HR Support Groups Briefing

Part-time Staff (and staff who work full-time or more but in an irregular pattern) & Annual Leave/Public Holidays

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (Amendment) Regulations 2002 (the Regulations) make it unlawful for employers to treat part-time workers less favourably than comparable full-time workers in their terms and conditions of employment, unless different treatment can be objectively justified.

It is the practice within the University to treat part-time members of staff in the same way as full-time staff – even where this may create logistical and/or operational difficulties. There will be few occasions where it will be possible to provide an objective justification for treating part-time staff less favourably – and fewer occasions still where it would be desirable to do so.

However, one of the areas where there is some confusion as to how to ensure that part-time staff are treated in the same way as full-time staff is in calculating their entitlement to annual leave and public holidays.

There are many variations in the patterns of hours that part-time staff can work but their leave entitlement will always be calculated on the basis of one of the following:

- the number of days worked per week (where the employee is contracted to work the same hours each day) e.g. Monday to Thursday, seven hours per day (28 hours per week) or Monday to Friday, 4 hours per day (20 hours per week);
- the number of hours worked per week (where the employee is contracted to work an irregular work pattern) e.g. Monday – 3 hours, Tuesday – 3.5 hours, Wednesday – 3.5 hours, Thursday – 3.5 hours and Friday – 3 hours (Total = 16.5 hours per week);
- the hours are worked in either of the above patterns (or full-time hours each week) but the employee works less than the whole year e.g. term-time working where the employee is contracted to work 40 weeks in the year.

To calculate annual leave entitlement in each of these circumstances, there is a spreadsheet which can be downloaded from: [http://www.humanresources.ed.ac.uk/policies/pols/ANNUAL.XLS](http://www.humanresources.ed.ac.uk/policies/pols/ANNUAL.XLS)

Alternatively, the guidance below can be followed:

**Staff working the same hours each day.**

For example, an employee with an entitlement to 30 days annual leave who works 3 days per week would have an annual leave entitlement of 18 days

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derived by the formula “full-time annual leave in days divided by 5 and then multiplied by days worked in a week” = (30/5)*3 = 18.

This also applies to staff who work more than full-time hours and who work the same hours each day

There are nine public holidays each year and the pro-rata entitlement would be calculated using the same method. For the above example, the formula would be (9/5)*3 = 5.4* days per year entitlement, regardless of the actual days in the week worked by the employee.

This can cause difficulties where an employee is scheduled to work, for example, every Monday. A lot of the University’s public holidays fall on a Monday and it may be that a part-time employee will be entitled to fewer pro-rata public holidays than there are holidays on which he/she is scheduled to work – in which case the employee will be required to use annual leave to make up the difference to ensure that all members of staff are being treated fairly.

Staff working an irregular pattern of hours.

For example, an employee with an entitlement to 26 days annual leave who works 17 hours per week in a pattern of 3 hours on Monday, Tuesday and Wednesday and 4 hours on Thursday and Friday would have an annual leave entitlement of 88.4 hours derived by the formula “hours worked per week divided by full-time hours multiplied by full time annual leave expressed as hours” = (17 hours/35 hours)*(26 days*7hours) = 88.4 hours. If a staff member took a Thursday off on annual leave then 4 hours would be deducted from their entitlement and if he/she took a Monday off then 3 hours would be deducted.

Public holidays are calculated using the same method. For the above example, the formula would be (17/35)*(9 public holidays*7hours per day) = 30.6 hours per year entitlement. This would be the entitlement to public holidays, regardless of the actual days worked by the employee.

Staff who work full-time (or more) and who work their hours in an irregular pattern will also have their annual leave calculated in the same way. For example, an employee with an entitlement to 26 days annual leave who works 35 hours per week in a pattern of 7 hours on a Wednesday, 5 hours on Thursdays and Fridays, 9 hours on Saturdays and Sundays would have an annual leave entitlement of 182 hours derived by the formula “average hours worked per day multiplied by full time annual leave expressed as days” = (7 hours)*(26 days) = 182 hours. If a staff member took a Thursday off on annual leave then 5 hours would be deducted from their entitlement and if he/she took a Saturday off then 9 hours would be deducted.
If the above member of staff was contracted to work 40 hours over five days in an irregular pattern then he/she would be entitled to (8 hours)*(26 days) = 208 hours as annual leave.

However, since annual leave entitlement is based on a five day week, there has to be an additional calculation if an employee is contracted to work more than full-time hours over more than 5 days. If, therefore, in the above example, the member of staff worked 42 hours over 6 days, he/she would be entitled to (42/6)*26/5*6) = 218.4 hours if worked in an irregular pattern (31.2 days if the pattern was the same each day).

To have to treat annual leave and public holidays as hours rather than days may seem an unnecessary complication but, where a member of staff’s hours follow an irregular pattern, it is the only way to ensure that there is no less favourable treatment.

Staff working less than a full year.

For example, an employee with an entitlement to 30 days annual leave who works 35 hours per week and 40 weeks per year would have an annual leave entitlement of 23 days derived by the formula “full-time annual leave in days divided by the number of weeks in an average year (52.1428) multiplied by the number of weeks worked in the year” = (30 days/52.1428)*40 = 23.

The same principles would be applied to staff who work less than a full year and who work less than full-time or more than full-time in the weeks they are scheduled to work.

*For consistency, it is recommended that, where there are calculations which result in part days, these are treated as hours e.g. 5.4 days will be 5 days and 3 hours

Briefing Review

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Alternative Format

If you require this document in an alternative format, including in Word version, please contact Lynne Moyes HR Advisor, Lynne.Moyes@ed.ac.uk or telephone 0131 650 6506.

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