

25 MARCH 2021**CHRISTMAS LEAVE ARRANGEMENTS****Purpose**

1. To outline the inconsistency across Forestry Commission (FC) in the application of leave over the Christmas period and seek a decision on future arrangements.

Background

2. The standard PPA allowance over the Christmas period includes 25 December or substitute day (Christmas Day Public Holiday); 26 December or substitute day (Boxing Day Public Holiday); Extra Day at Christmas (29 December for 2021); 1 January or substitute day (New Year's Day Public Holiday).

For offices that close between Christmas and New Year, 4 of the 6 days are covered by this standard PPA Allowance (25, 26, extra day at Christmas & 1) with the remaining 2 days being managed differently across FC.

Where offices remain open or staff can work from home there is the option to work these 2 days, generally though staff are encouraged to take the Christmas break as leave. However, it should be noted that this encouragement to take additional leave (2 days notionally) regardless of whether the office is open or closed is not enforceable legally within the contract of employment as we have no collective agreement or express terms requesting people to do so.

Within the CWWW parameters there is increased flexibility for staff under blended working to work from home. Therefore the (2 days) closure issue and the need to encourage people to take leave over the Christmas break may become more emotive if some staff are asked to take it and others not.

Discussion

3. In some cases, where offices close, staff are encouraged to book 2 days of flexi or annual leave. In others, only 1.5 days are booked due to an additional ½ day concession being gifted to staff (for some in 2019 this ½ day was allocated as part of the centenary celebrations). Where offices close earlier on Christmas Eve (with some closing at midday) the ½ day concession is sometimes used for this. (See appendix 1 for a summary of Christmas closure arrangements)

It should be noted that in 2020 as a gesture of thanks and because workplace festive gatherings or meals could not be organised due to COVID19 restrictions, all staff were gifted an additional one day of paid leave (calculated pro-rata for part timers)

In summary, there are several inconsistencies across FC in the approach to offering the additional ½ day. Some use it to cover the period between 25 December and 1st January, some do not receive it at all, whilst others use it on Christmas Eve if offices close at midday despite Christmas Eve being a standard working day.

It should also be noted that operational staff do not receive the ½ day and separate arrangements are made in line with operational cover.

Options

4. Set out below are a number of options for consideration:

Option 1 – Keep status quo and allow offices/areas to locally manage Christmas leave arrangements inc gifting the ½ day concession.		
	Pro's	Con's
Cost		Unable to accurately record or monitor the business costs of the additional ½ day concession.
Audit		No consistency as the ½ day is not always recorded in iTrent. Since teams manage this locally, accurate recording is dependent on trust and Management oversight.
Consistency	No negative impact on staff morale who receive the ½ concession.	Lack of equity currently in annual leave entitlements; with the ½ day concession only awarded in some areas/offices. Lack of consistency between the ½ day being allocated to Full Time and Part time staff.

Option 2 – Remove the ½ day concession for all staff and confirm that any leave/time taken at Christmas is used as per the Annual Leave/PPA Policy

	Pro's	Con's
Cost	There would be no additional hidden costs to the business.	
Audit	All leave taken during Christmas is recorded accurately in iTrent or appropriate flexi system.	
Consistency	<p>Would provide equity and consistency across the business for all staff.</p> <p>Would provide greater flexibility to allow staff to work on the 2 days not covered by PPA if they choose to.</p>	<p>If the ½ day concession is removed, staff working in offices that traditionally close over the Christmas period would be required to book an additional ½ day leave to what has been used in previous years.</p> <p>Negative impact on morale as staff will see this as a reduced benefit.</p>

Option 3 – Gift all staff an extra ½ day concession during the Christmas period.

	Pro's	Con's
Cost		<p>An approximate cost per person of awarding an additional ½ day across 4 common PB's would be between £50-£97 per person.</p> <p>A decision would need to be made on whether to pro rata this amount for part time staff.</p>
Audit	It would provide a mechanism to record the ½ day within iTrent.	
Consistency	Would provide consistency across FC	<p>A recent review of outstanding holiday leave balances highlights that a high proportion of staff currently exceed the holiday carry forward cap. This is a long-standing issue suggesting that additional leave entitlement is not required.</p> <p>This would be deemed as a non-contractual arrangement and would be discretionary which over a period of time could present an issue of custom and practice repeated over multiple years.</p>

Recommendations

- The Executive Board is invited to consider **Option 2** as the preferred option to achieve consistency across the FC and reflect the existing contractual entitlement for holiday benefits. With the gifting of the additional day off in 2020 in recognition of the challenging year, its acknowledged that this has highlighted the need for clarity on Christmas arrangements for future years (in particular, the ½ day concession).

It should be noted that there is no Policy, Procedural or Contractual mention of additional holidays or closure at Christmas outside of the Public, Privilege and Additional (PPA) Holiday Allowances. Options 1 and 3 are therefore a non-contractual arrangement and would be discretionary which over a period time could present an issue of custom and practice repeated over multiple years.

This practice could therefore be contractual for those staff who receive it. If it was deemed to be contractual, we would need to inform and consult with those staff, to avoid potential claims for breach of contract. Individuals are likely to be reluctant to agree to a reduction in their holiday entitlement and we may encounter difficulties during such consultation. An alternative option, notwithstanding the possibility that the ½ day could be deemed contractual, would be to proceed with **Option 2** and maintain the stance, in conversations with staff, that it is not a contractual right (but discretionary) and can therefore be removed at will. Whilst this approach is not without its risks, if it is handled carefully, may be an appropriate solution. However, we may need to reconsider options if there is significant push back from staff or FCTU.

Moving forward introduction of Option 2 needs to be clear with any new employees are not provided with this ½ day which will eventually lead to the practice petering out as time moves on.

As our ways of working have changed and with the introduction of blended working there is also less of a need to be office based and therefore office closures should not significantly impact on staff's ability to continue working if they choose to. For offices closing earlier on Christmas Eve (typically early or mid-afternoon) this should be managed locally.

It is appreciated that removing the ½ day concession will be received negatively by some staff, however achieving consistency and fairness for all staff is key. For 2020 although there was a known inconsistency in Christmas leave arrangements it was important not to undermine the intended gesture of the additional days leave and it was therefore made clear that the additional day was additional to whatever arrangements were or had been in place. It is therefore now important to ensure that arrangements for future years are communicated in a timely, open, and consistent way.

With an already generous annual leave/PPA allowance coupled with historical evidence to show that some staff still exceed the holiday carry forward cap, it is viewed that Option 2 would have minimal impact on annual leave/flexi balances.

HR Business Partner
18 March 2021