

# **Trowbridge Town Council**

Working with the community

## **Annual Leave and Time off Policy**

### **1. Introduction**

This policy details the annual leave, bank and public holidays staff are entitled to. It gives the entitlements for full time and part time employees. Arrangements for carrying forward annual leave, buying / selling of annual leave, compassionate leave and requesting unpaid leave are also included. All employees must maintain a staff leave/absence record card which will be issued on commencement of employment and they must submit it at least monthly to their line manager for checking.

### **2. Annual Leave Entitlement**

The annual leave year runs from 1 April to 31 March.

#### **Full Time Staff:**

- The minimum paid annual leave entitlement is 21 days for full time staff.
- This increases by 1 day per year after completion of the second year, to a maximum of 25 days.
- In addition 2 “Local days” have been awarded to permanent staff, 1 Local Day must be taken in the Christmas and New Year period, the other Local Day is flexible.
- In addition to paid annual leave, staff are also entitled to annual bank and public holidays and any extra statutory, bank and general public holiday days as they occur.

#### **Part Time Staff**

- Part time staff cannot be treated less favourably than comparable full time staff and therefore receive the same holiday entitlement as detailed above for a full time worker but on a pro-rata basis. Similarly, they receive a pro-rata entitlement to the annual bank and public holidays. This pro-rata entitlement will apply even if they work the public/bank holiday.

### **3. Bank holiday entitlement**

In England and Wales there are six annual bank holidays and two public holidays which are:

- New Year’s Day
- Good Friday (public holiday)
- Easter Monday
- First Monday in May
- Last Monday in May
- Last Monday in August
- Christmas Day (public holiday)
- Boxing Day

Staff receive paid leave for these bank and public holidays either on the day itself or if their roster requires them to work on this day they will be offered an alternative day off in lieu and the appropriate payment or a pro-rata entitlement if they work part time. If additional public holidays are declared e.g. royal occasions specific guidance will be issued at the time.

#### **4. Legal Requirement under the Working Time Amendment Regulations**

If staff are on the starting contractual annual leave entitlement of 23 days (21 days annual paid leave and 2 Local Days) then by including the 8 bank and public holidays they exceed the statutory 28 days holiday entitlement as required under the working time amendment regulations 2007. The council exceeds the 28 days' minimum annual leave required under the working time amendment regulations 2007 with a combination of annual leave and bank holidays. It is a statutory requirement that you take 28 days as paid annual leave each year. The bank holiday premium rate is: your normal rate of pay for that day plus time off in lieu of the hours worked at a later date.

#### **5. Timing of Annual Leave**

The timing of leave is by mutual agreement. Under the working time regulations staff must give their manager advance notice of their intention to take leave which is at least twice the period of leave they wish to take. For example, if they want to take two weeks annual leave they should request this at least four weeks before they want to take the leave.

The manager, under the working time regulations, may refuse a request to take time off but must notify them of this within the correct time limit. This is a period which is at least as long as the holiday requested. For example, to refuse a request for a week's leave the manager would have to tell them at least a week in advance or if they have given notice to take two weeks annual leave the manager would need to inform them two weeks before the leave starts.

The manager may refuse a request for holiday for operational reasons. Should the employee disagree with this decision they may refer the matter to a more senior manager.

Should the employee fail to return to work on the expected date of return and cannot provide a satisfactory explanation for this an investigation will look into the circumstances and reasons and may result in the disciplinary procedure being followed.

#### **6. Carrying annual leave forward**

Staff are entitled to carry forward a maximum of 5 days (pro rata for part time employees) into the following leave year. This should be approved by their manager and signed off on their leave card at the end of each leave year.

Staff members who have "bought" additional leave during that leave year will not be entitled to take any leave forward to the next leave year.

Any leave beyond five days, which has not been taken, will be lost. Leave can only be carried forward if the employee has already taken their annual leave legal requirement of 28 days (pro rata equivalent for part time employees).

#### **7. Buying and Selling of Annual Leave**

As stated in Trowbridge Town Council's ("the Council") Work Life Balance Policy the Council recognises the need for their employees to achieve a satisfactory work life balance. The purpose of this policy and procedure is to provide employees with the opportunity to increase flexibility with regards to annual leave entitlement. This can be achieved either by employees buying additional leave or selling some of their current entitlement.

Buying extra holiday may appeal to employees for a variety of reasons e.g. the chance to spend more time with family or go on a special holiday. Alternatively, employees may wish to use less than their full leave entitlement and exchange some of their leave for extra salary.

##### **Full-time Employees**

Employees working on a full time basis of 37 hours per week have the following entitlements:

To buy a maximum of 10 days per leave year

To sell a maximum of 2 days per leave year

### **Part-time Employees**

For employees working on a part-time basis (of less than 37 hours a week) the maximum amount of leave they can buy or sell will be calculated on a pro rata basis. In these instances, employees should contact the Head of Service for Resources and Venues (HOS) who will calculate the amounts and advise them of the amounts due.

### **Temporary & Casual Employees**

Those employees who are employed on a temporary contract of less than one year or on a casual basis are not permitted to enter into the scheme.

## **7.1 Rules of the Scheme**

- The opportunity to buy and sell leave will only arise once a year and any employees wishing to buy or sell leave must submit their application to the HOS before 31 March of the preceding year.
- Once an employee has committed to the scheme and submitted their application they cannot - change their mind. In instances where additional leave is “bought,” all annual leave entitlement including those “bought” for that leave year must be taken by the end of that leave year.
- Employees must discuss any requests to buy or sell leave with their line manager who must authorise the application before it is submitted.
- Holidays may only be taken at the line manager’s discretion; normal considerations, such as ensuring staff are not on leave at the same time, assessing workload and authorising leave days in advance, will still apply.
- Employees should be aware that there may be instances where managers cannot authorise the sale or purchase of leave for legitimate business reasons.

## **7.2 The Procedure**

The following procedure must be followed when applying to buy or sell leave:

- Discuss the desired option (buying or selling) with line manager
- Complete a ‘Buying / Selling Leave’ form; obtainable from the HOS.
- Obtain line managers approval on the form
- Submit the completed form to HOS by 31 March

## **7.3 Payments and Deductions**

Employee’s pay will be adjusted accordingly over the year in which they have made an application. This will be done by making monthly deductions for bought leave or monthly payments for sold leave. The amounts will be based on a percentage of the employee’s salary, so if an employee’s income varies or a pay award is made, the amount being paid will be adjusted automatically.

## **7.4 Tax, National Insurance & Pension Implications**

Any additional money received or money deducted from an employee’s normal salary will be subject to the standard application of Tax and National Insurance payments.

Employees selling annual leave, and therefore receiving additional payment, will not be required to pay additional pension contributions. Employees buying annual leave, and therefore receiving less money, will still be required to make pension contributions equal to those that would normally have been paid during that period. Pension contributions must remain consistent each month.

## **7.5 Points to Remember**

- Although the scheme has been introduced to give employees more control over their benefits, once they have committed to the scheme and submitted their application they cannot change their mind.
- If an employee buys additional leave it must be taken by the end of the leave year.
- Leave may only be carried over in exceptional circumstances or where there is a good business reason why it could not be taken.
- If additional leave is “bought” it must be taken. There is not an option to sell leave back to the Council.

- If there is an alteration to an employee's hours partway through the leave year there will be no effect on payments or deduction e.g. if they buy two days leave and, partway through the year reduce their hours from full-time to part-time, they will still be entitled to take two days (or 15 hours) of leave.
  - If an employee receives a salary increase partway through the leave year any payments or deductions will automatically be adjusted to take account of increases to their pay.
  - If an employee is absent from work due to illness when the bought leave is due to be taken then, providing they meet the requirements of the Council's sickness procedures, they can reclaim the leave. An alternative date to take the leave should be investigated as soon as possible after returning to work.
  - If there are no alternative dates on which the leave can be taken and taking into account the fact that leave cannot be carried forward into the next leave year, employees will be given the option of being paid instead. These payments will be subject to the standard tax and National Insurance deductions.
  - If an employee ceases employment with the Council partway through the leave year, their final pay will be adjusted to account for the proportion of leave they have accrued or taken.
- Should an employee choose to buy or sell annual leave, please see **Appendix I** - Application for Buying / Selling Annual Leave

## 8. Unpaid Leave

A manager may authorise unpaid leave up to the amount of the annual leave entitlement in any one leave year. Before requesting unpaid leave employees will need to have booked their annual leave entitlement for the year. Requests for unpaid leave need to be approved by a manager.

## 9. Medical appointments

Every effort should be made to attend medical appointments (i.e. Doctor / Dentist appointments) in employees own time. If this is not possible, how this time is taken should be agreed with a line manager.

## 10. Dependants Leave / Compassionate Leave / Bereavement Leave

Employees have the right to take time off work to deal with an emergency involving a dependent. This could be a husband, wife, partner, child, parent or anyone living in the household as a member of the family (excluding tenants, boarders or someone you employ). A dependent may also be anyone who reasonably relies on them for help in an emergency. An emergency could be any unexpected or sudden problem involving someone who depends on their help or care. The right to time off for dependents could apply to a wide range of different circumstances and employees should discuss your situation with their line manager.

If employees need to take time off for bereavement, they will need to speak with their line manager. At the manager's discretion it may be decided that the employee is entitled to paid leave. When making this decision a manager will ensure they are fair and consistent and will take into consideration what the custom and practice has been in the past for all employees. A line manager may authorize:

- Unpaid time off up to 3 days, and in exceptional circumstances more than 3 days.
- Paid time off of up to 3 days. Time off beyond 3 days should normally be taken as part of your annual leave entitlement or be unpaid.
- Paid time off beyond 3 days in exceptional circumstances, e.g. the death of or serious injury to a child, partner or parent.

**11. Jury Service**

If employees are called to do jury service, the manager must allow them time off for this. Employees will need to show the confirmation of jury service letter received from the court prior to going on jury absence. Employees will receive from the court a “certificate of loss of earnings form” which must be given to the HOS for completion. The HOS will return the completed form to take to the court on your first day of jury service. At the end of jury service, the court will pay for loss of earnings and expenses and will give the employee a statement which contains this information. This statement must be given to the HOS. The employee will receive normal pay but any money obtained from the courts to cover loss of earnings must be either deducted from salary OR paid back to the Council. It is the employee’s responsibility to claim for allowances that they are entitled to in order to mitigate costs incurred by the Council. During periods where attendance is not required and it is practical the employee should return to work. If this is not possible they should discuss the situation with their manager.

**12. Leavers**

If an employee leaves the council during the annual leave year they will receive a pro- rata entitlement to annual leave. They should arrange to take any outstanding holiday entitlement before leaving the council. If a manager confirms that operational reasons prevented them from doing this, then payment in lieu is allowed. If they leave the council and have taken more than the proportion of holiday entitlement accrued a deduction will be made from final salary equivalent to the excess holiday pay already received.

**13. Administration**

All employees will be issued with an annual leave card upon their employment commencement date and the 1<sup>st</sup> April each year. Leave will be calculated for the full year or duration of your employment for those on fixed term contracts. The entitlement will be indicated on the leave card.

**Appendices**

**Appendix I**

Application for Buying / Selling Leave

**Lance Allan – Town Clerk & Proper Officer**

Signed .....

Dated .....

*Approved at the meeting of the Policy & Resources Committee on 7<sup>th</sup> May 2019.*

*This procedure will be amended and reviewed as and when the size and nature of the council changes or when new legislation is introduced. Otherwise date of next review is May 2023.*

# APPLICATION FOR BUYING / SELLING LEAVE

**Name:**

**Department:**

I wish to make an application to buy / sell \* leave during the following period: (\* delete as appropriate)

I April 20\_\_\_\_\_ to 31 March 20\_\_\_\_\_ (enter leave year dates)

**I wish to buy**  **days (maximum of 10)** please enter X if selling leave

**OR**

**I wish to sell**  **days (maximum of 2)** please enter X if buying leave

If buying leave please give an indication of when you are intending to take it, if known,  
(this will help with managing the scheme): .....

### Declaration

By signing this application form I agree to the following:

- My total number of leave days does not fall below 21 per year (excluding bank holidays), (pro rata for part-time employees)
- I understand that, if my application is accepted, I have committed to the scheme and cannot withdraw my application
- That my pay will be adjusted accordingly over the year for which the application has been made. This will be done by making either monthly deductions for bought leave or monthly payments for sold leave
- The payments or deductions are based on a percentage of my salary, so if my income varies, or a pay award is made during the year the amount I am paying or receiving will automatically adjust
- If I am buying annual leave, I am aware that all annual leave entitlement for that leave year, including any bought, must be taken by the end of that annual leave year.

Signed: ..... Date:.....

Authorised by line manager: .....(Signature)

..... (Print Name)

.....(Date)

**Completed forms to be returned to:  
Juliet Weimar, Head of Service: Resources and Venues**