GUIDANCE NOTE FOR MANAGERS & EMPLOYEES - LONG TERM SICKNESS AND STATUTORY HOLIDAY ENTITLEMENT

As a result of recent developments in employment law, employees who are on long term sickness absence are now able to carry forward the statutory part of their holiday entitlement (maximum 28 days per annum for full time staff, including bank holidays) from one holiday year to the next, subject to agreement by the line manager as to when any holiday is to be taken.

What does this mean in practice?

Where an employee is absent at the end of the annual holiday year (i.e. 30 September) and has not taken at least 28 days holiday, including public holidays and closure days, he/she is entitled to carry over the balance of entitlement (which will include the 5 days that can be carried over in exceptional circumstances) into the next holiday year, either:

1. To be taken immediately on return from sickness absence, or
2. As part of a phased return to work, or
3. At a time agreed with their line manager.

In circumstances where an employee returns to work after long term sickness absence prior to the end of the holiday year e.g. in August and has not taken or still has a large proportion of statutory holiday entitlement for that holiday outstanding, they must, if requested to do so, take their statutory holiday before the end of the holiday year.

Employees who are on long term sickness absence will be given the option to take some of their annual holiday entitlement during their sickness absence. In practice, this would mean that there are two options:

1. You may break a period of sickness absence and be placed on holiday entitlement for the requested period of time and if you are still unfit for work at the end of the payment of holiday entitlement you will then revert back to sickness absence. You would not be paid Occupational Sick Pay (OSP) or Statutory Sick Pay (SSP) during the holiday period but you may revert to OSP or SSP on return to sickness absence, if eligible.
2. You remain on sickness absence but if you have exhausted your OSP, you may be paid holiday entitlement for the requested period of time. Your SSP will not be extended. (if you are no longer receiving SSP you may be entitled to claim benefit)

For both options, the line manager must inform HR, who will then liaise with payroll so SAP can be amended and a note put on the employee’s personal file.

If the original fit note has not expired, this will suffice for payroll to put the member of staff back on sickness absence, however, if it has expired then a new fit note will be required.

Current Contractual & Statutory Holiday Entitlements

The University’s contractual holiday entitlement is as follows:

Fixed holidays       8 public days + 4 University closure days = 12 days
Grades A to E       25 days or 27 days (+12 fixed = 37 or 39 days)
Grades F to I       30 days (+12 fixed = 42 days)
The current statutory holiday entitlement is 28 days (inclusive of bank holidays).

Therefore, for employees on grades A to E who have been on long term sickness absence over a full holiday year, it would be necessary to add up to 3 additional days holiday to the basic University holiday entitlement to equate to the statutory entitlement of 28 days. (3 for employees with less than 5 years service and 1 for those with more than 5 years service).

Some examples of how the statutory holiday entitlement may be affected by long term sickness absence are given below:

**Example 1**

Grade D employee  
Contractual holiday entitlement 25 days  
Period of sickness from 2 January 2010 to 30 November 2010. (5 Bank Hols)  
Assume taken 6 days holiday and 3 Bank Holidays (Christmas day, Boxing day and New Year’s day) prior to absence = total 9 days of statutory entitlement  

19 days statutory holiday entitlement left (28 days - 9 days prior to absence)  
19 days to carry forward with full 2010/11 entitlement to take on top

**Example 2**

Grade A employee  
Contractual holiday entitlement 25 days  
Period of sickness 1 November 2009 to 16 December 2010 (8 Bank Hols)  
No holiday taken in current holiday year when absence commenced  

28 days to carry forward with full 2010/11 entitlement to take on top

**Example 3**

Grade F employee  
Contractual holiday entitlement 30 days  
Period of sickness 15 January 2010 to 31 August 2010 (5 Bank Hols)  
Assume taken 4 days holiday and 3 Bank Holidays (Christmas day, Boxing day and New Year’s day) prior to absence = total 7 days of statutory entitlement  

16 days statutory holiday entitlement left (12 already taken)  
26 days (including 16 statutory) days remaining to be taken in current holiday year (ie by 30 September 2010)

**Options**

1. Immediately use annual holiday, using x no. of days as holiday and then x no. of days for phased return to work  
2. Agree point in subsequent holiday year by which all carried forward holiday must be taken  
3. To make it manageable and to prevent holiday entitlement unnecessarily accruing in subsequent years it is necessary to agree a date by which carried forward holiday must be taken, especially in areas where holiday is restricted at certain times.

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