

Annual Leave Entitlement Explained

Implications for Employers:

1. **Equal Leave Entitlement:** All employees, regardless of the number of weeks they work in a year, should be granted 5.6 weeks of annual leave.
2. **Pro-Rating No Longer Applicable:** Employers can no longer pro-rate leave based on working hours or utilize the 12.07% method to calculate leave and pay accrual.
3. **Standard Holiday Pay:** Holiday pay should be remunerated at the regular rate of pay. In cases of variable weekly pay, such as zero-hours contracts, employers must compute holiday pay based on an employee's average weekly earnings over the previous 52 paid weeks.
4. **Reference Period for Pay Calculation:** The reference period for determining average weekly earnings should encompass only weeks for which the employee received payment. It should exclude weeks during which the employee was not paid due to non-working periods, as well as weeks where "normal" pay was not given, such as during sick leave. Employers can retroactively access a maximum of 2 years (104 weeks) to obtain relevant 52 weeks' pay data. If the employer does not have 52 weeks of data from the previous 104 weeks, the reference period should cover the number of weeks' worth of data available.

EXAMPLE

Below is an example based on the annual leave entitlement using the ruling from the Harpur Trust vs Brazel case.

Employee Details:

- The employee, John, is on a variable-hour contract.
- He has worked for the employer for the past 52 weeks.
- John's average weekly earnings over these 52 weeks are £500.

Calculations:

1. **Determine the Total Annual Leave Entitlement:**
 - All employees, including those on variable-hour contracts, are entitled to 5.6 weeks of paid annual leave.
2. **Calculate John's Annual Leave Entitlement:**
 - Multiply 5.6 weeks by John's average weekly earnings:
 - $5.6 \text{ weeks} * £500 = £2,800$

John's annual leave entitlement is £2,800.

3. **Calculate the Holiday Pay for a Specific Leave Period:**
 - Suppose John wants to take one week of annual leave. To calculate his holiday pay for this week:

- Divide his annual leave entitlement by 52 weeks = $\text{£}2,800 / 52 \approx \text{£}53.85$ per week
- For 1 week off: $\text{£}53.85 * 1 \text{ week} = \text{£}53.85$

John's holiday pay for one week of leave is $\text{£}53.85$.

So with the increased average weekly earnings, John's annual leave entitlement rises to $\text{£}2,800$, and his holiday pay for one week off becomes $\text{£}53.85$.

In summary is there any legal requirement in using the 12.07% method to calculate holiday entitlement or accrual for any worker