

## THURSTON PARISH COUNCIL

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Paper prepared by: Clerk to the Parish Council for Policy & Resources Committee Meeting of 26.03.21

Employment matters relating to members of staff - to carry over the remaining balances of holiday entitlement outstanding from 31<sup>st</sup> March 2021 to year commencing 1<sup>st</sup> April 2021.

Government advice: [www.gov.uk/guidance/holiday-entitlement-and-pay-during-coronavirus-covid-19](http://www.gov.uk/guidance/holiday-entitlement-and-pay-during-coronavirus-covid-19)

### **Holiday entitlement**

Almost all workers, including zero-hour contracted workers and those on irregular hours contracts, are legally entitled to 5.6 weeks' paid holiday per year. The exception is those who are genuinely self-employed.

For the purposes of calculating holiday entitlement, the statutory 5.6 weeks entitlement is split into 4 weeks derived from EU law, and an additional 1.6 weeks from UK law. This guidance focuses on the legal minimum entitlement of 5.6 weeks. Many workers have contracts that entitle them to additional paid holiday beyond this, known as contractual holiday entitlement.

### **Carrying annual leave into future leave years**

The 5.6 weeks of statutory holiday is split into 4 weeks and 1.6 weeks, and there are some differences in the rules that apply:

- the 1.6 weeks can be carried forward into the following leave year if a written agreement exists between the worker and the employer
- generally, the 4 weeks cannot be carried into future leave years, so employers must facilitate these weeks being taken within the relevant leave year

However under certain circumstances employers must allow the 4 weeks to be carried into future leave years.

### **Carrying leave forwards: how new legislation has changed the rules.**

The government has passed new emergency legislation to ensure businesses have the flexibility they need to respond to the coronavirus pandemic and to protect workers from losing their statutory holiday entitlement (The Working Time (Coronavirus) (Amendment) Regulations 2020, laid before Parliament on 27 March 2020). These regulations enable workers to carry holiday forward where the impact of coronavirus means that it has not been reasonably practicable to take it in the leave year to which it relates.

Where it has not been reasonably practicable for the worker to take some or all of the 4 weeks' holiday due to the effects of coronavirus, the untaken amount may be carried forward into the following 2 leave years. When calculating how much holiday a worker can carry forwards, employers must give workers the opportunity to take any leave that they cannot carry forward before the end of the leave year.

What is reasonably practicable?

When considering whether it was not reasonably practicable for a worker to take leave as a result of the coronavirus, so that they may carry untaken holiday into future leave years, an employer should consider various factors, such as:

- whether the business has faced a significant increase in demand due to coronavirus that would reasonably require the worker to continue to be at work and cannot be met through alternative practical measures
- the extent to which the business' workforce is disrupted by the coronavirus and the practical options available to the business to provide temporary cover of essential activities
- the health of the worker and how soon they need to take a period of rest and relaxation
- the length of time remaining in the worker's leave year, to enable the worker to take holiday at a later date within the leave year
- the extent to which the worker taking leave would impact on wider society's response to, and recovery from, the coronavirus situation
- the ability of the remainder of the available workforce to provide cover for the worker going on leave

Employers should do everything reasonably practicable to ensure that the worker is able to take as much of their leave as possible in the year to which it relates, and where leave is carried forward, it is best practice to give workers the opportunity to take holiday at the earliest practicable opportunity.

*Proposal: the Committee agrees to the following members of staff carrying forward the outstanding annual leave for 2020-2021 into 2021-2022*

Clerk: 14.84 days

Deputy Clerk: 2.23 days

Litter Picker: 13.81 hours