

Managing Annual Leave During Covid-19

March 26, 2021

Signals from Government ahead of the next announcement on Covid-19 restrictions on 5th April indicate there will be little change in relation to travel, certainly travel abroad this summer season. No doubt many are waiting for better news before deciding on what to do about booking holiday leave. To try and help those in the Community, Charity and Not-for-Profit sector to manage annual leave requests, we answer some questions that employers might have.

Annual leave entitlements

All employees, regardless of being full-time, part-time, temporary or casual are entitled to annual leave under the Organisation of Working Time Act, 1997. Under the Act, the employer can determine the timing of an employee's annual leave, providing the required one month's notice, taking into consideration the requirements of the organisation and the health and wellbeing of the employee in terms of rest and recreation.

One would expect that there will be an influx of requests for annual leave over the summer months so organisations should check any policies they have referencing annual leave to double-check they remain compliant with their own policies and procedures. In some situations, employers may also have to manage annual leave that has been carried over from last year. In this instance, it is advisable for organisations to be as flexible as possible to accommodate requests, particularly during these very unusual times.

What entitlements do those who have been laid off or put on short time have in relation to public holidays?

Employees who have been laid off during Covid-19 continue to accrue public holidays during the first 13 weeks on lay off. Employees do not accrue annual leave while laid off.

For short time, employees must have worked a minimum of 40 hours in the five weeks prior to the public holiday for an entitlement to accrue. Employees who are placed on short time accrue an entitlement to annual leave in respect only of hours worked during that period of short time.

Can an organisation refuse an annual leave request because the employee is travelling outside the country?

No; organisations can certainly encourage compliance with Government guidance and Public Health advice in terms of travelling outside the country, but employers cannot refuse an annual leave request because an employee is travelling abroad.

However, what might be relevant in the employer's decision-making is the restrictions on the employee upon returning back to Ireland in terms of quarantining in certain circumstances or 14-day movement restrictions and the impact that may have on the organisation as well as considerations for those employees who are working remotely.

What if an employee gets Covid-19 while on annual leave?

If an employee shows any of the symptoms of Covid-19, they should in the first instance contact their GP. They should also contact their employer to explain the situation and not return to work in accordance with medical advices for the period they are ill. Where an employee then goes on to certified sick leave for the period of annual leave their annual leave will remain intact insofar as they notify their employer in accordance with the sick leave policy.

Employees are entitled to sick pay if it is in their terms and conditions of employment. If it the employer does not pay sick pay, employees should apply for the Covid-19 Enhanced Illness Benefit.

Can an organisation ask employees to take annual leave during Covid-19 for reasons other than personal leave?

An employer can request that annual leave is taken but this should be done in consultation with the employees and in consideration of the organisation's needs. This may seem like a practical option if the organisation is experiencing challenges, but it is recommended that employees are not forced to take all of their leave entitlements as an employer must also consider the employee's health and wellbeing in terms of rest and recreation.

What are employees entitled to if an employer is availing of the Employment Wage Subsidy Scheme (EWSS)?

If an employer is availing of the EWSS but employees are still working their normal hours, then employees still accrue public holidays as normal and are entitled to their statutory annual leave based on the hours worked.

Recommendations

In addition to some of the advice above, it is recommended that employers communicate with employees about taking annual leave. It is also worth reminding employees of the terms of the annual leave policy, particularly if there are restrictions in carrying over unused leave.

As already outlined, employers can expect an influx of requests when restrictions around travel at home and abroad become clearer. So, now is the time to start managing the requests to ensure there is no overlap or gaps in terms of the organisation's needs.

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