

FACTSHEET

HOW TO MANAGE ANNUAL LEAVE

1 How much annual leave?

Employees are entitled to at least 5.6 weeks' annual leave each year – you should check contracts to see whether they are entitled to more than that.

You can allow them to carry over some holidays into the following year (check contracts for any rule about when to take them by), but they must take at least 4 weeks' holiday in the year (unless they are unable to do that due to sickness or maternity/adoption/shared parental leave) and if they don't take the 4 weeks, it is lost.

You cannot pay them in lieu of those 5.6 weeks. The exception to this is on termination of employment. When an employee leaves a job part way through the holiday year, he or she will be entitled to be paid for any accrued statutory holiday not taken at the date of termination.

If you have casual or zero hours employees, you should calculate their holiday entitlement based on the average hours in the last 12 weeks in which they worked (from 6 April 2020, this will change so you must calculate the average over 52 weeks).

Holiday pay for permanent staff who only work part of the year – such as term-time workers – also should be calculated using their average earnings over a 12-week period (changing to 52 weeks on 6 April 2020) and not pro-rated.

2 Holiday Pay

The thing to remember here is that when an employee is on holiday, you should be paying them their 'normal pay'; the aim of the legislation is to make it so they are not discouraged from taking their annual leave.

There have been a lot of tribunal cases around the issue of what is normal pay, but much of this has now been decided: during annual leave, you should now include all other payments such as overtime pay, commission (if affected by holidays), standby/call-out allowances, shift premia and travel allowances (and for other allowances, if in doubt it is best to include it). You can average this over 12 working weeks (52 weeks from 6 April 2020).

A holiday pay miscalculation across the workforce could be costly, since any underpayment may need to be rectified and this could include back pay. Currently back pay is limited to two years, but this limit may be challenged in the courts.

If you have not been paying correctly, please ask for help on what to do next to minimise the risk to your business.

3 *Plan/cancel annual leave*

If you know you will have a busy period, let employees know early that they will not be able to take leave at that time. Encourage them to plan in their holidays, so you and they both know where you are.

You should have a clear policy on holiday requests (e.g. “first-come, first-served”). Line managers should be brave enough to turn down holiday requests (with the correct notice, i.e. equivalent to the amount of leave requested) when the timing of leave would cause the business difficulties.

If they don't take them throughout the year, you may find you have a problem at the end of the holiday year. Sometimes employees may feel under pressure to work and not use their holidays; you should make sure they take them or, in addition to the legal problem you may also have problems with employee health & wellbeing and/or morale.

If things change and the business needs someone to be in when they had booked a holiday, you can tell them they need to work after all – but clearly you would need a good reason to disrupt their plans, especially if they have booked to go away. This should be only in exceptional circumstances, since it is likely to have a negative impact on morale.

Be careful of any religious festivals – if employees want time off for a religious festival, it would be best to accommodate that (although you don't have to if there is an unexpected important business issue).