

HUMAN RESOURCES POLICY

BUYING AND SELLING ANNUAL LEAVE

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Document History		
Version	Date	Significant Changes
1.0	August 2020	New Policy

Equality Impact Assessment	
Date	Issues
July 2020	None

Policy Validity Statement
This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure they are consulting the currently valid version of the documentation.

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1.0 Introduction

- 1.1 The CCG is committed to assisting its employees to achieve a healthy balance between their work and personal life, in the best interests of both service delivery and the wellbeing of individuals. To support this, employees have the option to request to buy an additional week's annual leave or sell one week's annual leave. The Buying and Selling Annual Leave policy will allow employees to "Buy" or "Sell" annual leave entitlement and is designed to give employees extra flexibility with regards to their working lives.

2.0 Principles

- 2.1 The maximum amount of annual leave that can be bought or sold is equivalent to the employee's total contracted working hours for a week.
- 2.2 The minimum amount of annual leave that can be bought or sold is equivalent to the employee's total contracted working hours for a day.
- 2.3 Larger proportions than a week cannot be bought or sold.
- 2.4 Smaller proportions than a day cannot be bought or sold.
- 2.5 The buying and selling of annual leave will be considered prior to the commencement of each leave year and applications must be received by 31 December for the following annual leave year commencing on 1 April. In exceptional circumstances applications for buying and selling annual leave may be considered outside of this deadline.
- 2.6 Approved applications will exist for the leave year following 31 December when the application was made. Approved applications will not continue into the next leave year; therefore, a new application will need to be made when the leave year ends should the employee wish to buy or sell a week's annual leave for the following leave year. Only 1 application can be made to purchase or sell annual leave within one annual leave year.
- 2.7 New employees will only be able to purchase or sell annual leave from the new annual leave year.
- 2.8 The Buying and Selling of Annual Leave policy is open to both full time and part time employees alike, part time cost or benefit will be as per existing pro rata entitlement in hours.
- 2.9 The individual employee is responsible for reviewing the impact buying or selling leave may have on their personal finances, including tax liabilities, tax credits etc.
- 2.10 All requests for buying of annual leave will be given full consideration by the line manager and Head of Service with finance approval where appropriate. The presumption is to allow the employee as much flexibility as possible while operating within the needs of the service. The line manager and Head of Service will assess each application on its merits and may reject applications where, for example, where any required backfill would be impractical, or where there will be a significant impact on service delivery etc. Advice can be sought from HR where rejection is being considered.
- 2.11 Applications must be made on the buying and selling annual leave application form (Appendix A). Applications should usually be approved unless there is an impact on service delivery.
- 2.12 Where it is not possible to accommodate the request, a written response detailing the

reasons why the application has not been successful will be provided by the line manager within ten working days of receipt of the application request from the employee. Advice can be sought from HR where rejection is being considered.

2.13 The employee, line manager and Head of Service must:

- sign the relevant application form before being submitted for action to the CCG HR team by 31 December In exceptional circumstances applications for buying and selling annual leave may be considered outside of this deadline.
- The CCG HR Team will consult with Finance and will forward a spreadsheet summarising all approved applications to the NECS HR Team by 30 January
- The NECS HR Team will then forward the spreadsheet to payroll to guarantee deductions from salary for those buying leave from April

3.0 Buying Annual Leave

3.1 Applications must be made on the Buying and Selling Annual Leave application form (Appendix A). Applications should be approved unless there is a service delivery or business reason for not doing so. Advice can be sought from HR where rejection is being considered.

3.2 Employees who request to buy extra annual leave entitlement will have their annual salary reduced by the number of hours bought, and this deduction will be spread evenly across each month's salary, e.g. 37.5 hours salary will be recovered over a 12- month period.

3.3 The first deduction will be taken from the salary paid in April; this will then be followed by 11 equal monthly payments spread over the remainder of the annual leave / financial year. As deductions will be taken from the individual's net pay, Tax, National Insurance and Pension contributions will be deducted as if the normal salary has been paid.

3.4 Employees can buy up to a week's leave with the approval of their Line Manager and Head of Service after considering the potential impact on service delivery. The additional annual leave will be added to the employee's normal annual leave entitlement and will be authorised in the same way as normal annual leave requests.

3.5 Leave bought must be taken within the leave year; the leave cannot be sold back to the organisation at a later date.

3.6 If an employee who has purchased additional annual leave leaves the organisation part way through the year, any remaining payment will be deducted from their final salary. Employees leaving the CCG will ensure as far as possible that any outstanding annual leave is taken prior to their termination date.

4.0 Selling Annual Leave

4.1 Employees can sell up to one week's annual leave in each leave year; this will be the equivalent of being paid for the number hours sold. For example, if 37.5 hours is sold, the leave allocation will be reduced by the 37.5 hours 'sold'.

4.2 Applications to sell additional leave must be made by the 31 December for the following leave year commencing on 1 April.

4.3 Members of the NHS Pension scheme who participate in the selling of annual leave will have the cash value of the annual leave treated on a non- pensionable basis; this cash value will be paid as a one-off lump sum and will not be included in the calculation of pension scheme contributions for the relevant pay period.

4.4 The payment for annual leave sold is income and therefore subject to the appropriate income tax and NI deductions.

4.5 Where applicable, any additional annual leave awarded through Long Service awards may not be sold.

5.0 Eligibility

5.1 Before an employee can request to participate in the buying and selling of annual leave, they must ensure:

5.2 Statutory and mandatory training, appraisal and annual declarations of interest are up to date.

5.3 No annual leave has been carried over from the previous year.

5.4 All annual leave for the current year must be allocated and planned to be fully taken prior to 31st March in order to buy or sell leave for the next annual leave year.

5.5 They are not subject to a live formal warning as a result of a disciplinary process at the point of application. Eligibility for this cohort of staff will be considered by the line manager when these formal processes have been concluded.

5.6 For fixed term employees whose contract ends during the leave year they will only be eligible to buy annual leave; selling of annual leave will not be allowed to ensure compliance with working regulations. For such employees payments for bought annual leave will be from April until the end of their contract. If the contract is extended this will not affect the payment arrangement i.e. the final payment date will remain as their original contract end date.

6.0 Recording

6.1 A record of all employees entering the scheme will be kept by the HR Team with all payments and deductions being recorded on the Electronic Staff Record (ESR) system.

6.2 Managers must also keep a record of all employees who have bought and sold annual leave and where a member of their team who has a change in Terms & Conditions or leaves the CCG, then Managers MUST state clearly on the change or termination form that the employee is subject to the Buying and Selling of Annual Leave in the applicable leave year.

7.0 Carry Over of Annual Leave

7.1 Where annual leave has been purchased, employees will ensure that all annual leave is taken within the leave year and not carried over. If all annual leave is not taken it will be lost.

8.0 Long Term Absence

8.1 Where an employee is on long term absence e.g. Long term sickness or maternity, HR advice should be sought prior to approving any application.

8.2 Where an employee is absent for a period of time and their salary reduces e.g. half pay sickness. Deductions will continue to be taken as long as the employee's income allows it.

8.3 In the event that payments are suspended due to the employees income reducing or ceasing, payments will resume when the employee returns to work or deducted from their final salary where appropriate.

9.0 Appeals

9.1 The appeals process will be via the Grievance policy.

10.0 EQUALITY STATEMENT

10.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

11.0 DATA PROTECTION

11.1 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

12.0 MONITORING & REVIEW

12.1 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

Application to buy/sell Annual Leave for the Period 01 April to 31 March

The Line Manager/Head of Service should return this form by the 31 December to the CCG HR Team so that arrangements can be in place (e.g. for deduction from salary over the coming financial year to be made). **In exceptional circumstances applications for Buying and selling annual leave may be considered outside the deadline.**

Name	
Assignment number (as detailed on your payslip)	
CCG	
Job Title	
Application to buy/ Sell	<input type="checkbox"/> Application to buy annual leave. <input type="checkbox"/> Application to sell annual leave
Number of hours to be bought/sold	
For Which Leave Year (e.g. 1 April 2021 to 31 March 2022)	

I have discussed this with my Manager and I wish to **buy / sell (delete as applicable)** annual leave.

Employee Declaration selling annual leave: I agree that I will receive an additional payment as a one-off lump sum. I understand that this will have no impact on my pensionable service, if I contribute to the NHS Pension Scheme but that the payment will be subject to income tax and NI deductions. Employees who contribute to any other pension scheme e.g. private pension should seek advice from the pension provider

Employee Declaration buying annual leave: I agree that appropriate deductions are made from my salary. I understand that this will have no impact on my pensionable service, if I contribute to the NHS Pension Scheme. I agree that, should I leave the CCG before 31st March any outstanding amounts owed to the CCG in respect of this leave will be deducted from my final salary payment.

I understand it is my responsibility for reviewing the impact buying or selling leave may have on their personal finances, including tax liabilities, tax credits etc.

I understand that as I am **buying/ selling (delete as applicable)** annual leave I am unable to carry annual leave over into the next leave year and any leave outstanding from the current year will be lost if not taken.

Employee Declaration	
Signed	
Print Name	
Dated	

Authorisation By Manager – I can confirm the employee meets all eligibility criteria and I confirm no carry over annual leave will be submitted for the employee

Signed	
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Authorisation By Head of Service/ Budget Holder (Due to financial implications)

Signed	
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Print Name	
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Dated	
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Print Name	
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Dated	
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Appendix 2 - Equality Analysis Initial Assessment

Title of the change proposal or policy:

Buying and Selling Annual Leave

Brief description of the proposal:

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHSLA standards and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:

Vicky Spoons, Assistant HR Manager

Date of assessment: July 2020

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes, it will affect all employees

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

Believe that the policy will have an effect on all staff including those with protected characteristics under the Equality Act.

Please return a copy of the completed form to the Equality & Diversity Manager