



Derbyshire Constabulary

**GUIDANCE ON ACCRUAL AND CARRY OVER OF ANNUAL LEAVE
WHILST ABSENT DUE TO LONG TERM SICKNESS**

POLICY REFERENCE AHA

This guidance is suitable for Public Disclosure

Owner of Doc: Head of Department, Human Resources.

Date Approved: January 2010

Review Date: January 2011

Cover Notes

Full Title:	Guidance on Accrual of Annual Leave whilst Long Term Sick
Security Status:	Not Protectively Marked
Suitable For Disclosure:	Yes
Reasons for Partial Non Disclosure:	N/A
Policy Reference:	AHA
Registry Reference:	10/279
Implementation Date:	January 2010
Review Date:	January 2011
Department/Division Responsible:	Human Resources
Policy Owner:	Head of Department
Author:	Nicola Smith
Date Last Reviewed:	N/A

Legislative Compliance

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with Equal Opportunity legislation and policies. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

Statement

A minimum standard of recompense for accrual of annual leave whilst on long term sickness has been agreed across all Forces within the East Midlands Region.

Aims

To comply with the House of Lords decision in 2009 in relation to the case of Stringer v. HMRC and the decision made by the European Court of Justice in 2009 in relation to the case of Francisco Vicente Pereda v Madrid Movilidad Sand to provide a regional consistency.

Scope

This will apply to all Police Officers and Staff employed by the Force.

Entitlement

A person who is absent from work for a complete leave year, due to long term sickness absence will continue to accrue a maximum of 5.6 weeks (28 days) statutory leave (including public holidays), in line with the Working Time Directive – pro rata for part-time staff, which they will be able to take as annual leave on their return to work or be recompensed by method of payment should they fail to return to work.

On termination of office/employment

In order to comply either with Police Regulations, or contracts of employment, should an officer / member of staff's contract to be terminated, and they have been unable to take either all or a proportion of their annual leave due to long term sickness absence, payment will be made in lieu of their contractual holiday entitlement (including public holidays) for the current year which will be pro rata to the termination date.

However, if any period of sickness had been partly in the previous leave year, then the entitlement for that leave year will be a maximum carried forward of 5.6 weeks (28 days) statutory leave (including public holidays)

Police Staff Medical or Age Retirement

Police Staff due for retirement, on age limit, are entitled to take their full Annual Leave entitlement in the year which they retire, provided there are

sufficient working days prior to the due date of retirement for the leave or a proportion of leave to be taken.

Staff retiring on ill health who have been absent from work through sickness absence will be entitled to their contractual annual leave, including public holidays, on a pro rata basis, up to the date of retirement. This will be paid as a lump sum. They will be entitled to payment for annual leave accrued from the previous leave year up to a maximum of 28 days (including public holidays)

Police Officer Medical or Service Retirement

Police officers retiring are entitled to their annual leave up to date of retirement on a pro rata basis. For ill health retirements this is paid as a lump sum.

If officers have been absent through sickness , they will be entitled to payment for annual leave accrued from the previous leave year up to a maximum of 28 days (including public holidays)

Any annual leave carried forward into a new leave year, must be taken within the first 3 months of a return to work and no further concession will be made to carry forward leave into the following leave year unless the return to work is in the last quarter of the leave year.

Accrual is limited to current year plus 1.

Sickness whilst on Annual Leave

If a member of staff falls ill during a period of annual leave, on production of evidence e.g. a sickness certificate, the member of staff will be able to retake the annual leave period covered by the medical certificate at another time. It should be ensured that the leave is taken within that leave year.

1. Examples

Scenario One:

A member of staff is entitled to 32 days leave which incorporates 8 Bank / Public Holidays and reports sick at beginning of the new leave year. The sickness is long term and the member of staff does not return before the next leave year begins. The member of staff would only be entitled to carry over 28 days leave into the new leave year. This is because the entitlement to carry forward leave is based on the statutory minimum of 28 days (pro rata for part time staff), which incorporates Bank / Public holidays.

Scenario Two:

A member of staff is entitled to 40 days leave which incorporates 8 Bank / Public Holidays and reports sick at the end of September after taking 10 days annual leave and 5 Bank / Public Holidays. The member of staff does not return before the new leave year and so will be entitled to carry over 13 days. This is because the entitlement to carry forward leave is based on the statutory minimum of 28 days (pro rata for part time staff), which incorporates Bank / Public holidays.

Scenario Three:

A member of staff takes annual leave for 10 days in August and during the leave takes ill. They report the illness as soon as possible to their supervisor and on their return to work, provide evidence from a medical certificate that they were ill during the leave period. The leave should then be re-allocated to the member of staff and be taken in that leave year provided there are sufficient working days.

Scenario Four:

A member of staff takes annual leave for 10 days in February / March and during the leave takes ill. They report the illness as soon as possible to their supervisor and on their return to work, provide evidence from a medical certificate that they were ill during the leave period. The leave should then be re-allocated to the member of staff and as it would probably not be possible to retake the leave in the current leave year, should be allowed to carry it forward to the next leave year.