How many days will you have remaining when you've taken this requested holiday?	
Employee Signature	
Holiday Dates Approved / Not Approved	
Approved Signature	

Holiday Request Form

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