



Leave

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Guideline owner	Human Resources
Applies to	All employees of the Diocese of Lismore
Related guidelines & procedures	National Employment Standards Annual Holidays Act 1944
Headings	Objective Annual leave Personal carers Compassionate Community service Long service Parental Public holidays Leave without pay Confidentiality Legislation
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Objective

This guide aims to outline the various leave entitlements for employees and ensure compliance to Federal and State based legislation.

Annual Leave

Annual leave legislation requires employees (excluding casuals) to take leave for the prime purpose of rest and recreation. It is acknowledged that rest and recreation is an essential component of the well being of employees and their effective performance of duties.

Annual leave entitlements shall accrue and be paid in accordance with the National Employment Standards and accruing on the basis of the employee's ordinary hours. Part-time employees would be entitled to 4 weeks' annual leave paid pro-rata. Shift workers would be entitled to an additional paid week of annual leave. An employee's entitlement will now accrue progressively during a year of service, according to their ordinary hours of work.

Annual leave is not normally granted until completion of 12 months service. However, by agreement between the Parish and an employee, leave may be taken before the expiration of 12 months service.



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Unused Annual Leave must be no greater than a maximum of 40 days (or the equivalent accrual for part-time employees). The Manager will notify the employee that they should apply for annual leave within a given timeframe. Employees who do not arrange to take annual leave within the agreed timeframe (after specified time periods have elapsed) may have their leave allocated by management. Whilst, there is no provision to cash out annual leave under the NSW Annual Holidays Act 1944, the NES allows an employee to cash out annual leave in accordance with the terms of a modern award or enterprise agreement or by an agreement between an employer and an award free employee, provided a minimum balance of 4 weeks annual leave is retained.

PROCEDURE

Employees should notify their Parish Priest/Manager of their intended leave at least 4 weeks prior to the date of departure.

Wherever possible the Parish Priest/Manager will grant leave requests in accordance with contractual and procedural requirements. Parish Priest/Manager does, however, retain the discretionary ability to negotiate alternative leave dates if necessary to maintain services.

Personal/Carer's (Sick and Carer's Leave) **and Compassionate Leave** (Bereavement Leave)

For each year of service with the Parish, a full-time or part-time employee is entitled to 10 days of paid personal/carers leave. An employee's entitlement to paid personal/carers leave accrues progressively during a year according to the employee's ordinary hours of work, and accumulates from year to year. An employee may take personal/carers leave if the leave is taken:

- a) Because the employee is not fit for work due to personal illness or injury. To be eligible for paid personal/carers leave, a medical certificate or statutory declaration is required after 3 days.
- b) To provide care or support to a member of the employee's immediate family i.e. spouse, defacto partner, child, parent, grandparent, grandchild or sibling of an employee; or a child parent, grandparent, grandchild or sibling of the employee's spouse or defacto partner, or a member of the employee's household who requires care or support because of personal illness or injury or unexpected emergency.
To be eligible for paid personal/carers leave, a medical certificate or statutory declaration is required to establish that a family member is sick and needs care.

Whilst the NES / Fair Work Act 2009 (Cth), Sections 100 & 101 allow for provisions within modern awards or enterprise agreements to include cashing out of personal/carers leave by agreement, provided a minimum balance of 15 days personal/carers leave is retained, there is currently no provision or agreement to this entitlement.

An employee is deemed not to be on personal/carers if the period falls on a public holiday or any other leave except for unpaid parental leave or community service leave.



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Compassionate Leave

An employee is entitled to 2 days of compassionate leave for each occasion when a member of the employee's immediate family or a member of the employee's household:

- a) Contracts or develops a personal illness that poses a serious threat to his or her life; or
- b) Sustains a personal injury that poses a serious threat to his or her life; or
- c) Dies.

Compassionate leave for casuals is unpaid.

PROCEDURE

The employee must notify their Parish Priest/Manager as soon as practicable of the intention to take personal/carer and compassionate leave and advise the employer of the period, or expected period, of the leave.

The employer is entitled to request evidence that would substantiate the reason for leave. A failure to either provide notice or, if required evidence that would satisfy a reasonable person to substantiate the reasons for the leave, means the employee is not entitled to the leave.

Community Service Leave

An employee is entitled to be absent from employment for engaging in 'eligible community service activity' in accordance with the Fair Work Act, Sections 108 - 112. Eligible community service activity includes the following:

- a) Jury service including attendance for jury selection
- b) Voluntary emergency management activity includes employee participation on a voluntary basis in an activity concerning an emergency or natural disaster and as a member of a recognised association.

All community service leave is unpaid except for the first 10 days of Jury Service in a 12 month period. Employees although may elect to use other accrued entitlements, e.g. annual leave, long service leave etc,

PROCEDURE

An employee is to provide their employer with notice as soon as practicable in writing with evidence that supports the leave. Payment for Jury duty will be paid to full-time and part-time employees called up for Jury duty for a period of 10 days, at the employee's base rate of pay.

Long Service Leave

Upon working for an unbroken period of 10 years full-time, part-time and casual workers are entitled to paid long service in accordance with the relevant industrial award or agreement, including the NSW/ACT Catholic Diocesan Employers' Long Service Leave Portability Agreement.

Long service leave then accrues at a minimum rate of one month paid leave for each additional five years of service.



PROCEDURE

Long Service Leave should be taken at a time mutually agreed between the employee's manager and the employee concerned; taking into account the operational needs that apply.

Parental Leave

The Parish is committed to creating and maintaining a workplace environment conducive to accommodating the needs of employees with family responsibilities.

Parental Leave is available to full-time, part-time and eligible casuals after twelve months continuous employment. An employee is also entitled to work part time in specified circumstances before or after the child's birth or adoption.

It is recognised that parenting may be a shared responsibility. Parental Leave includes:

- Maternity Leave
- Paternity Leave
- Adoption Leave

The conditions for employees wishing to take maternity, paternity or adoption leave are generally contained with the relevant industrial award or agreement. However, the minimum entitlements to an employee are:

- Unpaid leave of up to a maximum of 12 months that a woman and/or her spouse can access between them on the birth or adoption of a child.
- After parental leave the employee has a right to return to the same job or an equivalent one in status and pay.

Concurrent Leave

Parents can take up to 8 weeks unpaid parental leave at the same time. This applies if both parents are employees and are planning to take parental leave. This is called '**concurrent leave**'.

Concurrent leave can be taken in separate periods. Each period should be at least 2 weeks long, however a Parish/Entity can agree to shorter periods.

Example

Peter and Leanne both work full-time and are expecting a baby. Leanne plans on taking 12 months unpaid leave. Peter would like to take some time off after the baby is born. Leanne's mum will be staying with them for 2 weeks when the baby is born to help her adjust. Instead of taking 8 weeks immediately after the baby is born, Peter and his employer agree that he will take 2 weeks unpaid parental leave when the baby is born and another 6 weeks after Leanne's mum goes home.

Concurrent leave can start:

- for birth related leave - on or after the date of birth
- for adoption leave - on or after the placement of the child.

The Parish/Entity can agree for the concurrent leave to start earlier.

An **eligible casual** is one who has been:



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- employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during at least 12 months; and
- who has but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

An **eligible casual** is one who has been:

- employed by an employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during at least 12 months; and
- who has but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.

PROCEDURE

The employee is to notify the Parish Priest/Manager at least 10 weeks prior to the proposed commencement of Parental Leave and provide a statutory declaration/medical certificate specifying the purpose for the Parental Leave (maternity, adoption, paternal).

Public Holidays

An employee is entitled to be absent on prescribed public holidays. The Parish can make a reasonable request that an employee work on a public holiday. The employee may refuse the request if the request is not reasonable or the refusal is reasonable. The following are recognised public holidays, 1st January (New Years day), 26 January (Australia day), Good Friday, Easter Monday, 25 April (Anzac day), Queen's Birthday, 25 December (Christmas day), 26 December (Boxing day). Public holidays prescribed in State law such as Labour Day.

A modern award or enterprise agreement may include terms providing for the Parish and the employee to agree on the substitution of a day that would otherwise be a public holiday. The parish and an award free employee may also agree on such a substitution.

Leave Without Pay

The Parish may provide, where appropriate, employees with unpaid leave for a nominated period in authorised circumstances.

The Manager may approve up to five (5) days leave without pay per annum, upon written request from an employee.

Managers must consult with the Parish Priest, upon receipt of a request for leave without pay, for periods in excess of five (5) days.

An equitable and justifiable approach shall be taken when considering requests for leave without pay.

All paid leave entitlements shall be exhausted prior to leave without pay being granted.



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Under the Fair Work Act 2009, an employee does not accrue paid annual leave or personal/carer's leave when absent on a period of LWOP. Under the Act's definition of 'service' and 'continuous service', an employee accrues paid leave during a period of service with their employer, excluding any period of unpaid leave (unpaid parental leave and unpaid carer's leave); any period of unpaid authorised leave (LWOP) other than community service leave; a period when an employee is stood down from work under the Act, an enterprise agreement or contract of employment; and any period of unauthorised absence (an employee engaging in industrial action).

While the employee does not accrue paid annual leave or personal/carer's leave during a period of LWOP, this unpaid authorised absence does not break the employee's continuity of service with the employer (i.e. service prior to LWOP still counts towards total service).

In the case of long service leave, accrual of leave is usually subject to the continuous service provisions of the relevant state or territory long service leave statute. Under the NSW Long Service Leave Act, an employee's absence by leave of the employer (eg an employee absent on LWOP) does not count as service for the purposes of accruing long service leave, however, such interruption does not break the continuity of an employee's long service leave.

PROCEDURE

- Employees shall make written request to their Manager for authorisation of leave without pay not exceeding five (5) days per annum on a standard leave form.
- Employees who wish to request leave without pay for periods in excess of five (5) days, shall provide a written request to the Parish Priest/Manager detailing the period and reasons for the proposed leave.
- Should a Manager receive a written request for leave without pay in excess of five (5) days per annum, there must be consultation and authorisation with the Parish. Both the parish Priest and Manager in consultation shall adopt an equitable and justifiable approach upon reaching a decision.

Confidentiality

All requests for leave shall remain confidential between the parties, including any facilitation in reaching agreement on arrangements. Leave documentation will be placed on the employees personnel file.

Disputes

Disputes arising may be appealed through the Grievance and Complaints Handling or through the disputes mechanisms contained in the applicable industrial instrument, as amended or replaced.

Legislation

Banks and Bank Holidays Act 1912 (NSW)

Fair Work Act 2009 (Cth)

Long Service Leave Act 1955