

HOLIDAY PAY CHANGES 2025 - TERM-TIME & PART YEAR WORKERS

FREQUENTLY ASKED QUESTIONS (UPDATED 10.12.24)

The following FAQ document has been created to assist Single Status term-time and part-year employees with queries resulting from holiday pay changes due to be implemented on 1 January 2025.

FAQs received AFTER Union Ballot was issued:

I don't understand how my term-time salary is calculated. Are you able to provide an explanation so I can fully understand what this change means?

A term-time or part-year salary is made up of two components

- (a) Contracted hours undertaken over the year
- (b) Annual leave entitlement (based on length of continuous service)

These values are added together and an average 1/12th is paid each month.

An example of how an annual salary is calculated has been provided below. This is based on a Pupil Support Assistant Post, GE3 Scale point (SCP)29, with five years' service, contracted to work 27.50 hours per week over 39 weeks.

CURRENT CALCULATION

(a) Salary for Contracted Hours

27.50 hours per week * 39 weeks * £14.09 per hour = £15,111.53

(b) Annual Leave Entitlement

38 days/7.6 weeks (not pro-rated)

27.50 hours per week * 7.60 weeks * £14.09 per hour = £2,944.81

a + b = £18,056.34

The annual salary therefore is £18,056.34. The monthly salary is £1,504.70

From 1 January 2025 the statutory leave (28 days/5.6 weeks) will be pro-rated. You will see a reduction in pay because statutory leave is pro-rated. Based on the same example above the calculation is as follows

(a) Salary for Contracted Hours:

27.50 hours per week * 39 weeks * £14.09 per hour = £15,111.53 – NO CHANGE

(b) Annual Leave Entitlement

28 days statutory leave (pro-rated equates to 24.52 days/4.904 weeks)

10 days/2 weeks contractual leave (not pro-rated)

27.50 hours per week * 6.904 weeks * £14.09 per hour = £2,675.13

a + b = £17,786.66

The annual salary therefore is £17,786.66. The monthly salary is £1,482.22

GROSS REDUCTION IN ANNUAL SALARY DUE TO PRO-RATING STATUTORY

LEAVE = £269.68 (£2,944.81 – £2,675.13)

APPROXIMATE ANNUAL NET LOSS = £175.29

If the contractual leave buy-out offer was accepted by the Unions and all leave was pro-rated the calculation would be:

a) Salary for Contracted Hours:

27.50 hours per week * 39 weeks * £14.09 per hour = £15,111.53 – NO CHANGE

(b) Annual Leave Entitlement

38 days (all leave pro-rated equates to 33.27 days/6.654 weeks)

27.50 hours per week * 6.654 weeks * £14.09 per hour = £2,578.26

a + b = £17,689.79

The annual salary therefore is £17,689.79. The monthly salary is £1,474.15

GROSS REDUCTION IN ANNUAL SALARY DUE TO PRO-RATING OF

ALL LEAVE = £366.55 (£2,944.81 - £2,578.26)

APPROXIMATE ANNUAL NET LOSS = £238.26

The reduction in statutory leave is being implemented from 1 January 2025 as the buy-out offer only relates to leave over and above the 5.6 weeks/28 days. The annual loss of pro-rating contractual leave (that is, leave beyond the statutory amount of 28 days/5.6 weeks) is minimal. In this example it equates to £96.87 (£2,675.13 - £2,578.26) per annum (approximately £63.00 net loss per annum).

How has the buy-out offer been calculated?

The annual loss for pro-rating contractual leave varies per employee. The majority of staff will see an **annual** reduction between £50 to £100.

The buy-out offer is on a sliding scale as per the table below. The increase in annual leave has been in place since 1 January 2023 therefore the proposal is based on a two-year settlement as this aligns with the same period in which the extra payment will have been made come 31 December 2024.

Annual Loss of current enhanced contractual leave that is not pro-rated to pro-rating entitlement	2 Year Buy Out
Less than £50	£100
More than £50 but less than £100	£200
More than £100 but less than £150	£300
More than £150 but less than £200	£400
Over £200 but less than £250	£500

I have input my details into the calculator you provided. Why is the buy-out offer not based on the annual loss shown under the first calculation which is higher?

The statutory leave of 5.6 weeks (28 days) from 1 January 2025 is being pro-rated in line with the number of weeks you work as per the change in legislation. The Council is seeking to pro-rate all leave as this was the terms and conditions in place before the 2022 Court Case (Harpur Trust v Brazel ruling).

The buy-out offer only relates to the **additional leave over and above 5.6 weeks/28 days** as this is the element that we have been trying to negotiate with the Unions to pro-rate. The change to statutory leave is being implemented.

Am I correct in thinking that I will see a drop in pay in January 2025 salary even if the buy-out offer is not agreed?

Yes, as we are reverting your annual leave to the method of calculation as detailed in the updated legislation where entitlement is based on weeks worked (and on the same basis as leave was calculated prior to 2023). Currently you are receiving an annual

leave entitlement based on working a full year. Most of your leave is made up of the statutory entitlement (5.6 weeks/28 days) therefore the annual gross pay loss for the contractual element of leave (annual leave beyond the 5.6 weeks/28/days) is minimal.

I am not happy that the Council is forcing me to take a cut in pay. Why can't my salary remain as it is?

From 1 January 2025 you will still receive the same hourly rate for the contracted hours you work – this part of your pay has not been impacted by the changes to your annual leave. The examples above show that there is no adjustment to your salary for the hours you work. The reduction in gross pay from 1 January 2025 is due to the reversal of the Harpur Trust v Brazel ruling. You have been receiving payment for annual leave based on working a full year i.e. it has not been pro-rated, and with the change in holiday pay legislation this is being remedied. We cannot continue to provide payment for more annual leave than you are entitled.

Can you confirm what the actual loss will be going into my bank account each month?

Unfortunately, it is not possible to quote what the net reduction in pay would be as this is dependent on each employees tax code, other salary deductions etc. A gross value has been quoted on the calculator as this would be applicable to all staff prior to deductions. To give you some idea on what the net pay loss would be, calculate 65% of the gross pay figure. Please note however that this percentage is purely for estimation purposes, the loss may be higher or lower than this depending on your own personal circumstances.

I want to accept the buy-out offer even although the Union ballot result was to reject. Is this possible?

You will need to raise this with your Trade Union. We cannot process a buy-out offer unless the Unions agree to the change in contractual leave (pro-rating based on number of weeks you work)

FAQs received PRIOR to Union Ballot being issued:

Why have I received a letter about a change in holiday pay?

Currently your annual leave is **not** pro-rated to reflect the number of weeks you work. This method of calculation has been in force since 1 January 2023 due to the Harpur Trust vs Brazel Supreme Court Judgement. This ruling has now been overridden by new UK legislation whereby annual leave should now be calculated based on the actual number of weeks worked.

Why did you increase my holiday pay calculation in 2023 when the UK Government issued a consultation paper in mid-January 2023 proposing a change which could overturn the Harpur Trust vs Brazel outcome?

Following the outcome of the Harpur Trust vs Brazel Supreme Court Judgement in July 2022, Perth & Kinross Council were committed to applying the calculation resulting from this decision to staffing groups who fell within scope from the start of the first leave year following the decision i.e. 1 January 2023. We were the only Council in Scotland to make the adjustments to holiday pay at that time. When the UK consultation was issued we had already begun processing this change. Further, it was not clear that the UK Government consultation would overturn this legal decision and if it did in what timescale. We therefore continued to implement to ensure that we were compliant with the law i.e. Supreme Court decision from July 2022.

Why am I going to be paid less when I am doing the same hours and work?

You are still being paid for the correct hourly rate for the contracted hours you work and this is not changing. What is changing is how your holiday pay is calculated.

The UK Government have overturned the Harpur Trust v Brazel Supreme Court Judgement as this resulted in term-time and part-year workers receiving the same annual leave entitlement as full year workers as opposed to pro-rating leave entitlement according to the number of weeks actually worked.

Effectively since January 2023 a higher level of pay has been paid to you due to the Harpur Trust Supreme Court Judgement, but under the new holiday pay regulations, the method of calculation will be changing to that which accurately reflects the number of weeks you work and was in place prior to this Supreme Court decision.

The Council cannot continue to offer you the same level of annual leave entitlement as a full-year worker as under the new regulations this would mean you would be receiving more favourable treatment than other staff within the Council.

Why are there two different calculations from 1 January 2025 quoted in the letter and example dated 1 October 2024?

Under the new Regulations we will be reverting to pro-rating the 28 days statutory leave calculation. In terms of contractual leave (balance of leave over and above the 28 days statutory leave) we are continuing discussions with the recognised SJC Trade Unions with a view to seeking agreement to this aspect of the calculation. The Trade unions are consulting their members on proposals. Until the discussions are concluded we are unable to confirm how contractual leave will be calculated. On that basis the two calculations are:

- Pro-rate all leave (calculation reverting to that which applied pre 01.01.23 (pre Harpur Trust)
- Pro-rate statutory leave from 1 January 2025 but no pro-rating of contractual leave

The examples provided with the covering letter differs from the contracted hours I work. How can I work out what the financial impact will be for my own set of circumstances?

The examples set out the principle of the calculations. Unfortunately it is not operationally feasible to provide a calculation for each individual impacted by this change. We have however created a [Calculator](#) on the Employment Information Page “Annual Leave Calculator Term Time & Part Year Employees” to assist you. Please note, the results are dependent on you populating the correct information into the key fields.

I am not a part-time employee so why I have received a letter?

Anyone who works less than 52.14 weeks has received a letter irrespective of weekly contracted hours. If you work term-time and in the holidays your contracted hours will have been annualised and therefore this change does not affect you.