Leave Liability Implementation Guidelines

These Leave Liability Guidelines should be read in conjunction with the Leave Liability Policy and can be accessed at: http://intranet.health.wa.gov.au/policies/doh_policy.cfm

Introduction

Annual leave and long service leave support wellbeing and are provided so that employees can rest and recuperate in order to remain fully productive. As such, it is intended that employees will take leave as soon as practicable after the entitlement is due.

In recent years there has been a substantial increase in leave liability, within the Western Australian public sector, which indicates that many staff are accruing but not clearing leave entitlements. This trend generates concern, not only in regards to the impact of deferring leave on employee wellbeing and productivity, but also in relation to the associated financial liability for the employing agency.

The management of leave and the reduction of leave liability has been identified as an operational target across WA Health. It is essential that WA Health is proactive in managing excess leave, to ensure this target is realised. At an operational level, this responsibility lies with line managers with the support of the local Human Resource Services. These Leave Liability Policy and Guidelines have been developed in response to this commitment and aim to:

- provide clarity on the expectations of employees in the clearance of leave
- provide information, guidance and processes to assist managers in managing staff leave
- identify leave accrual as an agency risk, and highlight strategies for risk management and mitigation
- facilitate the effective management of the WA Health total leave liability with the aim of reducing the accrued leave liability.
Definitions

**Accrued leave** – the leave which is carried forward from the previous calendar year.

**Pro rata leave** – the proportion of annual leave that an employee is entitled to in the current year, from the date of commencement, or to the date of cessation.

**Leave liability** – the total amount of unused annual and long service leave (accrued and pro rata), in hours or the equivalent dollar amount, which is attributable to all employees of WA Health, at a given point in time. This represents the WA Health’s existing ‘liability’.

**Excess leave** – the amount of annual leave (accrued and pro rata) and long service leave (accrued only), above the total deemed reasonable for an employee to accumulate. For the purpose of managing leave liability, excess leave is defined as:

- greater than two years annual leave, (accrued and pro rata) as described in the relevant Industrial Agreement/Award
- long service leave that is not used within three years of being awarded.

All leave management must comply with the *Minimum Conditions of Employment Act 1993*, relevant Industrial Agreements/Awards and the current *Authorities and Delegations Schedule*. Refer to Relevant Legislation and Awards section of this policy for links to these documents.

**Risks Associated with Leave Deferral**

There may be risks to employee wellbeing, operational effectiveness and budget efficacy associated with not effectively managing leave. Both employees and managers should identify the risks associated with leave deferral, and develop suitable strategies to manage leave that will mitigate these risks. This is particularly important when an employee has accrued excess leave due to an inability or refusal to take leave on a regular basis. Risks can include:

- increased sick leave claims
- increased workers’ compensation claims
- reduced productivity and quality of work
- poor staff morale and negativity in the work environment
- increased staff turnover
- lack of short-term professional development opportunities in leave coverage
- budget management difficulty.
Leave Management Responsibilities

Effective leave management aims to provide all employees with the opportunity to take leave while maintaining acceptable levels of service delivery and operational function. Through adopting a continuous leave management approach, employee wellbeing and productivity is maintained as a constant focus, and the accumulation of an excessive leave liability is prevented. In this model, both employees and managers are jointly responsible for managing leave.

**Employee’s Responsibility**

Employees have a responsibility to proactively manage their leave accrual.

Employees should:

- Familiarise themselves with their leave entitlements and minimum requirements regarding the taking of leave as detailed in the relevant employee conditions of service (Industrial Agreements/Award) and legislation such as the Minimum Conditions of Employment Act 1993. Refer to Awards and Agreements for leave conditions relevant to each award:  [http://www.health.wa.gov.au/AwardsAndAgreements/](http://www.health.wa.gov.au/AwardsAndAgreements/)

- Schedule leave as soon as practicable after it has accrued.

- Plan leave in consultation with their line manager to optimise the balance between operational and employee needs.

- Lodge leave application forms for approval with the line manager as early as possible. This supports the manager in managing leave across the department/division and provides Health Corporate Network (HCN) payroll with sufficient time to process approved forms.

- Avoid the accumulation of excess leave.

**Manager’s Responsibility**

Line managers have responsibility for leave management of their employees on a day to day basis, as they are in the best position to assess both operational requirements and employee leave requests.

Managers should:

- Be familiar with the employee leave entitlements and minimum requirements regarding the taking of leave as detailed in the relevant employee conditions of service (Industrial Agreement/Award) and legislation such as the Minimum Conditions of Employment Act 1993. Refer to Awards and Agreements for leave conditions relevant to each award:  [http://www.health.wa.gov.au/AwardsAndAgreements/](http://www.health.wa.gov.au/AwardsAndAgreements/)

- Maintain a leave calendar schedule to facilitate continuous leave management. The schedule may be an electronic version so that all staff in the department/division can access it. Leave schedules can be tailored to a work area to emphasise periods when operational demands may limit the approval of staff leave. Leave calendar schedules promote forward leave planning, highlight operational needs and leave coverage options, and fosters transparency and equity in leave approval practice.
• Discuss leave levels with employees on a regular basis and ensure all employees are provided with ample opportunity to clear leave.

• Adopt leave management strategies suitable to their area’s work output requirements (See Appendix 1 – Leave Management Strategies).

• Approve leave applications consistent with the employee’s needs, and in consideration of issues relevant to leave management within their area including employee wellbeing, financial and operational issues.

• Make decisions on leave applications within a shortest time possible (maximum 3 weeks) of them being lodged by employees and forward approved applications to HCN without delay.

• Ensure that the principles of procedural fairness are applied during the process of managing leave. This includes considering all staff applications for prime holiday requests; rotational leave may be necessary to ensure leave allocation is equitable.

Managers should also be particularly mindful of section 25 of the *Minimum Conditions of Employment Act 1993*, which provides the following:

> **Annual leave, may be taken**

  (1) *Where an employer and an employee have not agreed when the employee is to take his or her annual leave, subject to subsection (2), the employer is not to refuse the employee taking, at any time suitable to the employee, any period of annual leave the entitlement to which accrued more than 12 months before that time.*

  (2)*The employee is to give the employer at least 2 weeks’ notice of the period during which the employee intends to take his or her leave.*

This reinforces the need for both managers and employees, to come to an agreement about managing leave.

Most Industrial Agreements allow an employee to purchase leave in excess of their annual leave entitlement. This benefit can assist an employee to achieve a greater work-life balance. In considering requests for purchased leave, negotiations between the employee and line manager must take into consideration operational needs, and the employee’s plans for clearing accrued leave.

**Excess Leave Information**

**Staff**

Staff can access information on their leave accruals through their MyHR page or their pay advice.
Managers
Managers are reminded that they are responsible for managing the taking of the excess leave by their staff. Excess leave reports are provided to senior management (generally Tier 2) on a quarterly basis by the relevant local Human Resource Service. Excess leave reports can also be accessed through HCN Human Resources Reporting – HRM_Leave Reports (see http://hris.health.wa.gov.au/hcn-catalogue/hr.shtml). However, access to these reports can only be made by obtaining the appropriate authorisation through HCN.

Excess Leave Management Plan (ELMP)
Managers are encouraged to work with all employees who have accrued excess leave to develop an Excess Leave Management Plan (ELMP) to reduce the liability. An ELMP is an agreement between the employee and employer that designates actions for reducing excess leave accrual in a timely manner. This may involve setting leave dates, arranging for a cash payment in lieu of leave, or formally deferring leave (all subject to Industrial Agreement/Award conditions). An ELMP must also take into consideration the additional leave that will fall due during the ELMP timeframe.

Employee's Responsibility
In the event that excess leave has been accrued, employees are expected to liaise with their manager to develop an ELMP that moves towards eliminating the excess accrual within a reasonable timeframe.

Manager's Responsibility
Where continuous leave management has not been undertaken and an employee has accrued excess leave, it is important that the manager works closely with the employee to develop a plan to reduce the excess leave liability.

While the ultimate goal is to reduce excess leave liability, the intention is not to be inflexible or create employee distress.

Once an employee has been identified as having accrued excess leave, the manager should:

- Meet with the employee to discuss the issue and to develop an ELMP (see sample template at Appendix 2). An ELMP may include scheduling future leave or arranging a cash payment in lieu of taking leave (see section below).
- The ELMP should be endorsed by the Tier 3 officer (or Tier 2 officer if the Tier 3 officer is the line manager) and then registered with the local Manager HR. The line manager and employee should both retain a copy of the ELMP.
- The line manager and employee are jointly responsible for meeting the conditions of the ELMP. Regular discussions should be held to monitor progress and if necessary review the plan. Any revisions must be endorsed by the Tier 3 officer (or Tier 2 officer if the Tier 3 officer is the line manager), and lodged with the local Manager, HR.
The ELMP should take no longer than two weeks to develop. It is suggested that the plan is reviewed on a six monthly basis.

Managers must recognise that a number of factors exist which may influence an employee’s decision to defer leave. Reasons for leave accrual should be identified and the options for clearing leave should take into account the social and economic needs of individual employees.

Where there may exist extenuating circumstances in which the application of this policy and guidelines could be considered unreasonable, the local Manager HR may request that the Director General, or his/her delegated authority, allows alternative arrangements. Please liaise with the local HR Services for consideration of such situations.

Cash Payments In Lieu Of Taking Leave

A cash payment in lieu of taking some or all of the excess leave may be considered as a viable leave management strategy. Where an employee requests a cash payment in lieu of leave or a manager suggests this as a leave management strategy, the employee and manager must negotiate this decision in line with the following factors:

- The employee’s conditions of employment. Check that the employee’s Industrial Agreement/Award conditions provide for this option and identify any associated specifications/limitations. For example, the Public Service Award 1992 provides the option for an employee to cash in long service leave entitlements, but not annual leave entitlements. Liaise with your local HR service if clarification is required.
- Equity issues across the division. Consider whether other employees have had similar requests approved or denied and what precedent this decision might set for future requests.
- Budgetary constraints. The manager must ascertain if there is sufficient funding to cover this and other potential payout requests.

Employees are encouraged to liaise with HCN for a calculation of the final payout figure, prior to making a decision.

To finalise a cash payment in lieu of leave, the HCN Application to Cash Out Leave Entitlements must be completed by the employee, endorsed by the line manager, approved by the Tier 3 officer (or Tier 2 officer if the Tier 3 officer is the line manager) and lodged with HCN for payment.

Portability of Leave

The mobility of employees within the public sector and the portability of leave entitlements frequently leads to the situation where an employee carries over some form of leave that was accrued in their previous position. Where a public sector employee is promoted, transferred, seconded or redeployed between agencies any annual, long service or sick leave accrued will be transferred to the new employer together with the appropriate payment representing the accrued entitlements (Treasurer’s Instruction 520, available on the Department of Treasury and Finance website at www.dtf.wa.gov.au ).
It is recommended that, prior to the finalisation of recruitment the manager should discuss the level of leave liability with the prospective employee. Negotiations can be made at this time in relation to reducing leave accruals prior to commencement with WA Health. HR Services advice can be sought on management of this issue.

Unless otherwise agreed, leave to be taken while on secondment should be equivalent to the total amount of leave that would accrue during the term of the secondment.

**Grievance**

Any employee who does not feel satisfied with the application of these guidelines can lodge a dispute with their Manager or HR Service to be addressed in accordance with the Dispute Settlement Procedures of the applicable Industrial Agreement/Award.

**Please Note:**

The links in this document are provided as a service. Links to documents can be volatile. If the link is broken you may need to search for the document.

This information is available in alternative formats upon a request.
Appendix 1

Leave Management Strategies

Strategies used for managing accrued leave entitlements and reducing excess leave liability will depend on the extent of ongoing leave liability, funding availability and operational requirements. Some strategies that may be implemented include:

- Leave entitlements and leave management requirements under the Leave Management Policy and Guidelines should be explained clearly to new employees as part of their orientation. This will ensure new employees are familiar with entitlements that are available to them and their responsibilities in managing their accrued leave.

- Provide opportunities to train and up-skill employees in order to fill temporary vacancies during periods of leave.

- Managers should actively plan and budget for leave replacement costs. The financial cost of replacing employees may outweigh the productivity cost and impact on remaining employees who are required to “pick up” the additional duties to cover unfilled periods of leave.

- Encourage managers and senior employees to lead by example and take/reduce their accrued leave levels.

- Encourage alternative leave options available to employees, subject to their Industrial Agreement/Award conditions and management approval. These may include:
  - leave taken as single days or reducing work hours without decreasing salary to use accumulated leave. This option may be particularly attractive to employees phasing into retirement;
  - a cash payment in lieu of taking leave (where the employment conditions allows this option);
  - leave taken at double pay.

- Monitor employee workloads in order to minimise flexi leave accruals. The accrual of flexi days can make it more difficult for employees to take other leave.

- Employees planning extended periods of leave in the near future should be encouraged to discuss their leave plans with their manager as early as possible to ensure their leave can be arranged. An employee may consider seeking approval to access leave without pay at a later date to enable them to take accrued leave now rather than “saving” it for future planned leave.

- As part of an employee’s performance and development process discuss individual leave plans in order to align periods of proposed leave with work priorities.

- Identify potential periods of low demand or business activity and encourage or direct (where appropriate) employees to take leave.

- Encourage employees to take leave during the less busy periods.

- Maintain a leave roster for all employees. Ideally this will be electronic and cover a 12 month period, but can be tailored to meet the requirements of the division or branch. All employees can then identify periods of planned leave in the roster. This will assist managers in planning to meet demands for leave clearance.
• When employees engage in a purchased leave arrangement, managers should closely monitor this leave use and that of accrued leave entitlements. It is preferable that employees use their accrued leave entitlements in the first instance and then use their purchased leave. Purchased leave is paid out at the completion of the 12 month arrangement if it has not been used.
**WA Health**  
**Employee Excess Leave Management Plan**

<table>
<thead>
<tr>
<th>Employee Name</th>
<th>Employee Number</th>
<th>Branch, Division</th>
<th>ELMP duration (months)</th>
</tr>
</thead>
</table>

### 1. Calculation of leave hours to be reduced *(calculate in hours):*

<table>
<thead>
<tr>
<th>Current liability</th>
<th>Annual Leave</th>
<th>Long Service Leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total to be accrued during ELMP timeframe</td>
<td>Annual Leave</td>
<td>Long Service Leave</td>
</tr>
<tr>
<td>Total to be reduced (see policy for definition of excess leave)</td>
<td>Annual Leave</td>
<td>Long Service Leave</td>
</tr>
</tbody>
</table>

### 2. Schedule of leave *(please use another sheet if more room required):*

<table>
<thead>
<tr>
<th>Dates of leave (inclusive)</th>
<th>Type (annual or long service)</th>
<th>Number of hours</th>
<th>Date HCN application lodged</th>
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</thead>
<tbody>
<tr>
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<tr>
<td><strong>Total</strong></td>
<td>Annual leave</td>
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<td></td>
<td>Long service leave</td>
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### 3. Cash in lieu of leave

Have Industrial Agreements/Award conditions been checked to ensure plan is permissible?  
**YES/NO**

<table>
<thead>
<tr>
<th>Leave to be exchanged for cash payment</th>
<th>Number of hours</th>
<th>Date HCN application lodged</th>
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<tbody>
<tr>
<td>Annual Leave</td>
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<td>Long Service Leave</td>
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### 4. Final calculation

Does scheduled leave total (section 2) and cash in lieu of leave total (section 3) meet total leave reduction required (section 1)?  
**YES/NO**

### 5. Comments *(Please provide any comments relevant to the above plan):*


### 6. Endorsement:

<table>
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**NB:**  
Finalised plan to be sent to Manager, Human Resources. Copy of plan to be kept by manager and employee. Human Resources to be notified if any revisions to plan, and provided with a copy of the revised plan.

Printed copies can only be valid at the time of printing.