

**HR Guide:
Annual Leave and Sickness Absence
Version: 2.1**



Focus. Passion. Inspiration.

North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Contents	
<u>Section 1</u>	Introduction
<u>Section 2</u>	Why would an employee take annual leave during sickness absence?
<u>Section 3</u>	How does an employee request annual leave during sickness absence?
<u>Section 4</u>	Should I approve all requests to take annual leave during sickness absence?
<u>Section 5</u>	How much leave should I approve?
<u>Section 6</u>	How do I record Annual Leave taken during Sickness Absence?
<u>Section 7</u>	Does the annual leave period count towards the Maximising Attendance Triggers?
<u>Section 8</u>	How is Annual Leave calculated should the employee be dismissed under the Maximising Attendance procedure following long term absence?
<u>Section 9</u>	How much Annual Leave can be carried over into the next holiday year?
Related Forms/ Template Letters	<ul style="list-style-type: none"> ➤ Requesting Annual Leave during Long Term Sickness Absence
Related documents	<ul style="list-style-type: none"> ➤ Maximising Attendance Policy & Procedure

Version Number	Effective Date	Details of Last Revision
2.1	11.07.14	Updated onto new policy template

Section 1: Introduction

- 1.1 Annual leave can be authorised during sickness absence, and annual leave continues to accrue during sickness absence.
- 1.2 It can be carried over into the following leave year up to the 31st March if it is to be used for a **phased return** from sickness absence.
- 1.3 Calculating annual leave can also become complicated as after 3 months of sickness absence, annual leave is reduced (abated) to the Statutory Maximum of 28 days, 8 of these being the fixed public holidays. Please contact HR should you have any questions regarding this (sometimes) very complicated issue.
- 1.4 Much of this complication is a result of case law and there is still no definitive guidance in Statute regarding annual leave and sickness absence, however, guidance from case law currently shows:
- 1.5 Employment Case Law
 - Employees continue to accrue their statutory holiday entitlement during long term sickness absence (28 days).
 - Employees can request to take their *accrued* statutory holiday entitlement during their sickness absence

Section 2: Why would an employee take annual leave during sickness absence?

- 2.1 Taking annual leave during sickness absence can be beneficial to employees where the employee is on half pay or no pay, as they may be financially better off for the period of annual leave which is paid at their normal salary.
- 2.2 Taking annual leave also extends the employee's period of occupational sick pay, as any days taken as annual leave will not count towards the rolling period for sick pay.
- 2.3 Where an employee does not take all of their annual leave before the end of the annual leave year, this leave would normally be lost. Where an employee on long term sickness absence does not expect to return before the end of the leave year they can take this annual leave during sickness absence to ensure the leave is not lost.
- 2.4 Employees must note that annual leave taken during a period of sickness absence does not break the period of continuous sickness absence for the purposes of the Maximising Attendance Procedure e.g. Employee has 11 weeks continuous sickness absence, employee requests and takes 2 weeks annual leave during sickness, this is followed by a further 10 weeks sickness absence = 23 weeks continuous sickness absence ([see section 7](#)).

Section 3: How does an employee request annual leave during sickness absence?

- 3.1 Where an employee wishes to take annual leave during a period of sickness absence they must provide the appropriate notice to their manager.
- 3.2 The '[Requesting Annual Leave during Long Term Sickness Absence Request Form](#)' is used for requesting this leave and is available on Navigate.

Section 4: Should I approve all requests to take annual leave during sickness absence?

- 4.1 When considering requests for annual leave during sickness absence managers should consider whether the employee would benefit from using their accrued leave at a later date, for example to facilitate a return to work (phased returns can require employees to use accrued leave to assist completion of the return to work – see [HR Guide: Dealing with GP's Fit Notes](#)).
- 4.2 Managers should also consider the length of time remaining on the statement of fitness for work, when the employee is expected back at work and the needs of the service. Due to the administrative impact of requesting annual leave during sickness absence, requests of less than 1 week will not normally be approved. However, it must also be noted that where leave is refused the employee can request to carry the statutory leave into the next leave year, which could impact on service delivery in the following year.

Section 5: How much annual leave should I approve?

- 5.1 Employees can only request to take the accrued statutory minimum holiday entitlement during sickness absence. The statutory holiday entitlement is 28 days for full time employees, for part time employees this entitlement should be converted into hours and pro-rated.
- 5.2 To calculate the statutory entitlement accrued at this point divide the employees statutory entitlement (days) by 12 and multiply by the number of months (e.g. if fit note expires in June multiply by 6, July multiply by 7).
- 5.3 [The HR Form: 'Requesting Annual Leave during Long Term Sickness Absence'](#) informs managers how to calculate the statutory minimum, and the maximum amount of leave which can be approved.
- 5.4 Term time employees are paid their holiday entitlement as part of an annualised salary. Any requests for annual leave during Sickness Absence from term time employees should be forwarded to HR Operations Team for guidance on calculating their holiday entitlement.

Section 6: How do I record Annual Leave taken During Sickness Absence?

- 6.1 Services should continue to record sickness absence as normal (via CHRIS or weekly absence returns to payroll). The [HR Form: 'Requesting Annual Leave during Long Term Sickness Absence'](#) should be submitted to Payroll to make the relevant pay adjustments.
- 6.2 Occupational sick pay expiry will also be recalculated, and affected employees will receive a letter advising them accordingly.
- 6.3 Administrative note for annotation onto the CHRIS personnel system: The annual leave will be displayed on the sickness screen (SSP) as an individual entry with tick boxes 'excluded from entitlement' and 'annual leave' checked.
- 6.4 Services should ensure that the employee's annual leave card/CHRIS record/Click & Go system is updated to reflect the number of days taken during the sickness absence period as normal. The leave will still be recorded as sickness (Screen SSP/LVE) however services will need to adjust the annual leave balances on CHRIS (screen LVA) using the category ANN02 Hols during sickness.

Section 7: Does the Annual Leave period count towards the Maximising Attendance Triggers?

- 7.1 Yes, the employee has requested annual leave during a period of sickness absence, prior to returning to work – and is therefore still sick. The period of annual leave will count towards the Maximising Attendance triggers.

Section 8: How is Annual Leave calculated should the employee be dismissed under the Maximising Attendance procedure following long term absence?

- 8.1 For advice on calculating annual leave under these circumstances, please contact the HR Operations Team.

Section 9: How much Annual Leave can be carried over into the next holiday year?

- 9.1 For less than 10 years' service, annual leave is abated to the statutory amount. Any annual leave carried over from one holiday year to the next must be taken by the end of January, or the end of March of the next leave year if being used as part of a phased return. For advice on calculating abatement of annual leave, please contact the HR Operations Team.