



Annual Leave

Policy Number	216
Policy Owner	Head of HR
Version	3.2
Last Review Date	January 2020
Next Review Date	January 2022
Date of approval	14/1/2020
Protective Marking	Official

This document has been assessed for:	
Compliance with Legislation	<input checked="" type="checkbox"/>
Equality Impact Assessment	<input checked="" type="checkbox"/>
Freedom of Information issues	<input checked="" type="checkbox"/>
Human Rights compliance	<input checked="" type="checkbox"/>
Health and Safety	<input checked="" type="checkbox"/>
Risk Management	<input checked="" type="checkbox"/>

Important notice: During times of national emergency or pandemic, the head of HR will approve relevant and necessary changes to policy and process to allow the spirit of the policy to be maintained whilst caring for and supporting our people.

Annual Leave

1. Policy statement

The annual leave policy is designed to ensure that all police officers and police staff get the right proportion of annual leave and statutory holidays to which they are entitled. It ensures fairness and equality regardless of the days of the week worked or the pattern of work undertaken.

The procedures set out in this document apply to Police Officers and Police Staff (including those police staff employed by the Police and Crime Commissioner for Cleveland).

This policy must be applied fairly, equally, and consistently to all officers and employees irrespective of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or any other unjustifiable grounds.

2. Purpose

The annual leave procedure ensures that all police officers and police staff take a break from work in line with the requirements of the Working Time Regulations, Police Regulations and Police Staff terms and conditions of employment. The procedure also ensures that all officers and staff are aware of their leave allowances and the procedural requirements they must follow when requesting annual leave.

It is anticipated that for leave year 2020/21 revised processes will be in place for the booking and management of annual leave, following the creation of the Workforce Optimisation Unit (WOU), such changes will be clearly communicated to all. From the start of the centralised team supervisors will no longer be involved in granting leave except in exceptional circumstances. These changes relate to Police officers only for this leave year

3. Underpinning procedures

All forms and supporting documentation relating to this policy are available on the Force intranet, should additional information or support be required then the Shared Service Centre will be able to assist.

3.1 Annual Leave Year

The annual leave year for officers and staff begins on the 1st April and finishes on the 31st March. Leave entitlement is expressed in hours to allow the greatest flexibility for the different working patterns throughout the organisation.

3.2 Full Time and Part Time entitlements

Entitlements to annual leave will be calculated and expressed in working hours for all officers and staff (pro-rata for those working part time)

3.3 Annual Leave entitlement

3.3.1 Police Officers

All police officers will accrue annual leave in line with Police Regulations. The annual leave entitlement for full time officers, based upon their length of service and rank is attached to this policy as Appendix 1.

3.3.2 Police Staff

Annual leave entitlement begins on the first day of employment and builds up on a month by month basis. If an employee start or leaves during a financial year, their holiday entitlement will be pro-rata for the period they were employed.

Employees' entitlement will start at 177.6 hours per year which equates to 24 days. This will then increase to 214.6 hours per year which equates to 29 days, this will be pro-rata to completed month after five years' continuous service. Leave is non-negotiable and will be applied as set out above.

All balances will be pro-rata for a part time worker.

3.4 Requesting Annual Leave

Leave can only be taken at times agreed between the Line Manager and the individual, and will always be subject to the demands of the service. To ensure that adequate levels of staffing are available all Police Officers and Police Staff must, with their Line Manager, ensure that authorisation of annual leave for each individual within a team, is within any specified parameters that can from time to time be amended following a period of review.

It is the responsibility of all individuals to take their allocated annual leave within each leave year. It is also the responsibility of all individuals to ensure they have complied with this policy at the time of booking their leave via Oracle Self Service.

Once the centralised WOU is operational, there will be a change to this and some other processes, which will be clearly communicated when initiated. It should be noted that once fully operational some leave will be auto-refused by the system based on known resourcing requirements.

WOU will on inception and on initial rollout deal only with Police Officer related annual leave processes

3.5 Periods of high demand

During periods of high demand annual leave will be permitted for a maximum duration of two weeks (for those on Monday to Friday shifts) or two blocks (for those on flexible shifts). There will be no extended leave periods approved during high demand. The

periods of predetermined high demand will be reviewed on an annual basis and leave levels will be managed accordingly during these periods.

Once the centralised team is operational, for periods of high demand such as school holidays, the WOU will use demand management software (covergraphs) to determine if the leave should be approved or rejected. Any rejections of leave requests will be based on known resourcing requirements.

The WOU will advise and clearly communicate as necessary and appropriate any deadline dates for leave applications to be received in advance of such periods of high demand.

Requests for periods of leave linked to special occasions, or requests for annual leave of more than two weeks (for those on Monday to Friday shifts) or two blocks (for those on flexible shifts) can be made to Heads of Service units/commands. This should be via e-mail setting out the requested dates and the reason for the request, no more than 24 months in advance. Approval or rejection of the application will be notified to WOU.

Decisions will take into account previous similar requests for the taking of extended leave periods, as well as other such requests received and the known demand profile. No one should assume that such requests will be granted and the booking of flights / holidays should not be made until the necessary approval have been secured.

Appeals - if a request for leave is auto refused by WOU, then an appeal can be made via an e-mail to the Head of Service stating the dates that have been requested, the reason for the request and supporting information so a final decision can be made.

For those police staff employed by the PCC for Cleveland the Chief Executive & Monitoring Officer shall determine the periods of high demand for the Office. The periods of predetermined high demand will be reviewed on an annual basis and leave levels will be managed accordingly during these periods.

Police Officers and Police staff employed by the Chief Constable

All officers should be allowed to take two weeks leave between 1st June and 30th September each year if they should wish. In exceptional circumstances (a significant family occasion e.g. wedding or civil partnership) an extended period of annual leave may be granted with the approval of the individual's appropriate Executive Lead.

3.6 Untaken Annual Leave

All officers and staff must use their annual leave allowance before the end of the financial year. Up to 40 hours (pro rata for part time officers) and up to 37hours (pro rata for part time staff) may only be carried forward with the consent of their line manager. There is no requirement to make an application in these circumstances as the system will automatically add the carry over to the following year's entitlement.

Anything in excess of 40 hours and 37 hours respectively can only be carried forward in exceptional circumstances, and with the express written approval of the Head of Command / Service Unit Manager (for staff within the OPCC for Cleveland this is either the Chief Executive & Monitoring Officer or their Deputy).

Every case for carry forward of more than 40 hours and 37 hours respectively will be considered on merit taking into account individual circumstances. The minimum amount of leave required in law by the Working Time Regulations of 160 hours must have been taken, before any carry forward can be considered.

If an individual is absent from work due to long term sickness absence at the end of the leave year, and has been unable to take their annual leave as a result of long term sickness absence the Head of HR shall consider whether either all or a proportion of the unused annual leave should be carried over into the new leave year having regard to statutory entitlements. For police officers this will also be in accordance with the guidance provided by PNB circular 2014/23 (Appendix 2).

Where an agreement to carry forward any annual leave has been made the carry forward leave must be booked as soon as possible into the new leave year and should be used no later than 30th June each year. If the carry over is a result of long term sickness then the requirement to take it before 30th June does not apply.

It is not acceptable to build up leave from previous annual leave years to take immediately prior to retirement or resignation. The normal carry forward of 40/37 hours will apply in these circumstances. All leave must be taken before the last day of service.

3.7 Leave during Sickness Absence

If an individual is prevented by sickness or injury from going on holiday or falls ill or sustains a serious injury whilst on holiday, the Line Manager in consultation with a member of the ER Team may elect to treat some or all of the period booked as sick leave, providing that normal absence notification procedures are complied with. The individual must contact their manager as soon as he/she knows that there will be a period of incapacity. From that point on, normal sickness procedures will apply.

If the individual becomes fit for work during the period of leave (including rest days) they must inform their supervision that they are fit for work. Failure to do so will result in the individual being considered as on sick leave until they return to work. Individuals may choose to take annual leave during sick leave, and in some cases this may be appropriate, for example when the entitlement to paid sick leave has been exhausted. However, individuals should be aware that if the holiday activity is inconsistent with the stated reasons for sickness absence, or if it worsens their illness or prolongs the absence, the force reserves the right to withhold statutory and/or occupational sick pay, and in some cases may consider disciplinary action.

For police staff employed by the PCC for Cleveland the Chief Executive & Monitoring Officer shall make all determinations.

3.8 Leave during suspension and investigations

In the event of an officer or member of police staff being suspended from duty they are still expected to take their annual leave entitlement in the normal way. Leave during suspension requires submission to the Directorate of Standards and Ethics, the request will be discussed with the Head of HR if necessary.

This request can come from the respective officer, police staff member, their federation friend or trade union representative and must be submitted in writing, in circumstances where the proposed leave may impact on investigations and disciplinary proceedings the request must outline when they are going to be away from their home. In exceptional circumstances, or where the suspension is for an officer at the rank of Superintendent or above, the DSE delegated appropriate authority will make recommendations for a decision to the Deputy Chief Constable.

Leave may be refused for either a police officer or member of police staff, if it prolongs an investigation or disciplinary proceedings. Any requested annual leave carryover for suspended individuals must be made to the Deputy Chief Constable, and will only usually be agreed where the individual has requested and been prevented from taking leave due to the investigation.

For officers / staff subject to misconduct proceedings but not suspended supervisors should check with DSE prior to approving leave requests.

For police staff employed by the PCC for Cleveland the Chief Executive & Monitoring Officer shall make all determinations.

3.9 Withdrawal of Agreement to Take Leave

If an exceptional situation occurs which presents real operational difficulties the organisation reserves the right to withdraw approval for annual leave. Where this has to be done because of operational exigencies of the service, every effort will be made to minimise any inconvenience for the individual. In such extreme circumstances, an individual may be reimbursed for any unavoidable documented financial loss incurred in respect of holiday expenses.

3.10 Statutory/Public Holiday Entitlement

All full time officers and staff irrespective of their length of service will receive a day's leave for all statutory/public holidays. This equates to 7.4 hours for a member of police staff. Part time staff have statutory/public holidays calculated on a pro rata basis according to their contractual hours.

3.10.1 Police Officers

Time off and payment for statutory or public holiday working for Police Officers is defined by police regulations. If an individual who is on special leave, paternity leave, compassionate leave, parental leave, maternity support leave, disability leave, religious cultural leave, adoption leave (secondary carer), or sick leave when a statutory or public holiday falls will be entitled to the bank holidays being reinstated.

3.10.2 Police Officers Substitute Bank Holidays

Bank holidays are designated in line with Police Regulations. In respect of the rank of constable and sergeant they may with the approval of a Chief Officer, substitute a day which is not a public holiday for any day which is designated a public holiday, with the exception of Christmas Day.

The officer must give the Chief Officer notice of all proposed substitutions by the 31st January each year, thereby giving the required 2 months' notice before the start of the new annual leave year, which commences on 1st April each year. The officer must provide the details of the public holiday for which a day is to be substituted.

The Chief Officer shall, subject to the exigencies of the duty, approve a proposed substitution.

If an Officer does not nominate an alternative date or dates to substitute a day which is not a public holiday, then the national public holiday dates remain as the default public holidays for that Officer.

3.10.3 Police Staff

Bank holiday allocations will be added to an employee's annual leave entitlement, the allocation will be pro-rata for part time workers. Employees are entitled to the standard number of bank holidays as stated by the government and these are calculated on a police staff standard day of 7.4 hours (pro-rata for part time workers).

If a bank holiday falls on a working day this must be booked through the system. If your working day is longer than 7.4 hours (pro-rata) you must book the additional time off through another means (i.e. annual leave).

Where a day or shift worker is required to work on their bank holiday, the terms of the Police Staff Council will apply.

For any non-standard Monday to Friday workers or part time workers it may be that you have excess bank holiday entitlement and this can be taken at another time within the leave year. It must be used in the leave year in which it falls

A bank holiday is deemed to be a day when an individual is not required to work. An individual who is on special leave, paternity leave, compassionate leave, parental leave, maternity support leave, disability leave, religious cultural leave, adoption leave, or sick leave when a public holiday falls will be entitled to the bank holiday(s) being reinstated.

Where any bank holiday falls on a weekend, an alternative bank holiday will be designated, in line with the PSC guidelines and will be announced on the force intranet and by other appropriate briefing means.

3.11 Religious Holidays

Wherever possible Line Managers responsible for approving annual leave requests will always seek to allow officers and staff to use their holiday entitlement to observe special religious festivals. As with the timing of all holidays leave can only be taken at times agreed between the Line Manager and the individual and will always be subject to the demands of the service.

3.12 Maternity Leave and Adoption leave (primary carer)

During maternity leave and Adoption Leave (Primary Carer), annual leave and bank holidays are accrued throughout the period that the individual is away from the workplace.

4.0 Holiday Pay

In accordance with the working time directive and the EAT's ruling in Bear Scotland Police Staff holiday pay has been determined by the Police Staff Council. For Police Officers this has been determined by regulations

In accordance with the working time directive and the EAT's ruling in Bear Scotland it has been determined that this will be an annual payment made in the first available payroll of each new financial year. Notification of the exact payment date will be made via force communication systems on an annual basis.

No application for this adjustment is required it will be done automatically, neither should any entries on ORACLE for periods of annual leave be made when they would have been in receipt of any identified allowance above.

5. Records

Annual leave balances are available via Oracle Self Service. All applications for annual leave and bank holidays are submitted via self service by the individual police staff member / officer themselves.

6. Appendices

Appendix	Description
1.	Police Officer annual leave entitlements
2.	PNB circular 2014/23

7. Compliance and monitoring

The organisation expects every individual to act within approved policies and take appropriate professional advice as necessary.

All individuals should be briefed on the annual leave policy at their induction and their attention drawn to key points.

The Head of HR will monitor the implementation of and compliance with this policy on an ongoing basis.

8. Version control

This policy will be reviewed and updated at least every three years by the owner, and more frequently if necessary.

The Corporate Services Department will ensure this document is available on the Force intranet, including any interim updates.

The following identifies all version changes.

Version	Date	Reason for update	Author
1.1	01.08.12	New policy	████████
1.2	19.11.12	Draft 2	██████████
1.3	30.11.12	Draft 3	██████████████
1.4	11.12.12	Draft 4 post consultation	██████████████
2.0	17.12.12	Policy approved by T/CC, formatted and published.	██████████
2.1	31.01.13	Minor amendment to police staff 3.12.2 of TOIL to bank holiday entitlement	██████████
2.2	22.07.13	Process change for implications of annual leave and long term sickness absence (section 3.9)	██████████
2.3	01.04.14	Policy amended to include the Office of the Police and Crime Commissioner for Cleveland	██████████
2.4	17.09.14	Policy amend concerning calculation of annual leave for starters and leavers and reference to PNB circular within policy for police officers 2014/23	██████████
2.5	31.5.19	Scheduled Policy Review	██████████
2.6	2.7.19	Policy circulated for consultation	██████████
2.7	15.8.19	Finalised policy following consultation, incorporating amendments.	██████████
2.7	03.10.19	Inclusion of WOU information	██████████
2.7	25.10.19	Reduce complexity	██████████
2.8	19/11/19	Policy approved at People and Wellbeing Board with slight rewording at 3.4, now submitted for approval to the Executive Board	██████████
2.9	17/12/19	Policy approved in principle but further query to clarified	██████████
3.0	14/1/2019	Approved and published following removal of purchase scheme.	██████████
3.1	Feb 2020	Change of owner dept. name	██████████
3.2	Apr 2020	Addition of COVID 19 message	██████████

Appendix 1

The annual leave entitlements (expressed in 8 hour days) for the federated ranks are found in Regulation 33 and Annex O of Police Regulations 2003:

Years of relevant service	Days of Annual Leave
Less than 2	22
2 or more	25
5 or more	25
10 or more	27
15 or more	28
20 or more	30

Officers in superintending ranks are entitled to 31 days annual leave

POLICE NEGOTIATING BOARD

Independent Secretary:
Bill Blase
Office of Manpower Economics
Victoria House
Southampton Row
London WC1B 4AD

POLICE NEGOTIATING BOARD AGREEMENT

1. The Official and Staff Sides of PNB have reached an agreement on the carry-over of leave into the next year. Details are set out in the attached memorandum.
2. This PNB circular requires no changes to Police Regulations and Determinations.
3. Any enquiries about this circular should be addressed to the Independent Secretariat at the Office of Manpower Economics ☎ 020 7271 0472, to the Official Side Secretary ☎ 020 7187 7342 or the Staff Side Secretary ☎ 01372 352003/4. Enquiries to the Independent Secretariat relating to the interpretation of this circular should be made in writing.

21 August 2014

* PNB Circulars form a single numerical series. Those which in themselves provide authority to implement an agreement carry the serial number alone, while those which are advisory are designated as such after the serial number.

MEMORANDUM

Introduction

The PNB is aware that further clarity on the issue of carry-over of leave in the event of long-term sickness is awaited as there is currently some potential conflict between UK and European case law and UK statutory provisions.

The Government, through the Department for Business, Innovation and Skills (BIS), announced its intention to make the necessary changes to the UK Working Time Regulations to reflect the case law in its Modern Workplaces consultation in 2011.

The PNB is content to amend Police Regulations and Determinations to reflect any changes in this area, resulting from the Modern Workplaces consultation. However, at the time of writing there is no indication from BIS that a Government response is likely in the foreseeable future. Therefore, as an interim position the PNB has agreed to issue this circular to provide further clarity on this issue to all forces. This PNB circular does not provide any regulatory entitlement, but forces are encouraged to take account of this circular until the outcome of the Government's Consultation on Modern Workplaces is known. Until the UK Working Time Regulations are changed, forces should exercise the discretion currently provided in Police Regulations and Determinations to allow carry over in cases covered by this guidance to ensure compatibility with case law.

The opportunity has also been taken to include information on the carry-over of annual leave in the event of absence due to maternity leave (and other types of family leave).

Working Time Case Law

There have been a number of case law developments in this area in which the UK courts and tribunals and the European Court of Justice have interpreted the provisions of the Working Time Regulations and the Working Time Directive as they have applied to particular sets of facts, working practices and collective agreements applying in workplaces in the UK and across Europe.

The wider case law has presented some conflicting views and some decisions which are difficult to interpret clearly.

However, the case law seems to have established four key points:

- Where an employee's pre-arranged period of annual leave under the Working Time Directive (i.e. four weeks), coincides with a period of sickness the employee should have the opportunity to take a period of leave, equivalent to that which

has been lost, at a future point including carrying over into the next leave year if necessary (*Pereda v Madrid Movilidad*).

- Where in any particular leave year, an employee is prevented from taking the annual leave provided for by the Working Time Directive (four weeks) as a result of prolonged sickness absence, the employee can carry forward this leave to another leave year (*HM Revenue and Customs v Stringer*).
- However, this leave cannot be carried forward indefinitely and the employer can place reasonable limits on the length of time the employee can take any leave carried forward (*KHS v Schulte*).
- An employee who is on sick leave does not have to request to take or carry over Working Time Directive leave to obtain the right to have it carried over into the next leave year (*NHS v Larnier*).

Application to Police Regulations

Although statutory changes have not yet been made, it is clear that in certain respects Police Regulations do not fully reflect the key points from case law.

Carry-over of leave affected by sick leave

Police regulations already provide discretions for Chief Police Officers to allow officers to carry forward leave in prescribed circumstances. However, PNB is keen to ensure that Police Regulation 33 Annex O is being applied to enable officers to carry over leave entitlement (i.e. Working Time Directive; 4 weeks (pro rata leave entitlement for part time officers)) into the next leave year where an officer has been unable to take that leave because of (i) long term absence on sick leave which continues into a new leave year, and (ii) where the officer has been absent on long term sick leave but resumed duty late in the leave year and so had not had the opportunity to take all of their annual leave before the end of the leave year.

Sickness during pre-booked periods of leave

Where an officer is sick during a pre-booked period of leave they should be allowed to take that period of leave at another time subject to providing evidence that they were sick, for example a medical certificate.

Interim Guidance

As this is a fluid situation with case law developing and the response to the Modern Workplaces consultation pending, it is not possible to update the police regulations to reflect statutory changes at this time and yet there is a need for police forces to acknowledge changes in case law. Therefore:

At present police officers will continue to accrue annual leave regardless of whether their sick leave is paid or unpaid. If an officer returns to duty from sick leave within the same leave year, they will be entitled to receive the leave entitlement for that year, less any leave they have already taken. Where an officer returns to duty late in the leave year and so not had the opportunity to take all their annual leave before the end of the leave year or if an officer returns to duty in a new leave year, they will be entitled to carry over 4 weeks' annual leave (in line with the Working Time Directive), less any annual leave or bank holidays already taken, to the new leave year. However, any annual leave carried over must be taken within 15 months of the end of the leave year in which it accrued. (*KHS v Schulte held that an employer can place reasonable limits on the length of time the employee can take any leave carried forward*).

Annual leave and maternity leave (and other types of family leave)

A woman who is to take maternity leave has two rights to leave: one to maternity leave and another to the annual leave provided by Police Regulations and Determinations and/or the Working Time Regulations for the annual leave year in question. She must be able to take both types of leave. In most cases this will not cause significant issues as the annual leave can be accommodated within the leave year(s) in question. However, there may be occasions when a woman will not be able to take her annual leave before her maternity leave starts. This may be due to the fact that her maternity leave will start close to the beginning of the annual leave year, or it may be that a woman had planned to start her maternity leave later in the leave year, but either she has been on sick leave or the baby has been born prematurely and she has therefore not been able to take her annual leave. It should be remembered that, as set out in PNB Circular 10/5 officers can take annual leave before, during (i.e. if there is a break in between two periods of maternity leave) or after maternity leave

If a woman is unable to take all of her annual leave in the leave year due to being on maternity leave she should be allowed to carry it over into the appropriate leave year when she returns to work. The European Court of Justice in the case of *Gomez v Continental Industrias del Caucho SA* held that a woman must be able to take the annual leave that she is entitled to at a time outside her maternity leave. Where a woman is unable to take her annual leave before she starts her maternity leave, for example, for the reasons set out above, exceptions should be made to carry over policies to allow women to carry the remaining period of leave into the appropriate leave year. For example, a woman will be able to carry over leave that she was unable to take into the leave year in which she returns. However, if there is insufficient time within that leave year to take her leave she should be able to carry over the remainder into the next leave year.

It should be remembered that a woman has the right to choose when to start her maternity leave, subject to fulfilling the requirements of Police Regulations and Determinations

Note: Forces should note that neither of these issues affects officers who have been able to take their annual leave in the relevant leave year. In accordance with Regulation 33 Annex O, any carry-over of annual leave into a further leave year will be limited to 5 days; (this can be increased at the discretion of the Chief Officer).