

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by Canberra Health Services (CHS) on Monday 27 July 2020 which we then confirmed the split of your request into two applications and rescope on Friday 7 August 2020.

This application requested access to:

'I request to be provided please:

The ACT Health Injury Management Unit written policy for leave applications and leave processing or by whatever name is used, for fulltime or part time staff specialist doctors on worker's compensation, and also the ACT Health People and Culture policy on the same content.

The information contains confidential personal information and medical information and as such should not be listed on the disclosure log, which is requested.

If any information identified is considered as "Health records" or "Health Information", please consider this request to also cover this situation.'

I am an Information Officer appointed by the Chief Executive Officer of Canberra Health Services (CHS) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. CHS provided a decision on your access application on Tuesday 18 August 2020.

Decisions

Following my previous decision, a document has been created which partially addresses the scope of an access application you submitted. We are providing a copy of the document to you at Attachment A under Section 36 of the FOI Act. This section provides that a subsequent decision may be made to provide information should it become available following a decision made under the Act.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, CHS maintains an online record of access applications called a disclosure log. The scope of your access application and my decision to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in ACT Health's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: ACTFOI@ombudsman.gov.au
Website: ombudsman.act.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9829 or email HealthFOI@act.gov.au.

Yours sincerely



Dave Peffer
Deputy Chief Executive Officer
Canberra Health Services

7 January 2021



Canberra Health Services Policy

Leave Management

Policy Statement

Canberra Health Services (CHS) is committed to providing a work environment that allows its employees to access their leave entitlements whilst ensuring that the operational and legislative requirements of the organisation are met.

Annual, long service and other leave provisions support employee wellbeing, allowing them to rest and recuperate, and attend to personal and civic responsibilities.

CHS manages leave within the provisions of ACT Public Sector Enterprise Agreements, the *Public Sector Management Act 1994*, the Public Sector Management Guidelines and the CHS People and Culture Delegations Manual.

Purpose

The purpose of this policy is to provide guidance to managers and employees about the management of leave to ensure the efficient operation of CHS and maintain the health, wellbeing and productivity of its employees.

Scope

This policy covers all CHS employees employed under an ACT Public Sector Enterprise Agreement.

It covers all types of leave detailed in ACT Public Sector Enterprise Agreements, with or without pay. These include personal, annual, long service, compassionate, community service, birth, primary care giver, parental, bonding, grandparental, adoption or permanent care, foster and short-term care, and domestic violence leave (see details at Attachment 1).

Other leave is also available to employees for a variety of purposes, including, for staff with Aboriginal and Torres Strait Islander cultural obligations associated with the loss of immediate or extended family members and/or for ceremonial practices and traditions.

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Leave Processes

All leave must be approved by the Chief Executive Officer (CEO) or their delegate, although in some circumstances the granting of leave is mandatory (e.g. birth leave and jury service).

Most CHS staff use the secure HR21 Employee and Manager-dedicated web browser system for the management of annual leave and personal leave applications and approvals. Those without access to HR21 can electronically access the Shared Services Portal for online leave applications. To access this website you have the option of selecting *"Useful Links"* and then *"Shared Services"* from the drop-down menu on the CHS HealthHub (<https://healthhub.act.gov.au/>). Click on *Shared Services > Employment & Pay > Take Leave > Apply for Leave*.

Leave without pay and long service leave forms can be found on the Commercial Services and Infrastructure Group website. To access this website you have the option of selecting *"Useful Links"* and then *"Shared Services"* from the drop-down menu on the CHS HealthHub (<https://healthhub.act.gov.au/>). Click on *Shared Services > Employment & Pay > Take Leave > Apply for Leave*.

For **Leave Without Pay** applications – click on *"Type of Leave"* and choose *"Other"* from the dropdown menu. That will take you to a screen *"Other Leave"* then from the drop-down menu select *"Take leave where leave cannot be granted under any other provision"* and select *"Without Pay"* under Payment Options on the online form, then complete the rest of the online leave application form.

For **Long Service Leave** applications - click on *"Type of Leave"* and choose *"Long service leave"* from the drop-down menu, then complete the rest of the online leave application form.

Nursing staff who work rotating shift rosters are paid through PROACT and have their leave processed using the PROACT rostering system in combination with the Shared Services Portal.

In addition to HR21, CHS staff have the option of applying for any type of leave using the Shared Services Portal.

For information on how to complete these forms can be found on the Commercial Services and Infrastructure website. To access this website you have the option of selecting *"Useful Links"* and then *"Shared Services"* from the drop-down menu on the CHS HealthHub (<https://healthhub.act.gov.au/>). Click on *Shared Services > Employment & Pay > Take Leave > then under "Knowledge" click on "Leave Application – Supplementary Information"*.

Wherever possible employees should submit leave applications well in advance of the proposed leave.

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If an employee has the equivalent of two years' accrued credit of annual leave and unless exceptional operational circumstances exist, the employee and their manager must agree on and implement an annual leave usage plan to ensure the employee's accrued leave credit will not exceed an accrued two and a half years worth of annual leave credit. The Managing Employees Excess Annual Leave Factsheet provides more information. The Factsheet can be found on the CHS intranet: from the CHS HealthHub (<https://healthhub.act.gov.au/>) click on *Employment Resources > Workforce Relations > HR Factsheets > Workforce Relations > Management of Excess Annual Leave*.

Specific provisions in relation to leave planning, applications and approvals are included in Clause 135 of the ACT Public Sector Nursing and Midwifery Enterprise Agreement 2017-19.

Roles & Responsibilities

All CHS employees, managers and delegates should familiarise themselves with the provisions governing leave arrangements as set out in the relevant Enterprise Agreements (can be found on the CHS HealthHub (<https://healthhub.act.gov.au/>): *Employment Resources > Workforce Relations > Enterprise Agreements*), the CHS Delegations Manual (can be found on the CHS Intranet: *Employment Resources > Workforce Relations > CHS Delegations Manual*), and Shared Services and CHS Fact Sheets (can be found on the CHS HealthHub (<https://healthhub.act.gov.au/>): *Employment Resources > Workforce Relations > HR Factsheets*).

Managers and delegates are responsible for:

- Putting in place ongoing leave management strategies including:
 - Explaining leave provisions when orientating new employees;
 - Actively planning for leave coverage;
 - Encouraging employees planning extended periods of leave to discuss their leave plans as early as possible.
- Monitoring and managing leave entitlements, including leave liability and unexplained and unauthorised absences from the workplace;
- Ensuring that decisions on leave requests:
 - Take account of work commitments, organisational priorities and operational requirements of the section;
 - Take account of employee preference, needs and wellbeing, as well as fairness and equity;
 - Are made within a reasonable timeframe;
 - Are made in accordance with the provisions of the relevant Enterprise Agreement and Public Sector Management Standards.
- Ensuring they have the delegation to approve the leave requested (see CHS Delegations Manual, which can be found online: *Employment Resources > Workforce Relations > CHS Delegations Manual*);

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- Submitting leave forms to Shared Services, and retaining the manual forms which have been submitted;
- Ensuring that staff utilise HR21 for all annual leave and personal leave applications, where they have access to the HR21 system;
- Ensuring that all necessary supporting documentation is submitted with the leave requests;
- Monitoring employees' accrual of annual leave and ensuring the reasonable management of accumulated leave credits;
- Retaining declined leave applications on the employee's employment record; and
- Ensuring leave forms and associated records for each employee are kept and maintained in accordance with the *Public Sector Management Act 1994*, the *Territory Records Act 2002*, and the CHS Administrative Records Management Policy.

Employees are responsible for:

- Discussing their leave plans with their manager and seeking prior approval;
- Promptly submitting leave applications following unplanned absences;
- Providing all necessary documentation when applying for leave (e.g. medical certification following absence due to illness);
- Ensuring that they have adequate leave credits and are eligible for annual or long service leave before submitting a leave request;
- Making their application within a reasonable timeframe that allows their manager to plan the work of the section;
- Where leave has not been approved, discussing with their manager a suitable alternative time for it to be taken; and
- Where they have the equivalent of two years' accrued annual leave, agreeing with their manager on a plan to ensure the leave credit does not increase to more than two and a half years.

People & Culture is responsible for:

- Implementing this policy;
- Advising managers and employees of the application of this policy as it relates to them; and
- Advising managers and staff on other issues relating to leave applications.

Evaluation

Outcome

- Employees access their leave entitlements in accordance with the relevant Enterprise Agreement;
- Applications for leave are completed, approved by the delegate and submitted to Shared Services payroll within a reasonable timeframe;
- Staff with access to the HR21 system utilise it for all annual leave and personal leave applications; and

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- Shared Services process and record all approved applications for leave submitted by managers.

Measures

- Training is provided on leave management to managers, and to staff on induction;
- People and Culture maintain a record of issues raised relating to leave management issues.

Related Policies, Procedures, Guidelines and Legislation

Policies

- Fatigue Management
- Administrative Records Management
- Placeholder: ACT Government – Recovery Leave for Senior Officers Grade A or B (or Equivalent)

Procedures

- Training Education and Study Assistance
- Applying for Training, Education and Study Leave (TESL) and Medical Education Expenses (MEE) for Staff Specialists

Guidelines

- [CHS People and Culture Delegations Manual](#)
- Shared Services guide – [Leave Application – Supplementary Information](#)
- CHS Myhealth Strategy and Action Plan 2016-2018

Standards

- [Public Sector Management Standards 2016](#)
- Standards of Practice for CHS Allied Health Professionals 2015
- ACTPS Code of Conduct

Legislation

- All [ACT Public Sector Enterprise Agreements, 2018-2021](#)
- [Public Sector Management Act 1994](#)
- *Human Rights Act 2004*
- *Children and Young People Act 2008*
- *Public Health Act 1997*
- *Carer Recognition Act 2010*
- *Fair Work Act 2009*
- *Holidays Act 1958*
- *Long Service Leave Act 1976*
- *Territory Records Act 2002*

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Definition of Terms

HR21 – a human resources management system used in the ACTPS under which staff and their managers can apply for and manage their leave.

References

Nil.

Search Terms

Leave, management, personal, long, service, annual, compassionate, community, service, maternity, birth, primary, care, giver, parental, bonding, grandparental, adoption, permanent, foster, domestic, violence, credits.

Attachments

Attachment 1 – Types of leave

Disclaimer: *This document has been developed by Canberra Health Services specifically for its own use. Use of this document and any reliance on the information contained therein by any third party is at his or her own risk and Canberra Health Services assumes no responsibility whatsoever.*

Policy Team ONLY to complete the following:

<i>Date Amended</i>	<i>Section Amended</i>	<i>Divisional Approval</i>	<i>Final Approval</i>
<i>21/10/2020</i>	<i>Complete Review</i>	<i>Janine Hammat, ED People and Culture</i>	<i>CHS Policy Committee</i>

This document supersedes the following:

<i>Document Number</i>	<i>Document Name</i>
<i>DGD17-023</i>	<i>Leave Management Policy</i>



Attachment 1 – Types of leave

Listed below are the different types of leave available, as defined in ACT Public Sector Enterprise Agreements and ACT Public Sector Management Standards.

Employees should consult the relevant Enterprise Agreement for details of each type of leave, including eligibility, entitlement, conditions and whether it is with or without pay.

In addition, the Shared Services Human Resources “Take Leave” Help Portal includes a series of Fact Sheets detailing eligibility and procedures to be followed by managers and those applying for the main types of leave. These documents can be found by clicking on the links below.

[Personal leave](#) is available to employees to enable them to be absent from duty: because the employee is unfit for work because of a personal illness, or personal injury; to provide care or support to a member of the employee’s immediate family, or a member of the employee’s household, who is ill or injured; or in extraordinary and unforeseen circumstances.

Personal leave in extraordinary and unforeseen circumstances is available in extraordinary, unforeseen or unexpected circumstances and where it is essential that the employee has leave from the workplace.

[Annual leave](#) is available to employees to enable them to be absent from duty for the purposes of rest and recreation.

[Purchased leave](#) is available to employees to enable them to be absent from duty to support their work/life balance.

[Long service leave](#) is available to officers to enable them to be absent from duty in recognition of their length of service in the public sector.

[Compassionate leave](#) is available to employees to enable them to be absent from duty when a member of an employee’s immediate family or household: has a personal illness or injury that poses a serious threat to the person’s life; or dies.

[Birth \(maternity\) leave](#) is available to pregnant employees to enable them to be absent from duty to: support their own wellbeing and to care for and bond with a new born child; support the protection of the family and children under the *Human Rights Act 2004*; and support the employee’s right to continuity of service.

Special birth (maternity) leave is available to employees where: the employee is not fit for work due to a pregnancy related illness, or the pregnancy of the employee ends within twenty eight weeks of the expected date of birth, other than by the birth of a living child.

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Primary care givers leave is available to employees to enable them to be absent from duty to: care for and bond with a newborn child; and support the protection of the family and children under the *Human Rights Act 2004*.

Grandparental leave is available to employees to enable them to be absent from duty to undertake a primary care giving role to their grandchild during normal business hours.

Adoption or permanent care parental leave is available to employees to enable them to be absent from duty to: care for and bond with an adopted child or a child for whom the employee has a permanent caring responsibility, including kinship arrangements, until the child turns eighteen; and support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Paid parental leave is in addition to the provisions available in birth (maternity) leave, primary care givers leave and adoption or permanent care parental leave, and is available to employees to enable them to be absent from duty following the birth or adoption of a child or the commencement of a permanent caring arrangement for a child.

Foster and short term care leave is available to employees to enable them to be absent from duty to: care for a child in an emergency or other short term out-of-home care placement, including kinship arrangements, that has not been determined to be permanent; and support the protection of the family and children under the *Human Rights Act 2004* and the *Children and Young People Act 2008*.

Recovery leave is to minimise the extent to which excessive hours are worked by Senior Officers Grade A or B (or equivalent) employees (including Health Professional 5 and 6).

Bonding leave is available to employees to enable them to be absent from duty to: bond with a newborn child, adopted child or a child for whom the employee's domestic partner has commenced a primary care giving role under a permanent caring arrangement; support the protection of the family and children under the *Human Rights Act 2004*.

Community service leave is available to employees to allow them to be absent from the workplace to engage in the following three types of community service activities: jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or a voluntary emergency management activity; or other recognised voluntary community service activity.

Leave for family violence purposes is available to employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, domestic violence.

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Infectious diseases circumstances leave applies where an employee is prevented from attending for duty under the *Public Health Act 1997*. Please click on this link for [information about COVID19-related leave](#).

Leave on workers' compensation:

As per Section 116 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act):

- 1) *In spite of the provisions of any other Act or an industrial award, determination or agreement an employee is not entitled to be granted any kind of leave of absence with pay (other than maternity leave with pay) during, or in respect of, any period when the employee is or was on **post-determination compensation leave** but:*
 - a) *sick leave and recreation leave entitlements continue to accrue in relation to the employee during each of the first 45 weeks during which he or she is on post-determination compensation leave; and*
 - b) *long service leave entitlements continue to accrue in relation to the employee during the whole of the period of the post-determination compensation leave;*
 - c) *as if the employee were not absent from work.*
- 2) *In this section:*
post-determination compensation leave means compensation leave that takes place after the end of the pre-determination period in relation to the claim for compensation.
compensation leave means any period during which an [employee](#) is absent from his or her employment due to an incapacity for work resulting from an [injury](#) in respect of which compensation is payable under section 19 or 22.

Compensation leave would also include periods of graduated return to work (GRTW).

As such an employee on compensation leave continues to accrue annual leave and personal leave as normal for the first 45 weeks of their compensation claim.

Leave entitlement post 45 weeks on workers' compensation:

Personal leave

Subclause F4.19 of the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021/subclause 109.19 of the Nursing and Midwifery Enterprise Agreement (2017-2019) state that:

"An employee in receipt of workers compensation for more than forty-five weeks will accrue personal leave on the basis of hours actually worked".

As per this clause, personal leave will accrue based on hours worked after 45 weeks. No leave will accrue for any time off for compensation leave after 45 weeks.

Annual Leave

The SRC Act and the Enterprise Agreements are all silent on what is accrued on annual leave beyond 45 weeks. The *Fair Work Act 2009* states that annual leave is not accrued on compensation leave. Taking this into account with the provisions of the SRC Act, annual leave will accrue for the first 45 weeks while on compensation leave but not afterwards.

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Employees returning to work will accumulate annual leave in the same way as they accumulate personal leave (sick leave) for the hours that they work in accordance with Fair Work Ombudsman website:

https://www.fairwork.gov.au/library/k600454_annual-leave-sick-leave-during-workers-compensation

Employees returning to work on reduced hours will accumulate annual leave according to their reduced hours of work and personal leave having regard to their ACTPS service. Hours outside of their GRTW will not accrue leave after 45 weeks as employees are considered to be on compensation leave for this time. Requests for annual leave on a GRTW program will be considered on a case by case basis.

Employees returning to work will accumulate annual leave in the same manner as they do personal leave for the hours that they work, in accordance with Fair Work Ombudsman website:

https://www.fairwork.gov.au/library/k600454_annual-leave-sick-leave-during-workers-compensation

Long Service Leave

Long service leave continues to accrue throughout the entirety of an employee's compensation leave and is not affected, either pre- or post- 45 weeks.

Casual employees will accrue long service leave at the hours of their NWH (Normal Weekly Hours) during compensation leave.

Other leave is available to employees to enable them to be absent from duty for a variety of purposes (see the relevant annex or attachment to ACTPS Enterprise Agreements for further details):

- Accompany a domestic partner on a posting
- Attend Aboriginal or Torres Strait Islander Ceremonies
- Attend Aboriginal and Torres Strait Islander meetings
- Attend sporting events as an accredited competitor or official
- Attend as a witness
- Attend NAIDOC week activities
- Attend proceedings at the Fair Work Commission
- Campaign for election
- Cope with a disaster
- Defence Reserve
- Donate an organ
- Donate blood
- Engage in employment associated with compensation
- Engage in employment in the interests of defence or public safety
- Engage in employment in the interests of the ACTPS
- Hold a full-time office in a staff organisation

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- Local government purposes
- Operational service personal leave
- Religious purposes
- Returned soldiers for medical purposes
- Study leave
- Take leave where leave cannot be granted under any other provision.

Leave specific to the ACT Public Sector Medical Practitioners Enterprise Agreement 2013-2017:

- Training, Education and Study Leave (TESL) – Specialists and Senior Specialists
- Study leave – Resident Medical Officers, Senior Resident Medical Officers, Registrars and Senior Registrars
- Conference Leave – Senior Career Medical Officers, Career Medical Officers and Postgraduate Fellows
- Conference Leave – Junior Medical Officers

Leave specific to the ACT Public Sector Nursing and Midwifery, and Health Professionals Enterprise Agreements 2017-2019:

- Professional Development Leave

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