Leave Policy

Purpose & Scope

[Company] is committed to providing a supportive environment for employees and ensuring that all employees are able to take regular breaks from the workplace. Therefore, all permanent employees are entitled to take leave in various forms. This policy will cover Annual Leave, Personal Leave, Compassionate Leave, Family and Domestic Violence Leave, Parental Leave, Long Service Leave, Community Service Leave and Unpaid Leave.

Definitions

**Annual Leave** – a number of days of paid leave for holidays, after a period of continuous employment.

**Personal Leave** - leave that employees can take when they are sick and unable to work (Sick Leave), or when they need to take time to care for a member of their immediate family or household who is sick, or in the event of an unexpected emergency affecting such a person (Carer's Leave).

**Compassionate Leave** - leave that employees can take when a member of an employee's immediate family or household dies or contracts or develops a life-threatening illness or injury.

**Family and domestic violence** - means violent, threatening or other abusive behaviour by an employee’s family member that:

* seeks to coerce or control the employee
* causes them harm or fear.

A **family member** includes:

* an employee's:
  + spouse or former spouse
  + de facto partner or former de facto partner
  + child
  + parent
  + grandparent
  + grandchild
  + sibling
* an employee's current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling, or
* a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

**Immediate family** - spouse or former spouse, de facto partner or former de facto partner, child, parent, grandparent, grandchild, sibling, or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner). This definition includes step relations as well as adoptive relations. Employees will be able to take leave for other relatives (e.g. cousins, aunts, uncles) if they are a member of the employee’s household.

**Parental Leave** - A general term for all types of parental leave that an employee is eligible to take. It includes initial parental leave, additional parental leave and special maternity leave.

**Initial Parental Leave** - The first period of parental leave that an eligible employee takes, up to a maximum of 12 months from the date the leave commences (and inclusive of all leave types).

**Eligible Employee** - An employee who is eligible for parental leave under the Act.

**Primary Carer** - Person who has assumed, or will assume, the principal role of providing care to the child. There can only be one primary carer for the child at any one time.

**Secondary Carer** - Person who is the spouse or de facto (including same sex) partner of the Primary Carer and who does not have the principal role of providing care to a child.

**Additional Parental Leave** - Extra parental leave that an eligible employee can request in addition to their initial parental leave, up to a maximum of 12 months. Additional parental leave is unpaid.

**Comparable Role** – A job, role or position which an employee may be offered on return to the workplace where:

* the terms and conditions of employment are substantially similar to, and considered on an overall basis, no less favourable than the terms and conditions of an employee’s role with *Company*
* the employee’s base pay or fixed salary (whichever is relevant to the employee’s classification) is not less than the base pay or fixed salary the employee was receiving immediately prior to commencing parental leave; and
* the employee’s period of continuous service with the [Company] will be recognised.

**Long Service Leave** - available after an employee completes a prescribed period of continuous service - usually 10 years or more with a single employer.

**Community service leave** - can be used for voluntary emergency management activities; jury duty (including attendance for jury selection).

**Recognised emergency management body** - a body that has a role or function under a plan that is for coping with emergencies / natural disasters (prepared by the Commonwealth or a state or territory), a fire-fighting, civil defence or rescue body, any other body which is mainly involved in responding to an emergency or natural disaster. Examples include: the State Emergency Service (SES), Country Fire Authority (CFA), the RSPCA (in respect of animal rescue during emergencies or natural disasters).

**Unpaid Leave** - a period of unpaid leave granted by the employer at the request of an employee

Annual Leave

Annual leave is usually an allowance of 20 days for permanent full-time employees, per annum. Part-time employees are entitled to a pro rata basis, based on their proportion of ordinary hours worked. There is a provision for employees to be paid out their accrued Annual Leave entitlements on termination.

The length of this leave is to be agreed between [Company]and the employee.

Employees should request Annual Leave in writing which may or may not be approved. Employees should provide as much notice as practical of the intention to take Annual Leave. [Company]must have reasonable grounds for refusing a leave application.

[Company]may request that Annual Leave be taken, provided that the requirement is reasonable and that a reasonable notice period is given. [Company]may also require employees to take Annual Leave during an annual close-down if this is deemed reasonable. Where an employee does not have sufficient leave to cover the annual close-down, the employee would be allowed to take the leave in advance.

An employee may be terminated while on Annual Leave but only for a legal reason such as redundancy, summary dismissal or where the employee has repudiated their contract.

[Company]can replace the employee temporarily with another employee but the replacement should specifically be made aware of the temporary nature of the role. On the return of the employee they should be returned to the same position, responsibilities and seniority.

Generally there are no restrictions against an employee working for another company during their Annual Leave as long as the employment does not pose a conflict of interest.

Employees are entitled to be paid out all accrued Annual Leave entitlements upon termination or death.

Personal Leave

In accordance with the National Employment Standards (NES) all permanent employees are entitled to Personal Leave which is accrued at the rate of 10 days per annum for full-time employees, with a pro rata accrual for part-time employees. All unused Personal Leave accrues from year to year. All Personal Leave accrues progressively during a year of service.

If an employee does not have sufficient Personal Leave accrued, or has already taken their full entitlement, they may take a period of two days *unpaid* Carer's Leave, on each occasion that a member of their family requires support or care due to illness or an emergency.

Part-time employees will also be entitled to Personal Leave on a pro rata basis.

Casual employees are not generally entitled to Personal Leave. Under the Federal legislation casual employees receive a loading of 25% to compensate for not receiving leave entitlements.

Employees are generally able to take Sick Leave in periods of half days if required although employers may exercise discretion to allow shorter Sick Leave periods.

Employees should notify the employer as soon as practically possible of their need to take Personal Leave. This is typically on the first day of leave but under circumstances where the employee is unable to notify the employer, the employer should be sympathetic to the situation.

Should employees take two or more consecutive days or the day either side of a public holiday, a medical certificate from a registered medical practitioner is required. Doctor’s certificates are also required for Personal Leave as a Carer.

Should an employee be sick and notify the employer that they will return after a public holiday, the public holiday will be counted and paid as a public holiday and will not be deducted from Sick Leave. If the employee has not notified the employer, the public holiday will be paid as Sick Leave and deducted from the Sick Leave balance.

An employee cannot take other paid employment during their Personal Leave as this may justify termination for wilful misconduct.

If an employee is sick during their annual or long service leave, the period will generally count as Personal Leave if the employee can produce medical evidence to support such a claim.

Employees generally do not receive payment for untaken sick leave on terminations, unless an award or an agreement provides for such a payment.

Compassionate Leave

**Entitlement**

In accordance with the National Employment Standards (NES), all employees are entitled to 2 days compassionate leave each time an immediate family or household member dies or contracts or develops a life-threatening illness or injury

The compassionate leave can be taken as:

* a single continuous 2 day period, or
* 2 separate periods of 1 day each, or
* any separate periods the employee and the employer agree.

An employee does not accumulate compassionate leave and it does not come out of their personal or annual leave balance. It can be taken any time the conditions are met and the employee requires it. If an employee is already on another type of leave (e.g. annual leave) and needs to take compassionate leave, the employee can use the compassionate leave instead of the other leave.

**Payment**

Full-time and part-time employees receive paid compassionate leave and casual employees receive unpaid compassionate leave.

Full-time and part-time employees are paid at their base pay rate for the ordinary hours they would have worked during the leave. This doesn't include separate entitlements such as incentive based payments and bonuses, loadings, monetary allowances, overtime and penalty rates. Compassionate leave cannot be cashed out.

**Taking Leave**

1. The employee will, as soon as practicable, notify the employee’s manager, or if that manager is unavailable another [Company] manager, of the employee’s inability to attend work.
2. Where practical the employee will daily keep [Company] informed of the employee’s ability to attend work.
3. The employee will provide evidence that will reasonably satisfy [Company] as to the genuine nature of the illness, injury or death.

Family and Domestic Violence Leave

**Entitlement**

In accordance with the National Employment Standards (NES), all employees are entitled to 5 days unpaid family and domestic violence leave.

Employees are entitled to the full 5 days from the day they start work – they do not have to build it up over time.

The 5 days renews each 12 months but doesn’t accumulate from year to year if it isn’t used.

**Notice and evidence for family & domestic violence leave**

If an employee takes family and domestic violence leave under the new family and domestic violence leave clause, the employee must inform their manager of their inability to attend work as soon as possible, or if that manager is unavailable another [Company] manager. This can happen after the leave has started. Employees also need to tell their manager how long they expect the leave to last.

**Evidence requirements**

[Company] can ask their employee for evidence that shows the employee took the leave to deal with family and domestic violence. If the employee doesn't provide the requested evidence, they may not get family and domestic violence leave.

The evidence has to convince a reasonable person that the employee took the leave to deal with the impact of family and domestic violence.

Types of evidence can include:

* documents issued by the police service
* documents issued by a court
* family violence support service documents, or
* a statutory declaration.

[Company] will ask employees to provide this evidence for as little as 1 day or less off work.

Confidentiality

[Company] will take reasonably practicable steps to keep any information about an employee’s situation confidential. This includes information about the employee giving notice that they’re taking the leave and any evidence they provide. [Company] is not prevented from disclosing information if:

* it's required by law, or
* is necessary to protect the life, health or safety of the employee or another person.

[Company] is aware that any information about an employee's experience of family and domestic violence is sensitive. If information is mishandled, it could have adverse consequences for their employee. [Company] will work with their employee to discuss and agree on how this information will be handled.

Parental Leave Policy

Parental Leave

In summary, permanent full-time and part-time employees with at least 12 months’ continuous service with [Company] immediately before the expected date of birth or day of placement of the child (in the case of adoption) are eligible for unpaid parental leave as described in this policy. Casual and fixed-term employees may be eligible for unpaid parental leave in accordance with the Act.

Primary and Secondary Carer entitlements:

* Employees who are primary carers are entitled to up to 12 months initial parental leave.
* Parental leave commences on the first date of leave (except for prenatal or pre adoption leave) taken in association with the birth or placement of the child.
* Employees must take their parental leave in one continuous block, unless:
  + the employee takes initial leave as a secondary carer, and at some later date assumes the role of primary carer; or
  + an employee has a period of special maternity leave and returns to work prior to commencing initial parental leave.
* For any unpaid portion of parental leave, the employee does not accrue annual or personal leave. Long service leave will continue to accrue and the unpaid portion of leave does not affect an employee’s continuity of service for long service leave purposes.
* Any personal leave that an employee has accrued prior to taking parental leave is available for use when they return to work.
* Employees must inform their Manager if their parental circumstances change, particularly if they cease to be the primary carer or if their partner’s parental leave arrangements change.
* Primary carers may request up to 12 months additional parental leave.
* Additional leave should follow directly on from initial parental leave.
* Requests to extend parental leave, within entitlements to the leave, will not be refused without giving the employee the opportunity to discuss the request.
* Additional leave is up to 12 months and must end by the child’s second birthday or 2 years after the date of the child’s placement

Adoption Leave

This guideline applies to adopted children in the same way that it applies to biological children as follows:

* Any reference to a child’s birthday or day of birth is a reference to the child’s day of placement in the case of adoption; and
* The entitlement only applies to children who:
* will be under 16 at the day or expected day of placement;
* will not have lived continuously with the employee for 6 months or more as at the day or expected day of placement; and
* are not the biological children of the employee, or the employee’s partner.

Employees who are seeking to adopt a child may also be entitled to pre-adoption leave.

Pre-natal Leave

If an employee or an employee’s partner is pregnant, they are entitled to access any accrued personal/carer’s leave entitlements for the purpose of attending appointments associated with the pregnancy. Employees should, where possible, provide 2 weeks’ notice prior to the appointment and a medical certificate from the practitioner.

Pregnant Employees

**Unsafe Work**

Where it is considered inadvisable for a pregnant employee to continue in their current role because of illness, or risk arising out of the pregnancy, or hazards connected with the role, the employee may temporarily transfer to a safer role. The employee must have a medical certificate stating that they are otherwise fit for work.

**Special Maternity Leave**

As outlined in the Act, special maternity leave applies to eligible female employees who are pregnant and:

* are suffering a pregnancy-related illness; or
* the pregnancy ends within 28 weeks of the expected date of birth (or after 12 weeks’ pregnancy), other than by the birth of a living child.

Special Maternity Leave is unpaid, and continues as long as necessary, as certified by a medical practitioner. If the employee wishes to take special maternity leave, she must notify her leader as soon as practicable, and also advise of her expected return to work date. An employee’s entitlement to initial parental leave is reduced by any period of special maternity leave.

**Commencing Parental Leave**

If a pregnant employee is eligible for parental leave, their initial parental leave may start at any time within 6 weeks of the expected date of birth. If the employee continues to work in the 6-week period prior to the expected date of birth, the manager can request a medical certificate certifying that the employee is fit for work. If the employee does not (or cannot) provide the medical certificate within 7 days of the request, she will be required to start initial parental leave immediately.

If initial parental leave has not already commenced within this 6-week period, it will automatically start on the date of birth of the child.

**Returning from Parental Leave**

After taking initial parental leave, employees are entitled to return to the position they were in immediately before going on parental leave. If that position no longer exists, the employee can return to an available comparable role.

Employees may request in writing to return to work early from parental leave. These requests may be approved at the discretion of the manager.

Employees may request a flexible work arrangement when they return to work. Options could include returning to work on a part-time basis, job share, or alternative working hours. Such requests should be made to [Company] in writing.

**All requests for parental leave, extension of parental leave and returning to work must be discussed (email only is not sufficient) between the employee making the request and his/her Manager.**

Long Service Leave

In accordance with the relevant State legislation. Long Service Leave accrues on completion of a number of prescribed years of continuous service. In addition to the ability to take leave there is sometimes provision for ‘accrued’ Long Service Leave to be paid out pro rata on termination of their employment or on their death, after a number of years of service. Typically Long Service Leave legislation requires employees to take holidays and, therefore, in some states it cannot be paid out. An employer may also direct an employee to take Long Service Leave but this depends on the state legislation and a level of notice is required.

Part time employees are generally entitled to Long Service Leave on a pro rata basis. Should an employee wish to take their Long Service Leave, they should request this in writing. [Company] will consider the request but is not obligated to approve the request if appropriate cover/replacement cannot be arranged for the specified period.

Some states legislation does not prohibit employees from working for another company during their long service leave as long as the new employment does not pose a conflict of interest. An employee may be terminated whilst on long service leave but only for a legal reason such as redundancy, summary dismissal or where the employee has repudiated their contract.

[Company]can replace the employee temporarily with another employee but the replacement should specifically be made aware of the temporary nature of the role. On the return of the employee, they should be returned to the same position, responsibilities and seniority.

Community Service Leave Policy

In accordance with the National Employment Standards (NES), all employees are entitled to Community Service Leave for certain activities such as:  
  
1. Jury duty (including attendance for jury selection)

2. Voluntary emergency management activities

With the exception of jury duty, community service leave is unpaid.

**Jury Duty**

Jury duty, also known as jury service, is a type of community service leave. Employees, including casual employees, can take leave to attend jury selection and jury duty.

Employees must advise [Company] of the period or expected period of leave as soon as possible. If an employee requests leave they need to provide evidence showing they attended jury selection or jury duty.

Full-time and part-time employees are paid ‘make-up pay’ for the first 10 days of jury selection and jury duty. Make-up pay is the difference between any jury duty payment the employee receives (excluding any expense related allowances) from the court and the employee’s base pay rate for the ordinary hours they would have worked. Casual employees are not entitled to be paid for Jury Duty under the NES.

An employee must provide [Company] with the following evidence:

* that they have taken all necessary steps to obtain jury duty pay
* the total amount of jury duty pay that has been paid or will be payable to the employee for the period

If the employee cannot provide evidence they will not be entitled to make-up pay.

**Voluntary Emergency Management**

An employee engages in a voluntary emergency management activity if:

* the activity involves dealing with an emergency or natural disaster
* the employee engages in the activity on a voluntary basis
* the employee was either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted
* the employee is a member of, or has a member-like association with a recognised emergency management body.

An employee is entitled to community service leave while they are engaged in the activity and for reasonable travel and rest time. There is no limit on the amount of community service leave an employee can take. Community service leave used for voluntary emergency management is unpaid.

An employee taking this leave must give [Company] notice of the absence as soon as possible, their expected period of absence and evidence that they’re entitled to community service leave.

Unpaid Leave

[Company] has made available leave without pay as an option available to staff for approved purposes in accordance with the provisions of this policy.

This policy clarifies the ‘appropriate purposes’ for which leave without pay may be granted, including the maximum duration and frequency of leave without pay which may be approved. The policy also sets out the arrangements applying to superannuation contributions when a staff member takes approved leave without pay.

Application of Policy

This policy shall apply to any form of leave without pay, including any personal (e.g. sick) leave without pay, approved by the [Company], but does not apply to unpaid leave associated with parental leave.

Approval

If a staff member wishes to apply for leave without pay, they are to utilise normal leave application processes. Details regarding the reasons for application should be included.

In the event that an employee wishes to make a variation or extension to an approved period of leave without pay, they must submit a written application for approval by the CEO/Managing Director.

Limitations

The maximum single continuous period of leave without pay that will normally be approved is xxxx.

In order to be considered for Unpaid Leave, the employee must not have any accrued annual or long service leave available to them. If there are any accruals, these must be fully utilised in the first instance. In the event that the unpaid leave is to be used as an extension of paid Personal Leave, all paid Personal Leave must also be exhausted.

Prior to being considered for unpaid leave, the employee will have served at least xx years with the [Company] before being granted leave without pay for a period of x months or more, whether continuous or aggregated, in any year. This may be reviewed in the event of extenuating circumstances.

Notice Requirements

Any application for unpaid leave, except unpaid parental leave, with the exception of extenuating circumstances, is required to provide the [Company] with the following notice:

|  |  |
| --- | --- |
| Period of leave without pay | Minimum notice required |
| Between 1 day and 2 weeks | 2 weeks |
| More than 2 weeks and less than 3 months | 3 months |
| More than 3 months | 6 months |

Where leave without pay is approved in conjunction with another form of leave, for example, Long Service or Parental Leave, greater notice may be required.

If an employee has been granted leave without pay for sick leave purposes, written medical confirmation that the staff member is fit to return to work is required. Refer to the Return to Work Policy for guidance.

Superannuation Contributions

Both Employer and Employee superannuation contributions automatically cease for any period of leave without pay.

The employee has the option to make ongoing superannuation contributions if they choose. This is to be negotiated directly with the superannuation fund.

Other Employment

An employee wishing to undertake paid employment outside [Company] during a period of approved unpaid leave must obtain prior written approval from the CEO/Managing Director. In the event that this is approved, it must not interfere with the staff member’s substantive duties, nor be in competition with [Company].

Any alternative employment during this period must also be consistent with the [Company]’s Mission and Values.