

## Direct Payment Fact Sheet

### Paid time off for annual leave

By law, all employees are entitled to paid time off so if you employ a personal assistant (PA), you must ensure that they receive the correct annual leave allowance.

As an employer, it is also good practice to encourage your employees to take time off from work and make the most of their annual leave allowance.

Your PA's annual leave entitlement should be agreed when they are offered the job and it should be set out in the Contract of Employment. KDC will provide you with a blank standard ACAS approved contract that includes a note about annual leave allowance for you to complete. We will help you with this.

Here are the answers to some commonly asked questions that you may find useful.

#### **What is the basic entitlement for people working in the UK?**

People working in the UK are covered by the European Working Time Regulations 1998 and have a statutory right to paid annual leave each year. Currently this is 5.6 working weeks, which is the equivalent of a minimum of 4 weeks plus an allowance for 8 public (bank) holidays.

#### **What is the 'working week'?**

The working week is the usual hourly pattern of work. This should be set out in the contract of employment.

#### **How do I work out how much annual leave my PA is entitled to?**

If your PA regularly works 10 hours per week, then they shall be entitled to 56 hours paid leave over the course of the annual leave year. If they regularly work 2 hours per week, then the allowance shall be 11.2 hours over the course of a year. KDC will help you work out your PA's annual leave entitlement. You will need to keep a note of how much leave your PA has had in any one annual leave year.

#### **What is the 'leave year'?**

Each holiday year begins on 1 April and ends on 31 March. Your PA is entitled to receive a paid annual leave entitlement of 5.6 weeks pro-rata (this includes all bank holidays) during a complete holiday year. In their first holiday year annual leave entitlement will be proportionate to the amount of time left in the holiday year.

### **What if my PA has annual leave entitlement left over at the end of the leave year?**

Under the Working Time Regulations 1998 (WTR) There is no statutory right to carry leave over. However, an employer may allow a worker to carry over up to 1.6 weeks of any untaken holiday. This should be agreed in writing. The remaining four weeks to which every worker is entitled cannot be carried over and are “lost” if untaken, except where the worker has been unable to take them due to long-term sickness absence or family-related leave

You should not as a rule pay your PA for annual leave that they have not taken during the leave year.

### **How much notice should my PA be expected to give me if they are planning to take annual leave?**

Workers are required to give notice to their employers if they wish to take a holiday. The default notice period must be twice as long as the period of leave requested (although an individual contract may state differently). For example, a worker wanting one week’s holiday needs to give two weeks’ notice.

### **Can I dictate what weeks I want my PA to take as annual leave?**

An employer can require a worker to take all or any of the leave to which a worker is entitled at specific times, provided that the worker is given prior notice.

### **What if my PA wants to take all their annual leave allowance in one go?**

It would be unreasonable for your PA to expect to take more than two weeks holiday at any one time and requesting to take more could cause you great inconvenience. We advise that you consider such requests on the basis of the working relationship you have with you PA, but advise that your needs must come first.

### **My PA has used all their annual leave allowance up but wants to take extra leave. What should I do?**

Your PA is not entitled to take additional leave over and above the allowance agreed, however, in special circumstances you may wish to consider authorising them to take unpaid leave. This means that you will have sufficient funds in your direct payment to pay for someone to cover their hours.

### **What about public (bank) holidays?**

There is no statutory entitlement to paid leave for public holidays. Any right to paid time off for such holidays depends on the terms of the worker’s contract.

Paid public holidays can be counted as part of the statutory 5.6 weeks' holiday entitlement.

**My PA wants double-time for working on a bank holiday. What should I do?**

There is no statutory requirement for you to pay double-time for staff who work on a public holiday.

The calculation of the hourly rate of your direct payment does not include an allowance for double-time pay for public holidays.

You should ensure that your PA understands this at the outset and it should be made clear in the Contract of Employment.

However, if you wish to make private arrangements that you can self-fund, again, this should be agreed and set out clearly in the PA's Contract of Employment.

**What if my PA has been unable to take time off and wants to be paid for their annual leave instead?**

It is important that you encourage your PA to take a break from work and use their annual leave allowance during the year.

There may be an exceptional situation which prevents your PA from taking a break and using up some of their annual leave, in such circumstances you should contact KDC for advice.

**How can I keep a record of annual leave?**

If you use the KDC Payroll Service, we will do this for you provided you keep us informed of any holidays taken.

For this purpose you should assume that the leave year runs from 1<sup>st</sup> April to 31<sup>st</sup> March each year. This should be reflected in your PA's contract of employment.

**What if I need someone cover the shifts my PA works when they take time off?**

If you have another PA that can work for you during the time your regular PA is on annual leave, you must let your payroll service know, either by email or by completing a pay variation form.

KDC also operates a PA Finder website called [KDC-Connections](https://www.kdc-connections.org.uk) where you can register as an Employer and advertise any vacancies. This is a free to use resource to help people using direct payments

KDC Connections also lists people who are looking for work as a PA and are willing to provide temporary cover on an 'as and when required' basis. Go to [www.kdc-connections.org.uk](https://www.kdc-connections.org.uk) and take a look.

Remember, if you are unsure, have any queries or need additional support; please contact the Direct Payments Team here at KDC.

**Telephone:** 0151 480 8873

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You can find this Factsheet along with others covering a variety of topics by visiting us at [www.kdc.org.uk](https://www.kdc.org.uk)

