



TERM TIME ONLY CONTRACTS GUIDANCE

The purpose of this guidance is to provide information on the complexities of term time only (TTO) contracts and clarify the annual leave arrangements in complex situations such as during long-term sickness absence and maternity leave.

This guidance seeks to provide information to employees and line managers to ensure that the pay and conditions of TTO employees are transparent, consistent, fair and they are treated no less favourably than employees on all-year-round contracts

There is separate guidance on the HR Intranet / Extranet on calculating basic holiday entitlement. See the document: 'Annual Leave Entitlements - Guidance Note and the accompanying annual leave calculator.

1. Term Time Only Contracts

1.1 What is a term time only (TTO) contract?

A TTO contract allows a member of staff to work in term time only but be paid throughout the year in equal monthly payments. The arrangement allows the employee to remain on a continuous contract that carries on through the school holidays.

A TTO salary is made up of working time and annual leave/public holidays and is paid in 12 equal instalments across the year a TTO employee will receive 1/12th of their annual leave entitlement in their salary each month.

A TTO contract is mainly used in schools but can be used by any service who will allow an employee to work around the school terms. Term time working can help to attract and retain employees with children of school age or with carer responsibilities.

1.2 How do you calculate a term time only (TTO) salary?

To calculate a TTO salary you need to know how many weeks will be worked across the year and the annual leave/public holiday entitlement for the role. This is the total weeks paid. You then calculate a pro-rata salary by dividing the full time salary by **52.14286 weeks** and multiply this value by the total weeks paid. Remember to also pro-rata this salary if the employee is also part-time (see the matrix in Appendix 1 for paid weeks).

1.3 How do you know what the entitlement is for annual leave and public holidays?

For all non-teaching roles the annual leave entitlement will be based on the length of service of the employee. Annual leave starts at 24 days and increases at 5 years' service to 29 days (for a full-time employee).

In addition there are normally 8 public holidays in a leave year. TTO employees are entitled to a pro-rata allocation of public holidays that occur during the leave year. This entitlement is unaffected by whether the public holiday occurs on a normal working day for the employee.

The annual leave entitlement and public holidays are incorporated into the annual salary and divided into 12 equal monthly payments throughout the year to ensure the employee receives regular payments and has paid time off work (see question 1.2).

1.4 What is the annual leave year for TTO staff?

In SMBC contracts, the annual leave year usually starts on 1st April to 31st March each year, but some areas of the Council have different locally-agreed leave years in place.

1.5 When do staff on TTO contracts take annual leave?

TTO staff take their annual leave during school holidays. They do not need to specify when they are taking annual leave. TTO staff receive payment for annual leave in their TTO salary and they receive 1/12th of their total TTO salary each month.

1.6 What is the maximum number of weeks a TTO contract can be set up for?

The standard weeks per year for a TTO contract are 38 weeks working time, however it is recommended that school employees work 39 weeks to allow them to attend inset days and training. There is flexibility to increase this and still have a TTO contract, so long as the working time and holiday do not equal or exceed 52 weeks.

If the employee works more than 39 weeks, the additional working weeks in term time need to be agreed in advance by the Headteacher/line manager.

If a request is received to set a member of staff up on a TTO contract and the working weeks plus their annual leave entitlement exceeds 52 then the number of working weeks needs to be reduced to accommodate the correct annual leave entitlement. If the total is equal to 52 weeks then the contract is not TTO, it is a standard all year round contract.

1.7 What happens to holiday pay if a TTO employee leaves before the end of a holiday year?

There will inevitably be situations whereby employees leave our employment mid-year. Therefore the Pay & HR Administration team will need to make some calculations to ensure that no over or under payment of both salary and holiday pay occurs. The employee and their line manager/school will be informed of any under or over payment to be made.

A calculator for term time salary and annual leave in relation to start and leave dates has been devised to calculate this information. If an employee wishes to know if they owe any holiday or are due holiday pay following their resignation, they can contact the Pay & HR Administration team for the calculation details.

1.8 If a TTO employee resigns and leaves at the end of term (e.g. summer term, Christmas, Easter etc), when will they be paid until?

TTO employees should give notice in accordance to their contract of employment when resigning from their post. For SMBC schools, if the employee leaves on the last day of term, it is company policy to pay the employee for the duration of the holidays if they are joining another SMBC maintained school or Local Authority for their new role on the first day of the new term. This is effectively treated as an internal 'transfer' between schools to allow for continuity of service with no break. It is therefore important that the Pay & HR Administration team are advised where the employee is moving to (where known).

For example, if the employee leaves on the last day of term on 22nd July 2019 to join a new SMBC school on 1st September 2019, they would remain on their current school payroll until 31st August 2019. This ensures that there is no break in service and ensures that the employee receives the full year's salary, as they have already worked their all of their contracted weeks.

The same principle applies to other school closure periods at Easter, Christmas etc.

If the employee leaves before the last day of term, then a calculation will need to be undertaken by the Pay & HR Administration team to determine if the employee has been paid the correct amount of salary at this point and also if any holiday pay is due or owed based on their last day of employment.

However if the employee works for an Academy school or is joining an Academy school, this is a different employer and different rules may apply. The Academy may have their own policy on holiday pay and different holiday year. Employees should check this with the Academy when joining or leaving them. A calculation will need to be undertaken by the Pay & HR Administration team to determine if the employee has been paid the correct amount of salary as at their leaving date and also if any holiday pay is due or owed based on their last day of employment.

The same principle applies if an employee leaves to join an external employer in the private sector or has no forwarding job.

1.9 How is redundancy pay for TTO employees calculated?

When calculating a week's pay for the purposes of redundancy pay for a TTO employee, the calculation should be based on the number of weeks actually worked (including the paid leave – see matrix in Appendix 1) by the employee.

The formula is Actual Salary / Actual paid weeks per year. For example, for an employee working 40 weeks per year with 6 years service, the calculations of a week's pay for redundancy pay purposes would be 1 / 46.6 of the employee's annual pay.

1.10 What happens to annual leave when a TTO employee is on jury service?

The usual jury service guidelines on the HR Intranet / Extranet should be followed when a TTO employee is called up for jury service. Employees are paid at their usual rate throughout jury service which includes the holiday pay element.

If jury service coincides with school closure periods, the line manager will need to check if there have been enough school closure periods to accommodate their annual leave allowance. If not, they should be allowed to take their annual leave at a later date.

1.11 What happens with the early May Bank Holiday which is usually outside of school closure dates?

TTO employees receive payment for eight days for bank holidays (pro-rata) which are incorporated into the salary calculations for term time employees. This entitlement is unaffected by whether the public holiday occurs on a normal working day for the employee. This will be accounted for in the pay calculation.

Although the employee who usually works on a Monday will benefit to the day off in 2019 compared to employees who work later in the week, both employees are paid the same. The early May Bank Holiday for 2020 has been changed from the Monday to Friday 8 May 2020, so for this year employees working on a Friday will benefit (It has been moved back by four days for the whole of the UK to coincide with the 75th anniversary of VE Day).

1.12 What happens to annual leave when I go on maternity /adoption leave?

Employees continue to accrue contractual annual leave and bank holiday entitlement throughout both ordinary and additional maternity leave, whether on the paid or unpaid element of maternity leave. A woman who takes maternity leave must be able to take her annual leave at a time outside her maternity leave.

Term time only employees are normally required to take their leave in periods of school closure. The school/line manager should calculate the number of hours / days of paid leave that the employee has taken at the point at which they go on maternity leave. If the maternity leave spans across two leave years, the calculation will need to be done for each leave year and the totals added together.

If, on a term-time only employee's return from maternity leave, there are insufficient school closure periods to accommodate the employee's outstanding statutory annual leave entitlement the employee must be allowed to take any remaining leave during term time. For some employees, they may wish to use this just before their return to work.

Where there is insufficient time on the employee's return before the end of her annual leave year for her to take her remaining annual leave, she must be allowed to carry over her leave to the next leave year. An employee can be required to take this during the remaining

periods of school closure after the employee's annual leave entitlement for that leave year has been accommodated. The same principles apply for Adoption leave.

1.13 What happens if the employee does not return to work?

If an employee does not return to work, the pay for any outstanding annual leave owed should be calculated by the Pay & HR Administration team. This should be paid to the employee or offset against any monies she may owe, for example due to the need to repay any occupational maternity pay.

2. Sickness Absence

Annual leave continues to accrue during sickness absence regardless of how long the employee is off sick or whether sick pay has been exhausted. Annual leave should be taken in the year that it is accrued therefore employees who have been on long-term sickness absence should be encouraged to take their remaining entitlement for the current year. No part of the sickness absence period can be treated as annual leave.

2.1 Can a TTO employee who is on sickness absence leave claim for annual leave they have been unable to take?

There is some basic guidance from ACAS on [annual leave and sickness absence](#) which says that annual leave entitlement carries over if an employee is unable to take their annual leave due to sickness.

Where long-term sickness absence has prevented statutory annual leave from being taken before the end of the annual leave year, employees will be allowed to carry this forward to the new leave year to take this accrued holiday on their return to work. Employees should discuss with their line manager/ Headteacher how accrued leave will be used. In some circumstances this may be used to facilitate a phased return but must be done so with the agreement of the employee.

Annual leave entitlement can be offset by any period of school closure that occurs in the leave year in question i.e. both before and after the sickness leave period. If on a TTO employee's return from sickness absence, there are insufficient school closure periods to accommodate the employees' outstanding annual leave entitlement, the employee must be allowed to take any remaining leave during term time.

When an absence extends across one leave year into the next, only outstanding accrued leave up to the statutory entitlement of 20 days can be carried forward (pro rata for part time employees).

2.2 Can an employee use annual leave whilst on sickness absence?

In situations where an employee is on long-term sickness absence and requests annual leave to benefit their recovery, an employee can request to use annual leave without breaking their sickness absence. This may be particularly beneficial for employees who have entered a period of half or no pay.

Moving between sick leave and annual leave will not 'break' the sickness and must still be covered by an appropriate medical certificate and needs to be authorised in advance and recorded on Oracle. In these circumstances further advice should be sought from HR.

2.3 Can an employee on a TTO contract claim untaken annual leave?

TTO employees are paid for the time they work and their annual leave each month as 1/12th of their total TTO salary.

If a TTO employee is on sickness absence leave, they can only claim **time off** for untaken annual leave if there are fewer non-working days in the leave year than their annual leave entitlement allows for.

The TTO employee can only claim **pay** for untaken annual leave if they were in a half pay or nil pay period whilst on sickness absence leave.

When TTO employees move onto half or nil pay, it will be necessary for HR to check if the employee has had sufficient pay for their proportionate annual leave entitlement. Whilst on full sick pay the employee is receiving their full annual leave pay entitlement, but when their pay reduces to half or nil pay, they would receive less annual leave payment as a result of their sickness absence. As a result, a TTO employee is able to be reimbursed for half the annual leave payment for any half pay period and the full annual leave payment for any nil pay periods.

This payment would only be made on their return to work (in the next available payroll run) or on their termination of employment, should they not return to work. The Pay & HR Administration Schools team will calculate this when the situation occurs and will advise the school accordingly.

In some circumstances, as an alternative to making a payment on return to work, the employee could take paid time off for the element of leave they have accrued during periods of half or nil pay. The line manager should discuss the options available with the employee to decide which approach is best. It is acknowledged that it can be impractical in schools to accommodate the employee having time off in term time, and so it will depend in the job role and ability to cover the post.

2.4 How do you calculate the pay a TTO employee should receive for annual leave they have been unable to take whilst they were on sick leave?

Whilst on full sick pay the member of staff is receiving their full annual leave pay entitlement. It is only when they drop to half or nil pay that they would receive less annual leave pay as a result of their sickness absence. They would be able to claim half the annual leave payment for any half pay period and the full annual leave payment for any nil pay period. A calculator has been created to work out what an employee is due in these circumstances and used by the Pay & HR Administration team.

APPENDIX 1

TERM TIME ONLY HOLIDAY CALCULATION

Actual Weeks Worked	Number of weeks payable in year			
	<5 yrs	>5 <10 yrs	>10 yrs (protected staff 'purple book')**	Equivalent to
	(24 days + BHs)	(29 days + BHs)	(31 days + BHs)	
6.40	7.3	N/A	N/A	
38.00	43.3	44.3	44.7	Not including inset days
38.20	43.5	44.5	44.9	
38.40	43.8	44.8	45.2	
38.60	44.0	45.0	45.4	
38.80	44.2	45.2	45.6	
39.00	44.5	45.5	45.9	Inc Inset days
39.20	44.7	45.7	46.1	
39.40	44.9	45.9	46.3	
39.60	45.1	46.1	46.6	
39.65	45.2	46.2	46.6	
39.80	45.4	46.4	46.8	
40.00	45.6	46.6	47.0	Insets + 1 wks
40.20	45.8	46.8	47.3	
40.40	46.1	47.1	47.5	
40.60	46.3	47.3	47.7	
40.80	46.5	47.5	48.0	
41.00	46.7	47.8	48.2	Insets + 2 wks
41.20	47.0	48.0	48.4	
41.40	47.2	48.2	48.7	
41.50	47.3	48.4	48.8	
41.60	47.4	48.5	48.9	
41.80	47.6	48.7	49.2	
42.00	47.9	48.9	49.4	Insets + 3 wks
42.20	48.1	49.2	49.6	
42.40	48.3	49.4	49.9	
42.60	48.6	49.6	50.1	
42.80	48.8	49.9	50.3	
43.00	49.0	50.1	50.6	Insets + 4 wks
43.20	49.2	50.3	50.8	
43.40	49.5	50.6	51.0	
43.60	49.7	50.8	51.3	

43.80	49.9	51.0	51.5			
44.00	50.2	51.3	51.7	Insets + 5 wks		
44.20	50.4	51.5	52.0			
44.40	50.6	51.7	Full year working			
44.60	50.8	52.0				
44.80	51.1	Full year working				
45.00	51.3					
45.20	51.5					
45.40	51.8					
45.60	52.0					
45.80	Full year					
52.00	52.14			52.14	52.14	
Full year	52.14286			52.14286	52.14286	
Less AL & BH	6.40000	7.40000	7.80000			
Weeks available	45.74286	44.74286	44.34286			

Length of service	<5 yrs	>5 <10 yrs	>10 yrs
Annual Leave	24.0	29.0	31.0
Bank Holiday	8.0	8.0	8.0
Total	32.0	37.0	39.0
	/ 5	/ 5	/ 5
No. weeks	6.4	7.4	7.8

Example

- (i) Actual working weeks = 39 divide by
- (ii) maximum weeks available = 45.74286
- (iii) giving 0.85259, this is the proportion of the AL & BH = 5.45659
- (iv) (i) + (iii) = 44.45659 **rounded to 44.50 weeks**

Example

Actual working weeks = 39

divide the number of weeks worked by the maximum weeks available.

**** For employees with 10 years' service prior to 1/4/00 and were working for SMBC on 1/7/00 are 'protected' with 31 days holiday per annum.**