



Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016: Guidance on the management of untaken annual leave due to COVID-19 in England

NHS Employers, the British Medical Association (BMA) and the Department of Health and Social Care recognise that staff wellbeing is paramount in successfully responding to the unprecedented challenge of the Covid-19 pandemic. Doctors and dentists in training are likely to have had limited access to annual leave during the pandemic response period and this temporary guidance has been agreed to ensure consistent and fair arrangements are applied for those affected.

All parties recognise the crucial role annual leave has in supporting good mental and physical health and wellbeing, and we strongly encourage untaken leave to be arranged and taken wherever possible between now and the end of this rotation.

Where this is a significant accumulation of untaken annual leave this can create future operational difficulties in how we care for patients. It is normal practice for doctors and dentists in training and employers to take a proactive and cooperative approach to the scheduling and taking of annual leave. This will enable operational needs to be met and ensure that annual leave from the current annual leave year is used. This applies equally to any doctors and dentists in training who may be working from home and/or shielding.

NHS Employers and the BMA appreciate the work employing organisations are doing to accommodate annual leave while ensuring minimal disruption to services, as well as the ongoing flexibilities of doctors and dentists in training to actively seek and take leave where operationally possible. However, in some cases not all annual leave can be taken, and it is essential that no one loses any of their annual leave entitlement

Temporary guidance in relation to the management of untaken annual leave

In recent months, doctors and dentists in training have worked incredibly hard to support the COVID-19 response and in some cases may as a result not have been able to take as much annual leave as would ordinarily have been planned, with insufficient ability to use any excess annual leave up before the end of their rotation.

Where they have been unable to take their full contractual annual leave for a placement then under existing lead employer contract arrangements, they have the option to carry over some of their untaken annual leave entitlement to their next placement.

However, when there is no lead employer arrangement in place, we recognise that the current contractual framework makes it difficult to carry over annual leave between different employers.

To support employers and their doctors and dentists in training in this regard, we have agreed temporary and exceptional guidance for the August rotation on how untaken annual leave should be managed in different scenarios.

This guidance is underpinned by the following key principles:

- where reasonable and practicable the current employer should make every effort to ensure that the doctor or dentist in training has taken all their annual leave entitlement prior to finishing their existing placement.
- where reaching agreement on planning annual leave is not possible despite the best reasonable efforts of the doctor or dentist in training and the employer, some annual leave may be allocated by the employer to ensure that they are able to take their full annual leave entitlement while maintaining safe coverage of services. However, leave should not be fixed into a working pattern for this or any other reason without agreement from the doctor or dentist in training.
- Where carry over is not requested by the doctor or dentist in training, or only a portion of annual leave is carried over payment of the remaining entitlement should be made at the end of this rotation
- Where a request is made by a doctor or dentist in training to carry over some of the untaken annual leave, this is to be facilitated; this will require the agreement of the current and new employer.
- there should be a parity of approaches adopted regardless of employment arrangements

Rotating to a new placement with the same employer (including doctors covered by lead employer arrangements)

Where doctors or dentists in training cannot use their full entitlement of annual leave due to the exceptional circumstances presented by the pandemic:

- They should be offered the opportunity to request payment for any untaken annual leave, where carry over is either not possible or not requested, or only a portion of outstanding leave is carried over. Whilst the terms and conditions state that payment in lieu can be made for up to five days' annual leave (pro rata as appropriate), payment for any remaining entitlement can be authorised, but only after all opportunities to take annual leave have been exhausted.
- employers should consider temporarily revising their local policies for the August rotation to exercise maximum flexibilities to ensure that doctors and dentists in training are offered the option to carry over a maximum of five days of untaken annual leave to the next post or placement. This should be with the agreement of the relevant department, in line with local policies. Where there is a lead employer arrangement, the organisation responsible for funding the post will be required to pay for any carry over of annual leave.

Rotating to a new placement with a different employer

Where doctors and dentists in training cannot use their full entitlement of annual leave due to the exceptional circumstances presented by the pandemic, they have the option to

- request payment for any untaken annual leave, where carry over is either not possible or not requested, or only a portion of outstanding leave is carried over. Whilst the terms and conditions state that payment in lieu can be made for up to five days' annual leave (pro rata as appropriate), payment for any remaining entitlement can be authorised, but only after all opportunities to take annual leave have been exhausted.

- carry forward up to five days of annual leave to their next post or placement. This is not an entitlement and should be with the agreement of the outgoing and receiving employing organisation.

The outcome of any agreement reached under either arrangement should be communicated to the doctor or dentist in training.

The options above will be carried over to the next placement only and will apply from the end date of their placement from which this leave originated, provided the individual remains in continuous employment within the NHS in England.

Exiting approved postgraduate training overseen by Health Education England, due to completing training, completing a training stage, undertaking an approved OOP, or resigning from HEE overseen training

- The doctor's or dentist's employer should make every effort to ensure that the doctor has taken all their annual leave entitlement prior to their exiting of training.
- For any untaken annual leave the doctor or dentist in training should receive payment in lieu of the untaken days of annual leave.