

Leave Procedure

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1 Purpose

This procedure supports our commitment to administer leave arrangements in accordance with relevant legislation, awards, NSW Government directives and Department policies.

It describes the processes in place in the Department of Communities and Justice when you:

- apply for planned leave
- notify unplanned leave
- keep records of leave
- monitor absences and leave accruals.

These processes may vary depending on where you work and local management practice. This procedure should be read in conjunction with the [Leave Policy](#) and replaces all previous Department of Family and Community Services and Department of Justice procedures and guidance material relating to leave entitlements, with the exception of the Corrective Services NSW Sick Leave Policy, Business Rules, Manager's Guide and Information Sheet.

The [Corrective Services NSW Sick Leave Policy](#) and procedures details responsibilities for managing sick leave specific to employees and managers in Corrective Services NSW. However, Corrective Services NSW employees and managers must refer to this procedure for all other leave types.

This procedure does not extend to other agencies within the Stronger Communities Cluster.

2 Types of leave

You may be entitled to a range of different types of leave, depending on your circumstances and entitlements. These include:

- family and community services (FACS) leave
- leave without pay (LWOP)
- parental leave (maternity, adoption, and other parental leave)
- purchased leave
- recreation leave
- sick leave (including sick leave to care for a family member¹)

¹ As per the [Crown Employees \(Public Service Conditions of Employment\) Reviewed Award 2009](#), the employee must be responsible for the care and support of the person concerned and the person must be a spouse or defacto spouse of the employee; a child or an adult child (including an adopted child, a step child, a foster child or an ex-nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the employee or of the spouse or de facto spouse of the employee; a same sex partner who lives with the employee as their de facto partner; a relative of the employee who is a member of the same household, where "relative"

- leave for matters arising from domestic violence
- extended leave
- military Leave
- study time leave
- special Leave, to engage in activities such as:
 - jury service
 - to be a witness at court
 - attend examinations
 - union activities
 - return home (after transfer or temporarily living away from home)
 - NAIDOC celebrations
 - domestic violence situations (where leave for matters arising from domestic violence have been exhausted)
 - other purposes, if approved
- special sick leave
- special leave provisions are contained in clause 84 of the [Crown Employees \(Public Service Conditions of Employment\) Reviewed Award 2009](#) and in the [Public Sector Industrial Relations Guide](#).

For details of the leave entitlements that are available to you, you should refer to your award or the relevant NSW Government directive; these are listed in the Leave Policy. For further information, please refer to the leave fact sheets.

3 Roles and Responsibilities

3.1 Employees

3.1.1 Monitor your leave entitlement/s

If you have access to SAP Employee Self Service (SAP/ESS), you can see the amount of leave you are entitled to take.

means a person related by blood, marriage, affinity or Aboriginal kinship structures; "affinity" means a relationship that one spouse or partner has to the relatives of the other; and "household" means a family group living in the same domestic dwelling.

3.1.2 Communicate with your manager

For planned leave, this conversation must occur as far in advance as possible to allow your manager to consider and make arrangements to address the operational needs of the team.

For unplanned leave such as illness, natural disaster, an emergency or caring for a family member you must notify your manager as soon as possible and advise the estimated duration of your unplanned leave. In exceptional circumstances, you can arrange for another person to notify your manager on your behalf.

Telephone is the preferred method of contact. An email or text message may be accepted where these arrangements have been agreed to, in advance, by your manager.

Please see Annexure 1 for specific divisional approval process.

3.1.3 Requesting leave

Apply for leave as soon as you are able via SAP/ESS.

If you don't have access to SAP/ESS, you can complete a manual application form located on the Intranet and submit this to your manager.

3.1.4 Supporting documentation

When you apply for more than two consecutive days of sick leave, you must provide a medical certificate or other evidence of illness from a registered health services provider

In remote areas, where it is challenging to access a medical practitioner, the Department will accept a certificate from a pharmacist. These certificates will be accepted for absences of up to five days. When you are absent for more than one week, you must provide evidence from a registered medical practitioner.

If you are unsure whether the area you live is considered as a remote area, you should discuss this with your manager.

You will not normally be asked to provide supporting documentation for recreation and extended leave applications. However, your manager may ask you to provide reasons for requesting leave if:

- they require it to decide between competing applications from different employees
- they are assessing any operational impact or impact on service delivery
- a long period of leave is being requested.

3.1.5 Leave approval process

After you submit your application, your manager or approving delegate will check if you are entitled to the leave you have applied for, review any supporting

documentation (where required) and approve or decline the application using SAP Manager Self Service (SAP/MSS) where available or notify the employee.

If your manager or approving delegate decides to decline your application, they will tell you as soon as possible so you can consider other options (e.g. arrange to take leave at another time or take another form of leave). They must give reasons for declining the application and discuss alternative arrangements with you.

Please see Annexure 1 for specific divisional approval process.

3.1.6 Maintaining contact

While your privacy must be maintained while on leave without unnecessary intrusion or interruption, you must co-operate with your manager by providing your contact details to your manager and updating these if they change while you are on leave so you can be kept informed including of any significant changes in the workplace.

3.1.7 Keep records

You are responsible for keeping accurate records of your leave arrangements, this includes:

- recording all leave taken on your flex sheet (where applicable)
- submitting a completed flex sheet to your manager at the end of every flex period (where applicable)
- submitting leave requests and any changes via SAP/ESS (where available) or by Leave E-Form or Application for Leave of Absence Form for all leave in a timely way.

3.2 Managers

3.2.1 Establish expectations for absence notification and recording

As a manager, you will share:

- expectations regarding attendance
- absence policies and procedures/business rules that apply
- information on how to report illness and injury related absences and the evidence they need to provide
- other related policies and the support services available.

3.2.2 Consider leave applications

As a manager, you must check if the employee has leave available, they meet any conditions associated with approving the leave and you have been provided any supporting documentation that is required.

You may also need to consider whether or not:

- the period of the leave coincides with a peak period at work for the employee or the team
- others in the team have received approval for leave during the same period and approval would impact significantly on the capacity of the team to perform its functions.

Once you have considered the application, you must approve or decline it using SAP/MSS (where available).

If you decline the application, you must inform the employee as soon as possible so they can consider other options (e.g. arrange to take leave at another time).

3.2.3 Maintain contact

As a manager you must have a means of communicating with people in your team, including those who are absent on planned leave and unplanned leave.

As a manager, you must respect the privacy of employees and allow them to take their leave without unnecessary intrusion or interruption.

Having a means of communicating during planned leave enables you to reach an employee in exceptional circumstances, or vice versa. For example, when significant changes in the workplace occur that may impact an employee who is on long term leave and you have an obligation to keep the employee informed.

Maintaining contact with people in your team while they are absent on unplanned leave, whether their individual attendance record is satisfactory or otherwise, ensures adequate support is available and/or to facilitate their return to work.

You must contact an employee on short term absence if no contact has been made by them:

- to ascertain a return to work date, if not provided
- to provide an update regarding workplace changes

On long term leave due to illness/injury (over six weeks) you must contact an employee:

- to identify the preferred method of contact (i.e. phone, email, meeting at the workplace)
- to check on their wellbeing and discuss accessing the Employee Assistance Program (EAP) or other support, as appropriate
- to provide updates regarding workplace changes
- to obtain updates of the prognosis for a return to work
- to obtain updates as to the employee's ability to fulfil the inherent requirements of their role upon return to work
- to obtain updates as relevant to any proposed reasonable adjustment to facilitate a return to work.

3.2.4 Monitor planned and excessive leave

As a manager, you must monitor the recreation leave balances of your team to ensure leave is taken in accordance with the relevant award.

As a manager, you must monitor unplanned absences by:

- reviewing flex sheets where applicable and sighting the relevant medical certificate(s). You are not required to keep a copy of the medical certificate but must sight the original in order to approve the leave request.
- review relevant reports through SAP
- look for indicators of potential sick leave absences of concern:
 - an emerging attendance pattern e.g. the employee is absent every Monday, or after public holidays or flex days
 - a decline in an employee's overall work performance
 - other potential causes of absenteeism, such as organisational and/or leadership change, forced relocation or redeployment, crises in an employee's personal life, conflict arising between team members and/or supervisors, or staff survey results indicating low job satisfaction or dissatisfaction with management.
- discuss any attendance issues with the person who has been absent and consider possible solutions for any issues that are raised. For guidance on how to have discussions about unplanned absences see [Discussing Unplanned Absences - A Guide for Managers](#).

3.2.5 Have a “welcome back” conversation with the employee

Depending on the length of time away from work, and the type of leave taken, a manager may wish to have a “welcome back” conversation with the employee, to find out how they are (depending on the type of leave), discuss how work was covered during their absence, who they may need to speak with regarding any missed meetings or work developments, plus anything that may need to be discussed in private regarding the absence (DV info, EAPS etc.)

4 Planned leave considerations

Employees must take at least two consecutive weeks of recreation leave every 12 months, except by agreement in special circumstances.

In accordance with the [Treasury Circular – Industrial Relations TC 16-03 Managing Accrued Recreation Leave Balances](#) all NSW government employees must ensure their recreation leave balances are no more than **30 days** or the part time equivalent.

You must ensure your recreation leave balances comply with the above.

Where pay in advance or advance leave loading is required, you must apply for leave at least four weeks in advance.

Managers will monitor types of planned leave to ensure it is being used for the purposes for which it was approved e.g. for study leave, ensuring the employee has completed their enrolment and they are continuing with the course as per the agreed arrangement.

5 Unplanned Leave Considerations

5.1 Trigger Points

The “trigger points” that establish the need for an absence review according to the [Department of Premier and Cabinet Circular C2020-10 Managing Sick Leave Policy](#) include:

- frequent unsupported absences - five cumulative days of unsupported sick leave in a calendar year (not 5 instances of leave).
- an absence trend - for example sick leave absences taken just before or just after Mondays and Fridays, public holidays, recreation leave and/or rostered days off or flex leave or following an employee formally indicating departure by redundancy, resignation or retirement.
- repeated failure to adequately notify an absence.

When a trigger point is established, there are three steps that can be taken, depending on the situation:

1. Have an informal discussion with the employee
2. If concerns persist, have a structured discussion with the employee
3. If concerns persist, you may need to apply sanctions.

When a trigger point is established, managers can refer to [Discussing Unplanned Absences - A Guide for Managers](#).

Where the Department has doubts about the possible nature or causes of the absence, managers can seek advice from their People Business Partner representative and/or Injury Management Rehabilitation, Coordinator or Conduct and Professional Standards Unit (CaPS) or the Professional Standards Branch (PSB) Corrective Services, depending on the issues involved.

5.2 Medical assessments

As per the [Procedures for Managing Non-Work Related Injuries or Health Conditions: D2010-018, Public Service Commission](#), where an employee is likely to be absent from work for a period of more than two months. Managers can discuss obtaining further information from the employees’ treating medical provider and/or referring them for an independent medical assessment with the People Business Partner representative.

In the following circumstances, a decision might be made by the Department to place an employee on special leave and arrange a medical assessment:

- where the employee has taken frequent, lengthy or numerous absences from work due to illness or injury, particularly where there is a lack of information about the employee's medical condition or circumstances, or the impact of the employee's condition upon their work is unknown and the Department needs to be informed about the employee's performance of the inherent requirements of the role and any issues of workplace adjustment
- where the Department has a broad indication only about the nature of the employee's medical condition and where the nature of the employee's work is likely to be impacted by such a condition as known
- where the Department has received inconsistent information about the employee's health and capacity.

These assessments can help to confirm an illness and identify any reasonable adjustments that may be required to return the person to work safely.

6 Medical certificates

Managers must sight medical certificates (or other evidence of illness), before approving an employee's sick leave application. This applies to unpaid and paid sick leave.

In the event that an employee wants to return to work before the end of the prescribed sick leave period stated on the medical certificate, the employee must seek clearance from the issuing practitioner and provide written evidence to their manager to sight, before they're able to return to work.

Generally, managers should not retain copies of medical certificates, unless in certain prescribed circumstances such as conduct investigations. Other circumstances where copies of medical certificates and medical reports should be retained include where there are lengthy absences from work; for reasonable adjustment and return to work purposes; where there could be an issue of whether an illness or injury will result in a workers compensation claim and the Department needs to maintain contemporaneous records of an illness or injury or where the information is relevant to a disciplinary process.

Medical records must only be used and stored in accordance with the [Health Records and Information Privacy Act 2002 \(NSW\)](#).

When employees are absent for more than two consecutive days but less than one week certificates from a registered health services provider need only state that they are unfit for work. In instances where absences are for one week or more, medical certificates should indicate:

- the estimated duration of the absence and anticipated return to work date
- if you are able to return to work on altered/reduced duties and which duties can be undertaken on return, and
- what (if any) workplace adjustments are requested return to work.

This will allow management to take any necessary and available steps to facilitate an employee’s return to work. Medical certificates should also indicate if you are able to return to work on altered/reduced duties, and which duties can be undertaken on return.

These requirements also apply if sick leave is taken to care for a family member. The certificate should state that the family member who was ill required care and support.

If there are any concerns about disclosing medical information to a manager, the application dealt with confidentially by another manager or the People Business Partner representative.

For employees on unplanned leave for an extended period of time, managers may need to submit an application on the employee’s behalf prior to their return to avoid overpayments.

7 Support and assistance

Assistance or support in relation to this procedure is available from:

- your manager
- your People Business Partner representative
- Service Desk in Communities and Justice Shared Services or ServiceNow (where applicable)
- the intranet.

8 Document information

Document name	Leave Procedure
Applies to	All Department of Communities and Justice ongoing, temporary and casual employees
Replaces	Department of Family and Community Services Leave Procedure
Document reference	SUB/21/29155
Approval	People and Engagement Subcommittee (PESUB) 4 February 2021
Version	1.0
Commenced	15 March 2021
Due for review	16 March 2023
Policy owner	Workforce Strategy, Inclusion and Systems

9 Support and advice

Who can people go to if they need more advice?

Business unit	Workforce Strategy, Inclusion & Systems People, Corporate Services
Email	HRPolicyGovernance@fac.s.nsw.gov.au

10 Annexure 1 - Local unplanned leave reporting

How do I notify?

Youth Justice:

Contact must be made with the relevant supervisor unless other local arrangements apply at the centre.

Child Protection Helpline employees:

Telephone contact is the only method of contact and all employees are to contact the Helpline 'Sick Line' as soon as practicable, to allow workplace planning and managers to assess the impact and make alternative arrangements as required.

Housing Contact Centre employees:

Telephone contact is the only acceptable method of contact. Employees engaged in shift work roles must contact HCC management (managers, team leaders, operations team leaders and wherever practical, must provide reasonable notice before the commencement of the shift.

When do I notify?

In the case of a staff member working flexible working hours, notification must be before core time on the day(s) of absence, unless local arrangements exist.

In the case of a staff member working shift work, notification must be given before the commencement of the shift and as early as possible to allow for replacement staffing. Where a staff member fails to contact his/her supervisor. Supervisors should arrange for the employee to be contacted as a duty of care and to obtain the reason for their absence.