 

**Response to Emergency Covid-19 Pandemic**

**Voluntary Scheme for Unused Contractual Leave Entitlement**

1. **Introduction and Background**

1.1 COVID-19 has brought unprecedented challenges to all HSC Trust services and staff. Many of our staff have been very flexible in terms of their leave arrangements over the last number of months. Again within the current third surge, some staff are being asked to postpone leave to support service delivery and to maximise our staff capacity. Staff, across the region, may have been asked to revisit leave arrangements and postpone leave booked and approved during 2020/2021.

1.2 Staff health and well-being is of paramount importance to HSC employers and we are committed to ensuring staff can avail of leave for rest and recuperation. In some of our services, staff may have been able to take accrued leave throughout the year as normal. Where this has been possible, the normal discretionary carryover of 1 contractual week applies. Staff should be encouraged to continue to use their leave entitlement during this leave year where it is possible. (See Option 1 below)

1.3 However for some staff this will not be possible due to intense service pressures and we recognise that some staff will not be able to avail of all their leave entitlement within the current leave year.

1.4 For these staff, they can be assured that they will not lose leave as we move towards the end of the financial year. Under new measures introduced by Government aimed at alleviating the pressure on organisations employing key workers, staff who cannot take all their holiday entitlement due to COVID-19 will be able to carry over leave, into the next 2 leave years, 2021/2022 and 2022/2023. <https://www.gov.uk/government/news/rules-on-carrying-over-annual-leave-to-be-relaxed-to-support-key-industries-during-covid-19>

 (See Option 1)

1.5 The European Working Time Regulations (WTR) outlines a statutory minimum requirement of 5.6 weeks (28 days) leave for all employees for rest which is a combination of contractual annual leave and general public holidays.

1.6 In each leave year, HSC staff are entitled to contractual annual leave and general public holidays. HSC contractual leave entitlement includes an element which increases based on length of service (pro-rata). *Appendix 1 sets out the leave entitlement for HSC staff.*

1.7 All HSC organisations have received requests from staff to be paid for accrued leave rather than carrying leave forward into subsequent leave years. The HSC organisations have given significant consideration to this matter and have consulted with trade unions to seek an agreed way forward.

1.8 Whilst it will not be possible for HSC organisations to pay staff in respect of untaken leave below the minimum statutory WTR leave requirements (ie. 5.6 weeks leave), it is agreed that, as a one-off extra-ordinary option, given the current unprecedented circumstances, HSC organisations will offer payment for the balance of any contractual leave above the statutory minimum (ie. above the 5.6 weeks) that staff have been unable to use during the 2020/2021 financial year (see option 2 and 3 below). Any untaken leave below the minimum statutory requirements may be carried forward into the next 2 leave years, ie. 2021-2022 and 2022-2023 (see point 1.4 above and option 1 below).

1. **Principles of the Voluntary Scheme**

The principles for the extra-ordinary payment of unused contractual leave entitlement are:

* This scheme is voluntary and open to all employees of the Belfast Health & Social Care Trust.
* Where staff can avail of leave they should be encouraged to use their leave within the current leave year in line with normal annual leave provisions.
* The voluntary opportunity for payment of contractual leave is being offered to all staff as a one off to assist in managing workforce during ongoing pandemic pressures.
* Payment of leave applies only to contractual leave accrued during the 2020/2021 financial year only.
* No staff member will have a contractual right to receive any future payment in respect of contractual leave. As highlighted above, this proposal is in response to the very unique situation currently faced by HSC organisations in response to the pandemic.
1. **Scheme Options Available to Staff**

3.1 For staff unable to avail of leave in line with normal provisions due to service pressures, staff can be facilitated with the following extra-ordinary options in regards to their outstanding leave.

* Option 1: Carryover of leave into the next 2 leave years

Under the new Government Guidelines, those staff who have not used all of their leave, or have had leave cancelled due to the pandemic, can carry forward their unused leave into the next 2 leave years. All leave carried forward must be taken by 31 March 2023.

* Option 2: Payment of Contractual Leave

Staff can voluntarily opt to receive payment for unused leave above the statutory minimum of 5.6 weeks. See Appendix 1 for table of contractual leave entitlement.

* Option 3: Carryover and Payment of Contractual Leave

Staff can voluntarily opt to receive payment for some of their unused leave above the statutory minimum of 5.6 weeks and carry forward the remaining leave (for which a payment has not been made) into the next 2 years. All leave carried forward must be taken by 31 March 2023.

1. **Payment of Contractual Leave**

The principles for payment of contractual leave are:

* Staff can expect to be paid leave in line with their contractual arrangements (Band and Pay point) as of 31 March 2021 at the appropriate rate.
* This exceptional payment in lieu of taking contractual leave is non-pensionable.
* This exceptional payment in lieu of taking contractual leave is taxable and subject to National Insurance Contributions.
* All requests for payment of contractual leave must be agreed no later than 31 March 2021 to be processed for payment in a timely manner thereafter. The scheme will close for any new requests on 31 March 2021.
* Requests for payment of leave must be completed on the attached form in Appendix 2.
* Where leave is paid, it must be deducted from the overall 2020-2021 leave entitlement to ensure it is not credited to a staff member twice. This is the responsibility of both the line manager and the staff member.

**Appendix 1**

**Table of Contractual Leave (in Hours)**

**Table 1: Staff Paid on Agenda for Change and Senior Executive Terms & Conditions (based on 7.5 hour day)**

|  |  |  |
| --- | --- | --- |
| Contractual Leave Entitlement *(Full-time equivalent)* | Statutory Annual Leave Entitlement*(including Public Holidays)* | Potential Unused Contractual Leave Available for Payment*(Full-time equivalent)* |
| 27 days Annual Leave plus 10 days Public Holidaysie. 277.5 hours | 28 daysie. 210 hours | 9 days ie. 67.5 hours |
| 29 days Annual Leave plus 10 days Public Holidaysie. 292.5 hours | 28 daysie. 210 hours | 11 daysie. 82.5 hours |
| 33 days Annual Leave plus 10 days Public Holidaysie. 322.5 hours | 28 daysie. 210 hours | 15 daysie. 112.5 hours |

**Table 2: Medical & Dental Staff (based on 8 hour day)**

|  |  |  |
| --- | --- | --- |
| Contractual Leave Entitlement *(Full-time equivalent)* | Statutory Annual Leave Entitlement*(including Public Holidays)* | Potential Unused Contractual Leave Available for Payment*(Full-time equivalent)* |
| 25 days Annual Leave plus 12 days Public Holidaysie. 296 hours | 28 daysie. 224 hours | 9 days ie. 72 hours |
| 30 days Annual Leave plus 12 days Public Holidaysie. 336 hours | 28 daysie. 224 hours | 14 days ie. 112 hours |
| 32 days Annual Leave plus 10 days Public Holidaysie. 336 hours | 28 daysie. 224 hours | 14 days ie. 112 hours |
| 34 days Annual Leave plus 10 days Public Holidaysie. 352 hours | 28 daysie. 224 hours | 16 days ie. 128 hours |

 **Appendix 2**

**RESPONSE TO EMERGENCY COVID-19 PANDEMIC**

**REQUEST FOR PAYMENT OF UNUSED CONTRACTUAL LEAVE**

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| --- |
| Employee Information *To be completed by employee* |
| Name | Click here to enter text. |
| Staff No | Click here to enter text. |
| Job | Click here to enter text. |
| Department | Click here to enter text. |
| Location | Click here to enter text. |

|  |
| --- |
| Details of leave *To be completed by employee* |
| Number of Leave Hours to be paid (must be stated in hours). Cannot include payment for untaken leave below the 5.6 week statutory minimum provisions | Click here to enter text. |
| Employee Declaration I acknowledge that, by signing this request for payment of unused contractual leave that I confirm my agreement to the temporary variation to my terms and conditions of employment as outlined in the Regional Proposal (of which this is a copy). I acknowledge that this temporary variation is as a result of the exceptional circumstances which the HSC organisations have faced in light of the covid-19 pandemic and is a one-off payment. I acknowledge that this scheme closes on 31 March 2021 and, following that date, I will have no contractual right to request payment in respect of my leave entitlement.  |
| Employee Signature | Click here to enter text. |
| Date | Click here to enter a date. |

|  |
| --- |
| Manager Authorisation*To be completed by Direct Line Manager*  |
| Request Approved | Yes [ ]  No [ ]  |
| If no, please detail reason  | Click here to enter text. |
| Number of Leave Hours approved for payment | Click here to enter text. |
| Manager Signature | Click here to enter text. |
| Date | Click here to enter a date. |

**NOTES**

* Payment of leave applies to contractual leave accrued and untaken during the 2020/2021 financial year only.
* All requests for payment of contractual leave must be agreed no later than 31 March 2021. The scheme will close for any new requests at this date.
* Where leave is paid - the manager must deduct the hours paid from the staff members 2020-2021 leave entitlement to ensure this is not credited to the staff member twice.

**PLEASE FORWARD TO HUMAN RESOURCES –** **hrenquiry@belfasttrust.hscni.net**

**Appendix 3**

**Examples – Guide for Managers and Staff**

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| Example 1:  |
| Anne has been working on a busy ward and has been asked a number of times through the year to postpone her planned leave. As a result Anne has 20 accrued days at 31 March 2021. Anne works full time and has 3 years’ service. What are Anne’s options?* Anne is entitled to 27 days of contractual annual leave plus 10 public holidays which is 277.5 hours.
* Anne is required as a statutory minimum to take 210 hours leave ie 4 weeks and 8 stat days totalling 28 days.
* Anne has been able to take 127.5 hours during the leave year to date.
* She has 150 hours remaining as at end January 2021.
* The WTR statutory minimum requirement is 210 hours in the year for fulltime.

What happens to the 150 hours remaining? * Anne should be encouraged to use accrued leave during February and March 2021 to ensure appropriate rest and to comply with WTR statutory minimum requirements ie. she should be facilitated to use a minimum of 82.5 hours during February and March 210 – 127.5 = 82.5 hours.
* Where this is not possible for service reasons to take part or all of her outstanding leave she can:
* Carry forward all of the outstanding accrued leave for 2 years
* Seek to be paid for part of her leave and carry forward the remainder
* She can only be paid for hours owing over 210 hours ie. 67.5 hours as she must receive her statutory entitlement or carry that forward.
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| Example 2:  |
| Barry has been able to avail of leave during the year. However he still has 9 accrued days at 31 March 2021. Barry works full time and has 15 years service. What are Barry’s options?* Barry is entitled to 33 days of contractual annual leave plus 10 public holidays which is 322.5 hours.
* Barry is required as a statutory minimum to take 210 hours leave.
* He has been able to take 255 hours during the leave year to date.
* He has 67.5 hours remaining as at end January 2021.
* The WTR statutory minimum requirement is 210 hours in the year.
* Barry has 37.5 hours of leave booked and approved during March 2021.

What happens to the 67.5 hours remaining? * Barry will be facilitated to take his leave during March as it is booked and approved.

He will have 30 hours owing at end March 2021. * Barry has the option to:
* Carry forward all of the outstanding accrued leave for 2 years
* Be paid for all of his outstanding leave of 30 hours
* Seek to be paid for part of his leave and carry forward the remainder
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