



Corrective Services NSW Sick Leave Policy & Procedures

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CSNSW Sick Leave Policy & Procedures

Table of Contents

1 Policy Statement	3
2 Scope	3
3 Framework	4
3.1 Principles	4
3.2 Employee responsibilities	4
3.3 Manager responsibilities	5
4. Evidence & Nature of illness	5
4.1 Requirements for providing a medical certificate:	5
4.2 Other health services providers	6
4.3 Pharmacist issued Medical Certificates	6
4.4 Backdated medical Certificates	7
4.5 Overseas certificates	7
4.6 Receipts	7
5. Types of Sick Leave	7
5.1 Personal Sick Leave	7
5.2 Sick Leave to Care for a Family Member	7
5.3 Special Sick Leave	8
5.4 Chronic / protracted illnesses and absences of more than two (2) months in duration	9
5.5 Sick leave during extended leave and recreation leave – recredit of leave	10
5.6 Sick leave during period of industrial action	10
5.7 Sick leave and Workers Compensation	10
5.8 Unauthorised Sick leave	10
6. Sick Leave Administration & Entitlements	10
6.1 Notification of taking sick leave by the employee	10
6.2 Sick Leave Entitlements and Accruals	11
6.3 Application process	11
6.5 Sick leave accrued from previous public sector employment	12
6.6 Sick leave requirements for extended leave absence	12
6.7 Confidentiality of Medical Certificates	12
7. Management Support Intervention & 8-Step Counselling Model	13
7.1 Sick leave patterns or trends	13
8. Frequently Asked Questions	20
8.1 Sick Leave to Care for a Family Member	21
9. Related Document Reference	22
10. Implementation and Review	23
11. Annexure A – 8-step Counselling Support Flow Chart	23
12. Document History	23

1 Policy Statement

Managing attendance, reducing absenteeism and promoting a healthy workforce are important objectives for Corrective Services NSW (CSNSW) to ensure:

- Productive, supportive, efficient and high performing workplaces are achieved and sustained
- Timely sick leave management reviews and interventions;
- Employees feel supported and their wellbeing is a priority;
- Resources are being used for the delivery of high-quality services;
- Some of the causes of sick leave are reduced where possible to assist employees to return to work;

The four (4) documents that previously related to management of sick leave within CSNSW were;

- CSNSW Sick Leave Policy – 2014.
- CSNSW Sick Leave Business Rules and Guidelines – 2014.
- CSNSW Sick leave Guide for Managers – 2014.
- CSNSW Human Resources Division - Sick leave Information Sheet 2010.

To better support managers and employees with an understanding of sick leave entitlements and related procedures, the existing documents have been amalgamated into one (1) new document, which also incorporates **the 8-step managers' guide to sick leave counselling and intervention supports**.

The new document is titled the **CSNSW Sick Leave Policy and Procedures** and replaces the four documents outlined above and takes effect from **3 February 2025**.

Consistent with any form of unplanned absenteeism, sick leave must be managed in a fair and consistent manner, which considers the needs and circumstances of individual absences and impact on the agency. Accordingly, the responsibilities and obligations of employees in relation to the taking and management of sick leave are provided in this policy, which is consistent with and underpinned by the:

- *Crown Employees (Public Service Conditions of Employment) Award 2009*.

Where the delegated officer is satisfied that an employee is unable to perform duty due to the employee's illness, sick leave may be granted. Illness relates to any physical or psychological illness or injury, medical treatment and the period of recovery or rehabilitation from an illness or injury.

2 Scope

The policy applies to all CSNSW employees, except staff employed on a casual basis. For the purposes of this policy, "sick leave" includes (paid) sick leave, sick leave without pay, sick as recreation leave, sick as extended leave, sick as carer's leave, sick or other leave pending

workers compensation and sick leave pending application. Special sick leave is covered under section 5.3. Sick leave for war caused injuries is excluded from this policy.

3 Framework

3.1 Principles

- (a) If employees are fit, they must come to work. However, employees are not expected to work while ill or injured, or where caring for a family member who is ill, and genuine sickness will be dealt with sympathetically.
- (b) Employees are responsible for notifying managers if they become aware of any health conditions that prevent them from attending work and/or any conditions that prevent them from undertaking inherent requirements of their role.
- (c) Sick leave and related processes are to be managed in a fair and transparent manner by all CSNSW workplace managers within all workstreams.
- (d) Managers must intervene when it is apparent that employees are not complying with the requirements of this policy or when the employee and/or a medical practitioner is demonstrating that CSNSW should consider the employee's work role capacity or need for assistance. Managers responsible for employees are to consider each case based on the individual employee's circumstances taking into consideration sick leave history, the nature of the illness as well as any sick leave patterns.

3.2 Employee responsibilities

It is the responsibility and obligation of an employee to:

- (a) Be aware of the requirements of the sick leave policy.
- (b) Notify the workplace as soon as possible of an absence, and no later than two (2) hours before the scheduled start time for custodial, overseer and non-custodial scheduled employees. All non-custodial employees on flex time agreements, are to advise the workplace prior to the start of the business day.
- (c) In accordance with Deputy Commissioner's Memorandum: 2024/04 – *Compliance regarding e-roster portal*. Custodial employees are required to submit leave requests via the e-roster portal available on the SharePoint e-portal system.
- (d) Flex time employees are to complete an e-leave application form on the next working day on return to duty or as soon as practicable via MyWorkZone (MWZ). If an e-leave application is not submitted on return to duty, the leave may not be paid until the application is received.
- (e) Provide supporting medical certificates for sick leave absences, as required by the terms of this policy and the *Crown Employees (Public Service Conditions of Employment) Award 2009*.
- (f) For longer term absences, notify the workplace manager and submit sick leave applications

and medical certificates on a regular basis as required.

- (g) Seek assistance or advice, as required.
- (h) Check emails on a frequent basis to remain informed of CSNSW business requirements.

3.3 **Manager responsibilities**

It is the responsibility and obligation of all workplace managers to:

- (a) Manage sick leave and other unplanned absences in a fair and transparent manner to maximise employee wellbeing and attendance and to provide timely intervention and/or assistance, as required.
- (b) Ensure that leave applications are properly processed in a timely manner, including checking leave entitlement / availability.
- (c) Ensure that opportunities are available for employees to confidentially discuss matters which could be contributing to an unsatisfactory sick leave record.
- (d) Ensure that there has been contact concerning the health and wellbeing of employees who are absent on sick leave for three (3) consecutive days or more and, if required, provide assistance and support conversations, and referrals, as required. Assistance / support may include but is not limited to physical aids, temporary change of roster, reduced hours etc.
- (e) Talk to employee about supports available. **Review sick leave reports on a regular basis to ensure compliance with the policy and to note any emerging issues or trends.**
- (f) Provide appropriate guidance and counselling to employees as required by workplace managers.
- (g) Ensure that rosters and flex-time records are reconciled with the leave reports/ rosters daily for custodial employees.
- (h) If a non-compensable Recover at Work Plan (RAW) is required for an employee on sick leave, the relevant manager can implement a RAW with the support of Injury Management and/or Human Resources Branch.
- (i) Where an absence has been or is expected to be more than two (2) months duration, discuss alternative avenues with Human Resources Branch which may include a direct referral of the employee for an Independent Medical Capacity Assessment (IMCA).

Commented [MO1]: Which is this referring to? Tammy's team or helen's team or both and if both, need to rename properly

Commented [HC2R1]: That was the former team (pre-2015) Should be CSNSW Staff Support team and Injury Management or HR - Safety does not play a role with sick leave.

4. Evidence & Nature of illness

4.1 **Requirements for providing a medical certificate:**

A medical certificate **must** be provided:

- For any sick leave absence in excess of two (2) consecutive workdays, as per Clause 80.1 of the *Crown Employees (Public Service Conditions of Employment) Award 2009*; and
- For each occasion after five (5) cumulative days of unsupported sick leave in a calendar year has been taken, *and*

- For each occasion after ten (10) days of supported sick leave taken in the calendar year has been taken.

Evidence of illness must be in the form of a medical certificate unless otherwise determined by the Commissioner and can include online registered medical providers.

The medical certificate **must**:

- Clearly identify the registered medical practitioner; and
- Indicate the date the certificate was written and signed; and
- Indicate the period of incapacity; and
- Indicate the nature of the illness / injury.

If the delegated officer is not satisfied with the reasons shown on the medical certificate, the employee and/or the medical certificate may be referred to an approved government medical provider for advice as per Clause 80.5 of the *Crown Employees (Public Service Conditions of Employment) Award 2009*.

If an employee is concerned about disclosing the nature of the illness to their manager, they may elect to have their application for sick leave dealt with confidentially by an alternate manager and/or provide their medical certificates to their Human Resources Business Partner, as per Clause 80.6 of the *Crown Employees (Public Service Conditions of Employment) Award 2009*.

4.2 Other health services providers

Certificates of up to one (1) week may be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Commissioner's, Deputy Commissioner or Assistant Commissioner's discretion, another registered health services provider. Unless the health provider listed above is also a registered medical practitioner, where the absence exceeds one week, applications for any further sick leave must be supported by a medical certificate from a registered medical practitioner.

4.3 Pharmacist issued Medical Certificates

The primary form of evidence remains a medical certificate issued by a medical practitioner, however, CSNSW acknowledges that in some regional locations, it is difficult to obtain a medical certificate from a treating general practitioner.

Note: A pharmacist is **not** a medical practitioner and can only issue medical certificates within their area of expertise following a consultation which they are at liberty to charge for.

CSNSW will accept pharmacist medical certificates from employees falling within regional locations for a **maximum period of two (2) days** after which a medical certificate is required from a medical practitioner. A pharmacist medical certificate is **not acceptable** for the following:

- Sick Leave to Care for a Family Member
- Family and Community Service leave
- Workers Compensation
- Re-crediting of Recreation and Extended leave.

NOTE: It should be noted that with the emergence of online medical providers, all CSNSW employees have access to a medical practitioner on the day of a reported absence, regardless of where they reside.

4.4 Backdated medical Certificates

It is important to note that Clause 80.3 of the *Crown Employees (Public Service Conditions of Employment) Award 2009* states:

'As a general practice back dated medical certificates will not be accepted. However, if a staff member provides evidence of illness [ie' a medical certificate] that only covers the latter part of the absence, they can be granted sick leave for the whole of the absence if the Department Head [or delegate in CSNSW] is satisfied that the reason for the absence is genuine.'

Some medical practitioners in regional and rural areas hold emergency appointments at 8.30am each morning, however, it can be two to three days before a non-emergency appointment can be made.

In those circumstances where an employee cannot get to see the medical practitioner on the first day of the absence but can get in on subsequent days, provided the delegate is satisfied that the illness was genuine, sick leave can be granted for the period which pre-dates the medical certificate. This provision does not work in reverse i.e., where the employee has a certificate for the earlier part of the absence but not the latter part.

Again, it should be noted that with the emergence of online medical providers, all CSNSW employees regardless of location, have access to a medical practitioner on the day of a reported absence.

4.5 Overseas certificates

An employee presenting medical certificates from overseas must ensure that the certificates satisfy the provisions of this policy. The employee will be responsible for arranging and paying for a translation, if necessary.

4.6 Receipts

A receipt for fee payment is not a medical certificate and will not be accepted as evidence to support a period of sick leave.

5. Types of Sick Leave

5.1 Personal Sick Leave

Sick leave can be requested by an employee in the following circumstances:

- (a) for a medical condition, illness, or injury that prevents an employee from performing their job and;
- (b) for medical, optical, or dental treatment, where such treatment is urgent and cannot be scheduled outside of working hours.

5.2 Sick Leave to Care for a Family Member

Sick Leave to care for a family member is leave which may be granted to provide care and support to a sick family member. Clause 81.4.2 of the *Crown Employees (Public Service Conditions of Employment) Award 2009* describes family members in the following terms:

The person concerned being:

- (a) a spouse of the staff member; or
- (b) a de facto spouse being a person of the opposite sex to the staff member who lives with the staff member as her husband or his wife on a bona fide domestic basis although not legally married to that staff member; or
- (c) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent or legal guardian), grandparent, grandchild or sibling of the staff member or of the spouse or de facto spouse of the staff member; or
- (d) a same sex partner who lives with the staff member as the de facto partner of that staff member on a bona fide domestic basis; or a relative of the staff member who is a member of the same household, where for the purposes of this definition:

"relative" 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.

When Family and Community Services (FACS) leave is exhausted or unavailable, an employee, with responsibility for the care of a family member who is ill, may apply to use their accrued sick leave for the period of care. Under normal circumstances, sick leave accrued (less any sick leave taken) over the previous three years of service may be used for this purpose.

Employees must discuss any application for this leave with their manager and must supply a medical certificate or other acceptable evidence as soon as practicable, which identifies the family member being cared for, the expected duration of the illness and that the employee is required to provide that care. Statutory declarations are not to be accepted as evidence of illness.

5.3 Special Sick Leave

Special sick leave may be granted to employees with 10-years or more service who have exhausted all sick leave entitlements, but who are prevented from attending work due to a long-term illness.

This grant applies where an employee has been or will be absent for a period of at least three (3) months and has exhausted or will exhaust all normal sick leave. Applications for the grant of special sick leave must be referred to the relevant Assistant Commissioner for consideration.

- Where an employee's sick leave has been exhausted, and where the delegated officer is satisfied that the employee is not able to perform duty because of their illness, sick leave without pay may be granted and the employee may be entitled to a Commonwealth sickness benefit.
- Sick leave without pay will count as service for the accrual of recreation and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.

Employees should submit a request outlining their particular circumstances, supported by the appropriate medical certification and forward these to their Human Resources Business Partner, who will assess eligibility and make a recommendation to the relevant Assistant Commissioner for approval.

Note: Special Sick Leave if approved, does not count in the normal cumulative entitlements, it only counts toward further entitlement for Special Sick Leave.

Special Sick Leave is only assessed for each 10-years of completed service, with 22 days per every 10-years e.g., employees have an entitlement at 10 years and at 20 years and so on. There is no pro-rata entitlement between each 10-year interval.

There will be circumstances where a person has had regular absences from the workplace due to a chronic or terminal illness etc over an extended period of time. However, the person has not been or will not be absent for three months at the time of the application. These cases will be considered on their merits and advice sought from the Human Resources Business Partner.

5.4 Chronic / protracted illnesses and absences of more than two (2) months in duration

Diagnosed chronic illnesses that are of an ongoing or recurrent in nature such as diabetes, cancer, pre or post-surgery complications, etc (noting this list is not exhaustive). may result in management intervention to ensure appropriate workplace support is being provided and that suitable operational arrangements are in place.

It is understood that there will be episodic events which may prevent the employee from attending work on a particular day due to high dosage medication which will prevent the employee from driving/ functioning normally. In these situations, the employee may not be able to attend a medical practice either and is, therefore, unable to obtain medical certification to cover the absence for the day.

Notwithstanding, the emergence of online medical providers provide an alternative option than having to physically attend a medical practitioner in person.

It is not the intent of the Sick Leave Policy & Procedures to disadvantage employees suffering a chronic or protracted illness. Employees are expected to provide overarching certification clearly outlining:

- (a) The nature of the condition;
- (b) The expected duration of the illness;
- (c) The projected frequency of absences from the workplace (e.g. it is reasonable to expect that the employee may be absent one day a month due to this condition and will not be able to obtain a certificate on that day due to the medication levels etc.); and
- (d) The date when the next review will occur which should be no more than every two (2) months.

The certification requirements outlined at (a) – (d) above, **do not** negate the need for medical certificates on those days when medical certificates can be obtained but rather gives CSNSW an opportunity to review non-supported absences in a more supportive context given the duration of the condition. The certification requirements outlined at (a) – (d) above, **must be updated** at each review point i.e., no more than two monthly intervals. Managers can seek the assistance of Human Resources in managing these cases.

There may be isolated cases where;

- the employee's resumption of duty appears unlikely; or
- the employee's absence will continue or is likely to continue for a period in excess of two (2) months.

NOTE: Where an absence has been or is expected to be more than two (2) months duration, discuss alternative avenues with Human Resources Branch which may include a direct referral of the employee for an Independent Medical Capacity Assessment (IMCA).

5.5 Sick leave during extended leave and recreation leave – recredit of leave

Sick leave may be granted during periods of recreation (for the period stated in the medical certificate) and extended leave (if the period set out in the medical certificate is five (5) working days or more), on production of a satisfactory medical certificate for an illness.

5.6 Sick leave during period of industrial action

Applications for sick leave during the period of an industrial action will not be approved unless CSNSW is satisfied that the absence is unrelated to that industrial action and is supported by acceptable evidence such as a medical certificate. If sick leave is related to industrial action, then a referral is to be made to Human Resources, for assessment and advice.

5.7 Sick leave and Workers Compensation

Injured employees must submit a Safety Suite Notification and workers compensation medical certificate (if applicable) as soon as possible after the workplace injury has occurred. Employees can raise e-forms by accessing the Safety Suite Cloud icon via their Justice or FACS Okta/ Citrix portal. Managers must ensure that the Safety Suite Notification is completed.

5.8 Unauthorised Sick leave

In any of the following circumstances, the employee's absence(s) will be deemed as unauthorised:

- (a) Failure to submit an application for leave within two (2) pay periods; or
- (b) Failure to provide a satisfactory explanation for the absence, a medical certificate or an acceptable reason to the manager for an absence, after being requested to do so including an agreement to provide; or
- (c) Sick leave entitlement has been exhausted and approval has not been granted for any other leave type.

The employee will be informed, in writing, of any absence that has been deemed as unauthorised. The absence will be recorded as unauthorised for payroll purposes and the employee will not be paid for the period, whether the employee has sufficient paid sick leave to credit to cover the period or not.

6. Sick Leave Administration & Entitlements

6.1 Notification of taking sick leave by the employee

If an employee is to be absent from work because of illness or other emergency, the employee must notify the workplace of the unplanned absence as soon as practicable (preferably the day before of:

- Notification they are going to be absent;
- The expected duration of the absence;
- The reason for the absence;

Custodial staff and overseers are to notify the Operations Scheduling Unit (OSU) by calling the absence advice line as soon as possible, and at least two (2) hours before the shift commencement time.

Non-custodial shift workers (e.g.; scheduling officers) must notify their manager as soon as possible and at least two (2) hours before the shift commencement time.

Other non-custodial employees (flex-time) must notify their manager as soon as possible and no later than the expected commencing time on the day of the unplanned absence.

6.2 Sick Leave Entitlements and Accruals

From 1 January 2009 employees accrue sick leave as follows:

- (a) At the commencement of employment with the NSW Public Service, a full-time employee is granted an accrual of five (5) days sick leave;
- (b) After the first four months of employment, the employee shall accrue sick leave at the rate of 10 working days per year for the balance of the first year of service; and
- (c) After the first year of service, the employee shall accrue sick leave on a fortnightly basis at the rate of 15 working days per year of service.
- (d) All unused sick leave carries forward on a cumulative basis.
- (e) An employee's sick leave entitlement will be reduced when an aggregate period of one month leave without pay is taken during the year. Note for sick leave accrual a month is 22 working days.
- (f) Part-time employees accrue sick leave at the rate of 15 working days per year proportionate to the part-time hours of work. Any untaken sick leave is accrued.
- (g) Payment of sick leave to employees during their initial period of service is limited to five days during the first three (3) months of service unless a satisfactory medical certificate has been provided for each of the absence.
- (h) Sick leave is not granted to casual employees and seasonal staff or short-term relief staff (those engaged for less than three months for short-term relief during seasonal or unusual demand).

6.3 Application process

Responsibility of the Employee	Responsibility of the Approving Officer
<ul style="list-style-type: none"> 1) Determine that leave is available; 2) Complete all sections of the <i>leave e-form</i> (for full-time and part-time non-scheduled employees) or an <i>Application for Leave of Absence</i> form (for scheduled employees) relevant to the type of leave requested; 3) Custodial and overseers are to submit their leave forms via the e-roster portal on the SharePoint platform; 4) Attach supporting documents (medical certificate); 5) Submit completed form to the delegated officer for approval, via e-portal or MWZ platforms. 	<ul style="list-style-type: none"> 1) Ensure leave is available to employee; 2) Ensure the employee has completed the <i>Leave e-form</i> or <i>Application for Leave of Absence</i> form or e-roster portal application correctly; 3) Ensure employee has provided relevant supporting documents to accompany the application; 4) Approve leave and forward application (including supporting documents) for processing; Or in the case of the <i>e-form</i> retaining the supporting documents in a secure and confidential manner. 5) If type of leave requested is not approved, discuss with employee and amend form and approve/forward application for processing.

6.4 Timeframes for submitting medical certificates

It is in the best interest of all employees to ensure that documentation that supports absences from work is submitted as soon as possible and prior to the pay close off to ensure that correct entitlements are paid.

For scheduled employees, applications for sick leave can be submitted electronically via the e-roster portal available on the SharePoint platform.

It is acknowledged that not all employees will have resumed duty prior to the pay close off occurring. In those circumstances, employees need to make arrangements to have paid leave applications and medical certificates uploaded in the roster e-portal for custodial and overseers.

Medical centres, partners, work colleagues and friends are a good resource if employees do not have immediate access to a computer, smart phone to directly upload to the e-roster portal on the SharePoint platform. Non-custodial flex time workers can upload their evidence via MWZ.

6.5 Sick leave accrued from previous public sector employment

Sick leave accrued and not taken by an employee, whilst in employment with another NSW department and/or Commonwealth public sector agency prior to joining CSNSW, may be credited to their sick leave entitlements on commencement of employment with CSNSW. Human Resources manage this process and timeframes apply for any breaks in service.

6.6 Sick leave requirements for extended leave absence

If a scheduled employee is likely to be absent from work for an extended period of time, an application for a period of sick leave should be entered into the e-roster portal and forwarded as soon as the medical certificate is received, and progressively whilst the absence continues.

Managers and supervisors should assist staff with long-term absences to ensure applications are completed, received and forwarded for processing promptly via the e-roster portal on the SharePoint platform, Workforce Management System (WFM) for scheduled employees or MWZ for flex time employees.

6.7 Confidentiality of Medical Certificates

CSNSW is committed to maintaining confidentiality regarding individual health circumstances. In this regard, managers must ensure records are secured and that access to sick leave records is restricted, with EDRMS the preferred storage method.

6.8 Conduct & Performance Checks for Promotion, Transfer, Increments & Probation

Conduct and performance checks undertaken in relation to issues such as promotion, transfer, increments, confirmation of employment will continue to be based on a period of 12 months preceding the date under consideration i.e., the date the increment was due, the expiration date of the probationary period, the date of the request for transfer etc. A review based on the calendar year would only assess conduct and performance based on a part year and would not be equitable i.e., some employees would be assessed over a three-month (3) period if a job was advertised and selected in March, and others would be assessed over nine (9) months if a job was advertised and selected in September.

The criteria used to determine whether a sick leave record is satisfactory for conduct and performance checks is based on a measure of *more than 5-days absence unsupported or 10-days supported* in a 12-month period.

Note: This measure is not linked to the calendar year system for the management of sick leave and is only used for compliance and performance checks.

Examples include:

- If an employee is on **probation**, and the conduct and performance of duties are otherwise satisfactory, but sick leave is *more than 5-days unsupported*; the probationary period may be extended for period(s) of 3-months with the requirement that all sick leave absences be supported by medical certificates.
- If an employee is due for a **salary increment**, and the conduct and performance of duties are otherwise satisfactory, but sick leave is *more than 5-days unsupported*; then the increment may be deferred for periods of 3-months with the requirement that all sick leave absences be supported by medical certificates.

If applicable, a **transfer, promotion or application to undertake other paid employment** may not be approved if sick leave is *more than 5-days unsupported* or 10-days supported.

7. Management Support Intervention & 8-Step Counselling Model

At any time, a workplace manager may review an employee's overall leave record and in particular the reasons for and identified patterns of absences. Managers must intervene in support of the employee's wellbeing when the employee and/or a medical practitioner is indicating there are health issues and must also intervene in cases of policy non-compliance.

CSNSW have developed an eight (8)-step support model see (Annexure A for flowchart) to assist managers in having counselling conversations with staff who are frequently absent from the workplace on sick leave. This step-by-step model is used to support CSNSW managers when an employee has had:

- Five (5) or more days unsupported sick leave days **in a calendar year**.
- Ten (ten) or more sick leave days (supported or unsupported) **in a calendar year**.

Underpinning the guide is for managers to take a supportive and employee focussed approach, and only proceeding to formal counselling and underperformance / unsatisfactory performance conversations when unplanned absences continue, without improvement.

NOTE: It is important that if the sick leave management counselling commences in the previous calendar year, it continues unbroken into the following calendar year.

The following types of leave are excluded in relation to applying underperformance / unsatisfactory platforms; Special Sick Leave, Domestic Violence Leave, War Service Sick Leave; Family & Community Services Leave. Managers may still have supportive conversations with employees who take these leave categories.

7.1 Sick leave patterns or trends

The types of patterns that may be evident in reviewing absence records are:

- Absences before or after days off (i.e., around rostered days off, flex days, weekends) or other leave, or after pay day or working from home day.
- The regular combination of different unscheduled leave types to supplement days off or

weekends, which result in prolonged absences from work.

- Working extended hours under a flexible working system to maximise flex time accrual when work is unavailable.
- Absences regularly reported to avoid certain shifts or duties.
- Unscheduled leave previously applied for but not granted due to operational requirements.
- Large amounts of sick leave taken in the period following an employee formally indicating departure by resignation, retirement, or redundancy.

When examining absence trends, particularly in relation to unplanned leave, consideration is to be given to the number and duration of absences in the period of review, whether supported or not with documentary evidence. The review may also include the amount of overtime worked by an employee.

STEP 1 **First Informal Counselling Session** **Sick Leave**

When: Takes place as soon as possible after it has been identified that an employee has triggered 5-days unsupported or 10 or more days supported sick leave in a calendar year.

Who: Employee and Manager (*no offer of support person is required under legislation*).

What: Documented first informal counselling session to understand the reasons for high absenteeism, and the best ways to support the employee going forward.

Manager's role:

- Give the employee 48 hours' notice of the First Informal Counselling session to allow time to arrange a support person, if preferred.
- Discuss the employee's absences and confirm whether there are any contributing factors e.g. injury, hospitalisation, mental illness etc.
- Discuss any supports available to the employee (including such things as Employee Assistance Program and shift swaps).
- Discuss and agree on performance expectations (including relevant requirements being imposed e.g., medical certificates to be provided going forward).
- Advise the employee that attendance will be monitored, and a further review will be scheduled to occur in 6 weeks' time. (*Note: review can occur earlier than 6 weeks, should a high level of unplanned absences continue – it is recommended managers engage with the HR Business Partnering Team for support if this is the case*).
- Provide the employee with the opportunity and support to improve in their areas of underperformance in relation to attendance, where applicable.
- Summarise the discussion and outcomes with a follow up email to the employee after the First Informal Counselling session has occurred.

STEP 2
Second Informal Counselling Session
Sick Leave

When: Takes place **6-weeks** after **Step 1** – First Informal Counselling Session has occurred.

Who: Employee and Manager (*no offer of support person is required under legislation*)

What: Documented second informal counselling session to review attendance over the last 6-weeks and determine if absenteeism has improved and attendance is satisfactory.

○ **If YES**

Manager's role No further action required in relation to sick leave management and counselling sequence is complete.

○ **If NO**

Managers role

- Understand the reasons for continued absenteeism and notify the employee that no improvement in attendance has been noted despite supports being provided.
- Give the employee 48 hours' notice of the Second Informal Counselling session to allow time to arrange a support person, if preferred.
- Discuss the employee's absences and confirm whether there are any contributing factors e.g., injury, hospitalisation, mental illness etc
- Discuss any supports available to the employee (including such things as Employee Assistance Program, shift swaps and placing on set shift type for a period of time eg: 3- months).
- Reiterate what was agreed during session 1 and agree on performance expectations (including relevant requirements being imposed e.g., medical certificates to be provided going forward).
- Advise the employee that attendance will be monitored, and a further review will be scheduled to occur in 6-weeks' time. (*Note: review can occur earlier than 6 weeks, should a high level of unplanned absences continue – it is recommended managers engage with the HR Business Partnering Team for support if this is the case*).
- Provide the employee with the opportunity and support to improve in their areas of underperformance in relation to attendance, unless section 5.4 is applicable.
- Summarise the discussion and outcomes with a follow up email to the employee after the Second Informal Counselling session has occurred.

STEP 3
First Formal Counselling Session
Sick Leave

When: Takes place 6-weeks after **Step 2** – Second Informal Counselling Session has occurred, being **12-weeks** from when **Step 1** occurred.

Who: Employee, Employee's Support Person, Manager, and HR Business Partner.

What: Documented first formal counselling session to review attendance over the last 12-weeks to determine if absenteeism has improved and attendance is satisfactory.

○ **If YES**

Manager's role No further action required in relation to sick leave management and counselling sequence is complete.

○ **If NO**

Manager's role

- Seek to understand the reasons for continued absenteeism and notify the employee that no improvement in attendance has been noted despite supports being provided from the first two (2) informal counselling sessions.
- Managers are responsible for documenting discussions about employee's performance, and in conjunction with conversations can use email for setting clear and mutually understood performance expectations, development and support required to meet expectations. Regular and ongoing conversations will allow early identification and management of emerging performance issues, including support and improvement strategies relating to sick leave
- Recap what was discussed in the first and second informal counselling sessions, including the supports that were offered and where the employee has not met the agreed expectations.
- Identify the areas of underperformance e.g., patterned absences
- Discuss any changes to the employee's circumstances and reconfirm whether the employee requires any additional support.
- Discuss performance expectations (including relevant supports being applied going forward e.g., removed from overtime, Monday-Friday A watches only, medical certificates to be provided).
- Advise the employee that attendance will continue to be monitored, and a review will occur in 6 weeks' time. *(Note: review can occur earlier than 6 weeks, should a high level of unplanned absences continue - it is recommended managers engage the HR Business Partnering Team if this is the case).*
- Provide the employee with the opportunity and support to improve in their areas of underperformance.
- Following the meeting, send a copy of the meeting notes to the employee via email and request acknowledgement.
- Provide the employee with the opportunity and support to improve in their areas of underperformance.

STEP 4
Second Formal Counselling Session
Sick Leave

When: Takes place 6-weeks after **Step 3** – First Formal Counselling Session has occurred, being **18 weeks** from when **Step 1** occurred.

Who: Employee, Employee's Support Person, Manager, and HR Business Partner.

What: Documented second formal counselling session to review attendance over the last 18-weeks to determine if absenteeism has improved and attendance is satisfactory.

○ **If YES**

Manager's role No further action required in relation to sick leave management and counselling sequence is complete.

○ **If NO**

Manager's role

- Seek to further understand the reasons for continued absenteeism and notify the employee that no improvement in attendance has been noted despite supports being provided from the first two (2) informal counselling sessions and first formal counselling session.
- Managers are responsible for documenting discussions about employee's performance, and in conjunction with conversations can use email for setting clear and mutually understood performance expectations, development and support required to meet expectations. Regular and ongoing conversations will allow early identification and management of emerging performance issues, including support and improvement strategies relating to sick leave.
- Recap what was discussed in the first and second informal counselling sessions, and first formal counselling sessions, including the supports that were offered and where the employee has not met the agreed expectations.
- Identify the areas of underperformance e.g., patterned absences.
- Discuss any changes to the employee's circumstances and validate whether the employee requires any additional support.
- Further discuss performance expectations (including relevant supports being imposed going forward e.g., removed from overtime, Monday-Friday A watches only, medical certificates to be provided).
- Advise the employee that attendance will continue to be monitored, and a review will occur in 6 weeks' time. *(Note: review can occur earlier than 6 weeks, should a high level of unplanned absences continue - it is recommended managers engage the HR Business Partnering Team if this is the case).*
- Advise the employee of the next steps should underperformance not improve. This may include a referral to the Government Medical Officer and being placed on a formal Performance Improvement Plan (PIP) for Unsatisfactory Performance.
- Provide the employee with the opportunity and support to improve in their areas of underperformance in relation to attendance. Following the meeting, send a copy of the meeting notes to the employee via email and request acknowledgement.

STEP 5

**Third Formal Counselling Session for Sick Leave
&**

Placement on Special Leave pending outcome of medical advice / assessment

When: Takes place 6 -weeks after **Step 4** – Second Formal Counselling Session has occurred, being **24-weeks** from when **Step 1** occurred.

Who: Employee, Employee's Support Person, Manager, and HR Business Partner Team

What: Documented third formal counselling session to review attendance over the last 24-weeks to determine if absenteeism has improved and attendance is satisfactory.

○ **If YES**

Manager's role No further action required in relation to sick leave management and counselling sequence is complete.

- **If NO**

Manager's role

- All relevant points in **Step 4** should be discussed.
- Advise employee there has been no significant improvement in the plan to address attendance, despite extensive supports being offered, and to address the concerns around the employee's health.
- Advise the employee there are ongoing concerns around their health and ability to perform in their role.
- The manager is to advise the employee they will be placed on **special leave** pending a medical assessment being completed by their nominated treating doctor or Government Medical Officer.
- After the employee is placed on special leave the manager is to immediately contact HRBP and HR-Injury Management in relation to Step 6.

STEP 6

Referral process to the employee's nominated treating doctor and/or an independent medical assessor via the nonwork-related medical guide

When: This step occurs **immediately** following Step 5 **after which the employee has been placed on Special Leave**

Who: Manager, HR Business Partnering Team, Injury Management Team

What: Manager to contact the HR Business Partnering Team, who will provide advice to management around the non work-related medical guide.

Manager's role:

- Contact your local HR Business Partner and provide documentation from the following: background of underperformance, notes from the five (5) sick leave counselling sessions that have already occurred, an absence history report covering the previous three (3) years, and any additional supporting documents.

Next Steps:

- The manager is to then liaise with HRBP to discuss the ongoing health concerns regarding the employee's health.
- Manager, and HR, will meet to discuss next steps once the results from the treating doctor or Independent Medical Capacity Assessment (IMCA) have been received as set out below:
 1. If the employee is deemed fit for work, proceed to **Step 7** which is it to commence the formal Unsatisfactory Performance Process (Formal Performance Improvement Plan) with the support of HR,

OR

2. If the employee is deemed **not fit** for work, proceed to **Step 8** which is to commence discussions with HR and Injury Management about possible redeployment to another role or medical retirement process.

STEP 7
Formal Performance Improvement Plan (PIP)
&
Unsatisfactory Performance Process

Following Step 6, if an employee's nominated treating doctor and/or the non-work-related medical process determines that an employee is **deemed fit for work** then a formal Performance Improvement Plan (PIP) is to be implemented using the Unsatisfactory Performance Process.

Should an employee's sick leave record or pattern of total absenteeism continue to be non-compliant whilst on the PIP, a manager can propose that the employee is unable to comply with the requirements of employment due to excessive absenteeism.

In accordance with Section 47 (1) (c) of the *Government Sector Employment Act 2013*, a delegated officer can terminate the employment of an employee for unsatisfactory performance. In accordance with Regulation 36 of the *Government Sector Employment (GSE) Rules 2014*, the employee is provided the opportunity to make written submissions as to why employment should not be terminated. Under Section 68 of the GSE Act 2013 the types of actions / sanctions a decision maker can apply include:

- (a) Terminate the employment of the employee (after giving the employee an opportunity to resign).
- (b) Reduce the remuneration payable to the employee.
- (c) Reduce the classification of grade of the employee.
- (d) Assign the employee to a different role.

STEP 8
Deemed unfit for work by a medical practitioner through the non work-related process

If following Step 6, if an employee's nominated treating doctor and/or the non-work-related medical process determines that an employee **is deemed not fit for work**. The manager is to commence discussions with HR about redeployment to another role or commencement of the medical retirement process.

Note: If at any stage an employee exits the counselling sequence, but resumes periods of significant absenteeism, the manager will re-commence support interventions at same step that was exited.

8. Frequently Asked Questions

Q. Can an employee be directed to take sick leave?

A. Yes, an employee can be directed to take sick leave if there is evidence that due to their illness they:

- are unable to carry out their duties without distress;
- risk further impairment of their health by coming to work;
- are a risk to the health, wellbeing or safety of other employees, clients and members of the public.

Q. What evidence of illness will CSNSW accept for processing an application for sick leave?

A. A medical certificate which must include the nature of the illness / injury that is the reason for the patient/employee's absence. Medical certificates for up to 1 week may also be provided by a registered dentist, optometrist, chiropractor, osteopath, physiotherapist, oral and maxillo facial surgeon or, at the Commissioner's discretion, another registered health services provider.

Statutory declarations, bills for medical fees etc. are not acceptable.

Q. Does CSNSW accept medical certificates from online service providers such as Qoctor and others?

A. Yes, provided the employee is experiencing genuine health problems. The medical certificate must:

- clearly identify the registered medical practitioner; and
- indicate the nature of the illness / injury; and
- indicate the period of incapacity; and
- indicate the date the certificate was written and signed.

For further information refer to Clause 80.6 of the *Crown Employees (Public Service Conditions of Employment) Award 2009*.

Q. If a medical certificate does not identify the nature of illness / prognosis, will it be treated as sick without a certificate?

A. No, on those occasions where a medical practitioner has indicated 'medical condition', 'medical treatment', 'hospitalisation' or similar wording on a medical certificate as the **nature of illness**, the employee needs to advise the line manager / supervisor of the nature of their illness.

Q. Is a medical certificate required after two or three days continuous absence?

A. A medical certificate is required after two days continuous absence. If one is not supplied the third day will be considered as Sick Leave Without Pay.

Q. Do employees returning from Sick Leave need a clearance to come back to work?

A. *This is a requirement for workers compensation benefits but not for sick leave. However, if a manager has concerns that an employee has returned to work prematurely and the employee has put themselves or others at risk by doing so, then the manager should liaise with Human Resources staff for guidance.*

Q. How is Sick leave without pay managed?

A. *Sick leave without pay will count as service for the accrual of recreation and paid sick leave. In all other respects sick leave without pay shall be treated in the same manner as leave without pay.*

Q. If I have used all of my Sick Leave and I have requested to use my Recreation or Extended Leave to cover a sick leave absence, does this count in my sick leave record?

A. *Yes, any leave type used for the purposes of managing sick leave counts towards sick leave for administrative purposes.*

Q. Is there any intention to cash out Sick Leave?

A. *No, it is prohibited in terms of section 27 of the Industrial Relations Act 1996 to cash out sick leave.*

Q. Who can I contact for more information?

A. *Additional information can be obtained from your manager, scheduling officer, payroll, or HR Manager.*

8.1 Sick Leave to Care for a Family Member

Q. Does the person you are providing the care for, have to be sick in order to have an application for Carer's Leave approved?

A. *The person who is being cared for must be sick and this needs to be evidenced by a medical certificate. If a person is in hospital or overseas in hospital, carer's leave cannot be approved as the hospital is doing the caring. Once the person is discharged from hospital and requires care and support and this is indicated on a medical certificate, an application for carer's leave may be considered.*

Q. If the teachers are on strike or my child's carer is sick, can I get carer's leave?

A. *No - Carer's Leave is granted to care for someone who is ill. If matters are urgent or unplanned, an application for FACS Leave may be appropriate; however, if these events are known in advance (i.e., not an emergency) an application for recreation leave may be appropriate.*

Q. If an employee has a partner who is terminally ill, do the 'overarching certificates' for protracted illnesses cover the absence?

A. *An overarching certificate does not cover a specific absence from the workplace but advises management of the severity of a condition in relation to the administration of sick and sick as carer's leave. The overarching certificate does not negate the need for certificates to cover specific periods of absence.*

Q. Does the Sick Leave taken in the 3 years prior to an application for Carer's Leave reduce the amount of leave available for Carer's Leave?

A. Yes, only available leave can be used e.g., 30 sick leave days accrued, 10 days taken, leaving a balance of 20 days. Only the 20 days can be used.

Q. My child is due to have a tonsillectomy in two (2) weeks' time and I can't get FACS Leave because it is not an emergency or unplanned. What kind of leave can I get?

A. If FACS leave is **unavailable** to you because you can't meet the 'urgent or unplanned' criteria requirements, Sick as Carer's leave can be considered, subject to meeting the Sick as Carer's Leave criteria.

You can also access Recreation / Extended / Flex Leave if you have insufficient Sick Leave available.

Q. Does Sick as Carer's Leave cover pets?

A. No, pets are not prescribed as family members in the Award – SNRL maybe taken in these types of circumstances.

9. Related Document Reference

- Work Health and Safety Act 2011
- Crown Employees (Public Service Conditions of Employment) Award
- CSNSW Occupational Health & Safety Manual – Chapter 14 Illness / Injury Management Policy
- CSNSW Management of Staff Permanently Unfit for Substantive Duties Policy and Guidelines
- CSNSW Employee Health Reviews Policy and Guidelines
- CSNSW Information Sheet – Family and Community Service Leave
- CSNSW Information Sheet – Sick Leave
- CSNSW Information Sheet – Sick Leave to Care for a Family Member
- CSNSW Managing Sick Leave and Other Unplanned Absences Policy on intranet at Policies & Procedures >> Policy Directory Table >> Human Resources
- Crown Employees (Public Service Conditions of Employment) Award 2009, clauses 79 Sick Leave; 80 Sick Leave – Requirements for Evidence of Illness; 81 Sick Leave to Care for a Family Member on the intranet at Organisation » Corporate Services » Human Resources Division » Awards.
- New South Wales Government Personnel Handbook, Chapters 6-8 Family and Community Service Leave, 6-14 Carer's Leave, 6-18 Sick Leave, 6-18.11 Other Sick Leave at http://www.dpc.nsw.gov.au/publications/personnel_handbook
- Application for Leave of Absence form or Leave E-form are available on the intranet at Forms & Templates » Human Resources Forms » Leave Form
- TC14/22 – 15 Working arrangements in an influenza pandemic
- TC10/20 – Managing Sick Leave Policy
- Memorandum 2007 – 02 Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying
- Circular 2007 – 48 Leading Well: The role of leadership in improving the prevention and management of psychological injury
- Circular 2007 – 39 A Healthy Workforce: policy on improving the health and well being of public sector employees

- *TC14/20 Privacy guidelines on disclosure of information during industrial consultation*
- *Circular 2003 – 37 Occupational Stress - Hazard Identification and Risk Management Strategy*
- *Circular 98 – 103 Premier's Department Performance Management Policy and Guidelines*
- *Circular 98 – 80 Mature Workforce : Policy and Guidelines*

10. Implementation and Review

This policy replaces all former sick leave policies, sick leave business rules and guidelines, information sheet and related Commissioner's and Deputy Commissioner's Memorandums, and/or instructions issued prior to the implementation date below.

11. Annexure A – 8-step Counselling Support Flow Chart

- Flow chart for Management Support Intervention & 8-Step Counselling (Annexure A).

12. Document History

Version	Date	Reason for amendment
D08/217550 and D08/217551	18/08/08	Managing Sick Leave and Related Absences replacing Sick Leave Policy of 1994; To be effective from 01/01/09.
D09/011623	12/12/08	Managing Sick Leave and Other Unplanned Absences Policy. Effective from 01/01/09.
-	May 2009	Department of Premier and Cabinet Managing Sick Leave Policy issued.
D09/223056	Aug 2009	Changes enunciated in Comm Memo 2009/40, Guidelines for Managers, Guidelines for Applicants etc
D14/077041	Feb 2014	Changes include new Business Rules document; re-focus on Crown Employees (Public Service Conditions of Employment) Award.
D14/168553	Apr 2014	Changes primarily to 6.1 iv; 5.3 <i>Absence pattern or trend</i> and 6.2 <i>Temporary health constraints</i> .
D24/xxxx	Feb 2025	Attorney General & Justice (AGJ), Corrective Services NSW (CSNSW) Sick Leave Policy (D14/168553), AGJ, CSNSW, Sick Leave Business Rules and Guidelines (D14/168601), and CSNSW Human Resources Division – Information Sheet (D10/063969) – Sick Leave merged to form CSNSW Sick Leave Policy & Procedures effective from 3 February 2025.