



Leave Policy

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Responsible Branch - People Branch

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1. PM&C policy commitment and principles

PM&C provides a range of leave entitlements and options to enable employees to harmonise their work and personal lives and support positive wellbeing, engagement and productivity.

1.1 Key Policy Principles

- Managers and teams work collaboratively to undertake work and leave planning, to ensure all employees can take necessary and reasonable breaks from work, while balancing priorities.
- PM&C employees have diverse lives and their needs and preferences for accessing leave differ.
- All planned leave requests will be reasonably considered in the context of operational requirements and individual circumstances. Where planned leave requests cannot be supported for operational reasons, managers will explain why and seek to discuss and approve alternate options.
- Employees are not expected to work while ill or injured, or where caring for family member(s) that are ill or injured. Employees and managers may agree appropriate flexibilities (such as work from home or alternate work patterns) as an alternate option to leave where illness, injury or caring responsibilities are not fully impacting an employee's ability to perform work.

2. Overarching authority

Section 6 of the [Department of the Prime Minister and Cabinet Enterprise Agreement 2021-2024](#) (PM&C EA) outlines leave entitlements for non-SES employees. For SES employees, leave entitlements are provided in individual employment arrangements.

The *Fair Work Act 2009*, specifically the [National Employment Standards](#) (NES), provides minimum leave entitlements, which in many cases PM&C exceeds. This policy and the PM&C EA will be read in conjunction with the NES. Where there is inconsistency between this policy, the PM&C EA or individual employment arrangements and the NES, and the NES provides greater benefit, the NES provision will apply to the extent of the inconsistency.

3. Who is covered by this policy

This policy applies to all PM&C employees.

Casual PM&C employees receive a casual loading in lieu of paid leave. Under the NES, casual employees have minimum entitlements to leave and may access up to two days unpaid carer's leave per occasion; up to three days unpaid compassionate leave per occasion; and 10 days paid family and domestic violence leave per year.

Contractors employed through a labour hire firm or recruitment agency are not PM&C employees, therefore are not covered by this policy and should refer to their relevant employment arrangements.

Leave for secondees into PM&C is granted in accordance with the home agency's employment arrangements and managed through agreement between the home and PM&C, unless otherwise specified in the secondment MoU.

4. Contact and support

In the first instance, employees are encouraged to review this policy and speak with their manager, or manager once removed, for advice or support if needed.

People Branch are available to provide further guidance as required. Queries can be submitted to HR Help via HR@help.pmc.gov.au or by calling (02) 6271 6000 (option 2).

The [Employee Assistance Program \(EAP\)](#) provides confidential, free counselling and coaching on a wide range of topics to PM&C employees, and their family members. Managers can also access EAP's MyCoach for People Leaders, which offers proactive support to help work through any workplace issue or challenge, including wellbeing and sensitive discussions.

5. Expectations and responsibilities

5.1 Mutual (everyone)

- Work together to undertake inclusive work and leave planning to ensure everybody has the opportunity to take necessary and reasonable breaks from work, and avoid the accrual of excess annual leave (more than 40 days).
- Provide as much notice as possible when applying for planned leave, and be open to compromise depending on operational requirements, especially during popular leave periods or times of peak workload.
- Seek prior approval or notify the Delegate (in Aurion) for planned leave, unless impractical to do so.
- Where leave requires notification (not prior approval), notify your manager as soon as practicable, ideally within two hours of your usual starting time, for example when using personal/carers leave or compassionate leave. Where possible, satisfy yourself that your advice has been received by your manager, particularly where not communicating verbally.
- Enter all leave into Aurion or the Service Portal (using the correct leave type), and provide appropriate evidence if required.

5.2 Managers

- Communicate to employees how you prefer to receive notice for unscheduled absences. When notified, acknowledge receipt back to the employee.
- Be aware of team work patterns and undertake a [welfare check](#) where an employee is absent without notice well beyond their normal start time.
- Action leave requests as soon as practical and consider operational, team and individual needs when making decisions on planned leave requests.
- Ensure your decisions to decline planned leave requests are based on operational requirements and have taken into account individual circumstances. Explain your decision to the employee (in writing if requested) and discuss alternate options.
- Ensure employees have applied for the most appropriate leave type for their circumstances before approving leave.
- Contact [HR Help](#) if an employee is absent and may be close to exhausting their paid leave balances, to discuss options and avoid overpayments.
- Actively monitor Aurion or the [Resource Management Dashboard](#) for the return date of employees on long-term leave (or APS transfer), keep in touch and plan for their anticipated return to the workplace.
- Monitor excess annual leave balances (more than 40 days) via Aurion or the [Resource Management Dashboard](#) and put leave plans in place. See also the [Excess Annual Leave Manager's Conversation Guide](#).
- Reach out to [Professional Standards](#) if you have concerns about misuse of leave entitlements; or the [Wellbeing Team](#) regarding concerning leave trends, employees that have an early or extended illness

or injury or wellbeing matters (including consecutive periods of personal/carers leave greater than ten days).

6. Leave management and administration

6.1 Leave types requiring notice only

Employees taking **personal/carers leave, compassionate leave, parental leave, or community service leave (jury duty or emergency response leave)** are required to give notice to the manager that they will be using this leave as soon as practical, pre-approval is not required.

NOTE- all leave requiring 'notice only' must still be entered into Aurion (or the Service Portal where applicable) for delegate approval, as soon as practical on return to work.

Giving notice may sometimes occur after the leave has started, for example where an employee is ill or injured and taking personal/carers leave, or where responding to an emergency incident and taking community service leave. Where possible, employees should specify how long they expect to be on leave and provide an update if this changes. If the manager does not reply to the employee's written notification of absence, where possible the employee should follow-up to satisfy themselves the notification was received.

Giving notice as soon as practical ensures the manager can fulfil their duty of care in respect to employee safety. Where an employee is absent from work without notice (or significantly late beyond their normal start time, for example beyond two hours), the manager may undertake a [welfare check](#) with the employee in the first instance.

6.2 Leave types requiring prior approval

Employees are required to seek prior approval from the Delegate (through Aurion or the Service Portal where applicable), to use **annual leave, long service leave, cultural and ceremonial leave (including NAIDOC Leave), purchased leave and miscellaneous leave**, unless it is impractical to do so.

For example, it may be impractical where another leave type is already approved in Aurion for the same period and needs to be adjusted, where other leave types are exhausted during a period of absence, where an employee has no system access, or where an emergency has arisen and requires the employee's urgent attention.

In situations where prior approval is impractical, employees should seek to gain approval via other means, for example email, SMS or verbally, and enter the leave into Aurion as soon as practical.

Where an employee's leave has not yet been transferred from a previous agency, email approval can be emailed to HR Help so leave balances can be adjusted on transfer.

Delegate approval is subject to operational requirements, with consideration given to individual circumstances. Operational requirements limiting approval of leave might include peak work periods, availability of resourcing or unique skills to deliver critical/urgent priorities, or competing leave requests in popular holiday periods.

When considering operational requirements, Delegates should also consider the amount of notice given when requesting leave, individual leave balances (including excess annual leave) and when the employee last took leave, or had leave declined.

Before declining leave, managers need to consider all viable alternatives including internal mobility options for coverage, redistribution of work, alternate leave taking between team members, compromising on the period or pattern of leave requested and the impact on the individual if the leave is declined. For example, where an employee is experiencing burnout and has an excess annual leave balance, declining leave may pose a greater wellbeing or retention risk than managing without the employee through a peak period.

Where leave is declined, managers should prioritise that person's next leave request wherever possible.

6.3 Taking paid leave at half-pay

When paid leave is taken at half-pay, employees receive twice as much time off as is deducted from their leave balance. For example, an employee taking two weeks of annual leave at half pay will receive two weeks off, and be paid for one week only.

Employees may apply to take **annual leave**, **long service leave** and **parental leave** at half pay. Personal/carers leave cannot be taken at half pay unless additional half pay personal/carers leave has been granted by the Delegate in exceptional circumstances (see section 11.4).

Note: Annual leave can only be taken at half pay where employees do not have an excess annual leave balance (more than 40 days). The minimum period of long service leave that can be taken at half pay is 14 calendar days.

When an employee applies to take annual leave or long service leave at half pay, the Delegate should consider the request on a case-by-case basis. Factors for consideration include:

- The balance between the employee's needs and the ability of their team to deliver outcomes while they are absent for a longer period.
- The employee's leave balance / individual circumstances, including where they have an excess annual leave balance (in this case annual leave at half pay should not be approved).
- Whether regular access to half pay leave (i.e. longer or more regular periods of absence from work) unreasonably impacts the ability of a team to deliver outcomes or creates an unjust additional workload for remaining team members.

6.4 Substituting approved leave for another leave type

Employees absent on annual, long service or paid miscellaneous leave who would otherwise have used personal/carers or compassionate leave if at work may apply to change their leave, either in full or for part of the period, to the appropriate type upon their return to work. Provision of reasonable evidence is required for the substitution of personal/carers leave, for example a medical or carer's certificate or statutory declaration.

To substitute leave previously approved in Aurion, employees can 'reverse' the leave. Once the reversal is approved, the employee enters the leave type they wish to access. The original leave will be re-credited. Where the leave being substituted was not applied for in Aurion, employees can contact HR Help for assistance.

The *Maternity Leave (Commonwealth Employees) Act 1973* stipulates that personal/carers leave cannot be accessed while an employee is on maternity leave with pay. However, employees may apply for paid personal/carers leave during unpaid parental leave when reasonable evidence for the leave is provided.

6.5 Recall to duty

Employees may have approved annual, purchased or miscellaneous leave cancelled, or be recalled to duty from these leave types, where the Delegate determines there are exceptional or emergency circumstances and it is reasonable to do so. For example, when there is a major critical incident requiring PM&C specialists to coordinate a whole-of-government response. In these circumstance, the Delegate will communicate with the employee to ascertain their circumstances to help determine if the recall to duty is reasonable.

In such cases, the Delegate will approve reimbursement of any reasonable and/or unrecoverable costs incurred due to leave being cancelled or employees being recalled to work, in line with supporting evidence. This could include, for example, non-refundable holiday accommodation costs, or return airfares ahead of schedule.

Where costs are otherwise fully reimbursed/recoverable, for example through direct refunds or insurance, costs will not be covered by PM&C.

6.6 Treatment of leave for service history (counting and not counting for APS service)

Treatment of paid leave

Annual leave, long service leave, compassionate leave, paid personal/carer's leave, purchased leave, paid cultural and ceremonial leave, paid miscellaneous leave and paid community service leave count as service for all purposes, whether taken at full or half pay. This means that the period of absence has the same effect as being at work for attaining service requirements (for matters like long service/parental leave or higher duties allowance) and for accruing leave.

All **paid parental leave** types will count as service for all purposes. However, when paid over a longer period (i.e., at half pay), only the full pay equivalent period will count as service.

Treatment of unpaid leave

Unpaid community service leave counts as service except for long service leave purposes. The Delegate may determine that it does count for long service leave purposes on a case-by-case basis.

Unpaid parental leave types will not count as service, except for employees without 12 months continuous qualifying service. In such cases, up to 14 weeks of unpaid maternity, adoption, foster, permanent care and primary carer's leave, or seven weeks for supporting partner leave, will count for service.

Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts as service for all purposes except annual leave accrual.

A period, or cumulative periods, of **miscellaneous leave without pay** exceeding 30 days within a 12 month period will not count as service for annual or personal/carer's leave purposes, except that it may count for personal/carer's leave if the leave without pay is determined by the Delegate to be in the interests of PM&C and the employee returns to duty with PM&C following the leave.

Any period of miscellaneous leave without pay regardless of duration will not count as service for long service leave purposes, unless a Delegate determines otherwise on a case-by-case basis. Exceptions apply under the Long Service Leave Act where an employee is absent on account of ill-health, for specified Defence service, or to occupy an executive office.

The Delegate may determine that miscellaneous leave without pay count will for service in limited and exceptional circumstances, where it is in the direct interests of the Commonwealth, for example:

- Where an employee is working for a state or international government, or non-government organisation to progress work directly linked to Australian Government priorities.
- Where an employee undertakes work for a non-government organisation to gain experience and skills that cannot otherwise be attained in the APS and have a direct and unique benefit to PM&C/the APS.

The Delegate will normally satisfy themselves that the employee is committed and intends to return to PM&C and/or the APS at the conclusion of the placement, or may delay their decision until the employee returns.

6.7 Requirements for long term leave (3 months or more)

Before an employee goes on long term leave (i.e. for 3 months or more), for example long service leave, leave without pay or parental leave, managers and employees must:

- Complete the employee's performance agreement, if the employee will be absent during the next end cycle period. This can be done by contacting HR Help two weeks or more before the employee's leave commences. If the performance agreement is not completed, an employee otherwise eligible for pay point advancement risks being missed from the normal end-of-cycle pay advancement process.
- Ensure the employee's personal contact details are up to date in Aurion, so the employee can be notified of any major departmental changes or activities that occur whilst they are on leave.
- Agree on opportunities to stay in touch with the employee while on leave, for example, updates sent to home email address, optional invites to attend planning days or a team events.
- For periods over six months, return any departmental assets and credit card. If access to departmental systems is required during leave, the employee can be issued with a remote server access token.
- Return the security pass to the guard station on their last day. The pass will be stored and returned, or reissued upon the employee's return.

Where a new manager starts while an employee is on long term leave, the previous manager needs to discuss the employee in their handover, and put the employee and new manager in contact.

Managers can regularly check Aurion or the [Resource Management Dashboard](#) for the return date of employees on long-term leave or APS transfer and plan for their anticipated return to work.

6.8 Leave portability and recognition of prior service

Where employees join PM&C (either on a temporary or permanent basis) from an employer under the *Public Service Act 1999* or the *Parliamentary Service Act 1999*, or ACT Government, accrued annual leave and personal/carer's leave credits will be transferred/recognised (however described) provided there is no break between ceasing the previous employment and commencing with PM&C (known as a break in service). This will exclude leave paid out on separation from the previous employer.

In certain circumstances an employee who has prior service with other Commonwealth or State Governments, authorities or instrumentalities may be eligible to have that service recognised for the purpose of the crediting of personal/carer's leave and or long service leave:

- An employee may, subject to Delegate approval, have previous eligible government service recognised for personal/carer's leave purposes where there has been no break in service greater than two months.
- Service for long service leave purposes is recognised in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act) provided any break in service is not greater than 12 months.

For the purposes of this clause, Government service is as defined in the LSL Act which generally includes local, state and commonwealth government service. Service with other organisations not listed in the LSL Act is not recognised for leave purposes at PM&C.

7. Public Holidays

7.1 Entitlement to be absent on public holidays

Employees will not normally be required to work on public holidays provided by the *Fair Work Act 2009* for the relevant state/territory in their normal work location, and will be paid for their ordinary hours (unless they are on unpaid leave).

Where there is a reasonable need to work on a public holiday, a manager may request an employee to work. In these circumstances, the manager must allow sufficient time for the employee to consider the request, and the employees may refuse a request to work on a public holiday on [reasonable grounds](#).

When an employee is based in a location other than the ACT by virtue of:

- it being a requirement of the role (noting this is only the case in very limited circumstances at PM&C), or
- a 100 per cent remote flexible work agreement,

they will observe the public holidays of that state or territory. For example, where an employee has a flexible work agreement in place to work 100 per cent of the time from Brisbane, Queensland public holidays apply.

Employees are entitled to the public holiday regime in one jurisdiction only. Therefore, where a remote work agreement is less than 100 per cent, i.e. some work is regularly performed in the PM&C office, ACT public holidays apply.

Employees with 100 per cent remote work agreements located outside of the ACT can contact HR Help to have their Aurion profile adjusted so that it reflects their state/territory public holidays. When an employee's remote work agreement changes or ceases, they will need to confirm this with HR Help again.

7.2 Working on public holidays

Where the overtime Delegate requests that an employee works on a public holiday and the employee agrees, this is considered an agreed direction to work and will attract overtime for APS1-6 employees. EL employees who are directed to work on a public holiday are eligible for TOIL (the quantum to be agreed with their manager) and may be paid overtime in exceptional circumstances, as determined by the Delegate. Further information is included in the [Flex-time, TOIL and Overtime Policy](#).

7.3 Substituting public holidays for a different day off

Managers and employees may agree to substitute a public holiday for a cultural or religious day of significance relevant to the employee.

Managers will consider if work will be available on the relevant public holiday and if supervision is necessary for the employee to effectively undertake their duties on the public holiday when other employees are not working.

The agreement can be documented by email between the employee and manager, prior to the public holiday.

Where a public holiday is substituted, the employee is not entitled to overtime for working on the public holiday, and on the substitute day they will be paid for their ordinary hours with no requirement to work or use leave.

7.4 Public holidays during paid leave periods

Where a public holiday falls during a period of paid personal/carer's leave, annual leave or purchased leave, employees are paid for their ordinary hours and no leave deductions will be made for the public holiday.

If a public holiday falls within a period of long service leave or parental leave, the public holiday is not recognised for public holiday payment and it does not extend the long service leave or parental leave period. Payment for that

day will be in accordance with the entitlement for that form of leave (e.g. if leave is at half pay, payment is at half pay).

8. Christmas Closedown

Christmas closedown is the period from the end of the last working day before Christmas day to the start of the first working day after New Year's Day. Employees are not required to take leave and are not normally required to work during Christmas closedown, and will continue to be paid for their ordinary hours during this period, unless they are on unpaid leave.

APS1-6 and EL1-2 employees who are directed by the Delegate to work during the Christmas closedown are entitled to overtime for the hours worked. Delegates must weigh the need for employees to work during closedown carefully, limiting requests to completing extremely urgent and/or critical work only and consider individual circumstances. Further information is included in the [Flex-time, TOIL and Overtime Policy](#).

9. Annual Leave

9.1 Entitlement and administration

Employees receive 4 weeks (20 days) of annual leave per year of service, pro rata for part time employees, accrued and credited daily. Annual leave may be used for any purpose, employees may use their discretion as to whether they inform managers of their plans for annual leave so that individual circumstances may be taken into account.

Pre-approval / Notice requirement	Apply in	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Prior Delegate approval required, unless impractical to do so (see 6.2)	Aurion	Yes, unless balance is more than 40 days (see 6.3)	Yes (see 6.4)	Yes (see 6.5)	Leave counts for service for all purposes (see 6.6)

9.2 Excess annual leave (40 days or more)

An annual leave balance is excess if an employee has more than 40 days credit. Where employees have excess annual leave, they must agree to a plan with their manager to take reasonable breaks from work and reduce the excess balance to 40 days or below.

Annual leave is provided so that employees can have reasonable and regular breaks from the demands of work. This supports PM&C's duty of care to employee safety, as employees who accrue excess annual leave may be at higher risk of fatigue and burn-out. Employees can reduce their annual leave balance:

- By applying for one or more periods of leave in Aurion. Once approved, their balance will be reduced by the future leave period, and/or
- Cashing out a portion of their annual leave, if they have taken at least five days' annual leave in the previous 12 months and have a balance of at least four weeks remaining after the cash out.

Managers are encouraged to access the [Excess Annual Leave Manager's Conversation Guide](#) for assistance in agreeing to a leave plan with their employee. This will include taking account of an employee's reasons for having

excess leave and individual circumstances, e.g. significant flex or TOIL balances, accruing leave for an extended break or personal safety concerns while not at work.

If agreement cannot be reached on a plan to reduce an excess leave balance within a reasonable period (which allows for the employee to make relevant leave plans), the Delegate may direct an employee to take one or more periods of annual leave to reduce the balance to 40 days or below within the next 12 months. The direction will be in writing and provide at least 30 calendar days' notice before the first leave period.

In considering the reasonableness of the direction, managers will consider the needs of the employee and PM&C, previously agreed arrangements or declined leave applications/recalls from leave, any relevant health and safety matters, the timing of the period of leave and the notice given. Before issuing a direction, managers must consult with the [Employee Relations team](#) in People Branch to ensure the direction is reasonable and legal.

9.3 Annual leave cash out

Employees may cash out some of their annual leave, provided they have taken at least five days' of annual leave in the preceding 12 months and will have a balance of at least four weeks remaining after the cash out.

Each cashing out of an amount of annual leave must be by separate agreement in writing, e.g. via email, between the Delegate and the employee. Employees should go to Aurion, navigate to Dashboard>My Forms>+Add and then select the "Leave" folder filter and the 'Cash out annual leave' form and then follow the instructions.

Payment for cashed out annual leave will be the rate that would have been payable had the employee taken the annual leave. Any allowances the employee would have been entitled to on the day their leave is cashed out (e.g. workplace responsibility allowance) will form part of the payment.

10. Purchased Leave

10.1 Entitlement and administration

Employees, subject to Delegate approval, may purchase up to eight weeks additional leave, pro rata for part-time, within a given 12-month period, provided they do not have an excess annual leave balance (more than 40 days). Employees may seek to purchase additional leave for any reason, such as caring responsibilities, study or travel.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Prior Delegate approval required to purchase and subsequently take, unless impractical to do so (see 6.2)	Service Portal (initial application) Aurion (to take leave) (see 10.2)	No (see 6.3)	No (see 6.4)	Yes (see 6.5)	Leave counts for service for all purposes (see 6.6)

10.2 Taking purchased leave

To apply for purchased leave, employees must complete a 'Purchased leave application' in the [Service Portal](#). The number of weeks credit, repayment period and business case for purchasing the leave will need to be completed. If approved, the purchased leave balance becomes available in Aurion.

Purchased leave must be taken at full pay within 12 months of the initial date of purchase – a ‘purchase year’. Any leave credits remaining at the end of a purchase year will be repaid to the employee and cannot be carried over to a new arrangement.

Purchased leave is funded by gross (pre-tax) salary deductions spread evenly over a period up to 12 months. Where an employee’s salary changes during the 12 month period, such as a pay point advancement or a promotion, salary deductions for purchased leave are adjusted accordingly. Refer to PM&C’s [purchased leave calculator](#) for a general estimate of repayments.

If an employee cancels a purchased leave arrangement or leaves PM&C, an adjustment will be made to the employee’s pay to credit any unused purchased leave, or to deduct payment for leave used but not paid for at the next payday following the cancellation/in their final monies. Purchased leave is not transferred to a new employer.

11. Personal/Carer’s Leave

11.1 Entitlement and administration

Ongoing employees are credited 18 days paid personal/carers leave in advance for each year of service, pro-rata for part-time.

- New ongoing APS employees receive their credit on their PM&C start date, then a further 18 days on each subsequent anniversary of that date.
- Existing ongoing APS employees moving to PM&C receive a pro rata credit in advance for the period between their PM&C start date and their next APS Anniversary Date, then a further 18 days on each subsequent APS Anniversary Date.

Non-ongoing employees accrue 18 days of paid personal/carers leave progressively for each year of service, credited daily, pro rata for part-time.

Casual employees are entitled to up to two days of unpaid carer’s leave per occasion (that is, to provide care or support to family/household members due to personal illness, injury, or an unexpected emergency affecting the member).

Where ongoing and non-ongoing employees have more than 30 calendar days that do not count as service in a year of service, their accrual of personal/carers leave will be reduced proportionately.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to manager as soon as practical and delegate approval in Aurion on return to work (see 6.2). Evidence requirements may apply (see 11.3)	Aurion	In exceptional circumstances with delegate approval (see 11.4)	No (refer to section 6.4)	No (see 6.5)	Leave counts for service for all purposes (refer to section 6.6)

11.2 Taking personal/carer's leave

Employees are entitled to take personal/carer's leave where they are ill or injured (physically and/or psychologically), or are required to provide care or support for members of the employee's family or household due to personal illness, injury, or an unexpected emergency affecting the member.

Employees may also use personal/carer's leave for reasons related to urgent or critical disability care, to attend an appointment with an accredited medical practitioner (e.g. psychologist, dentist or physiotherapist), and to receive antenatal care.

Personal/carer's leave is not to be used for routine or ongoing caring responsibilities not related to illness or injury. The only exception to this is where an unexpected emergency that results in routine caring arrangements being cancelled at short notice.

11.3 Evidence for personal/carer's leave

Employees must provide a medical certificate from an accredited medical practitioner (e.g. a doctor, midwife, physiotherapist, etc.) or where this is not practical a statutory declaration or other supporting evidence acceptable to the Delegate, in the following circumstances:

- Personal/carer's leave absence of three or more consecutive working days, unless the Delegate uses their discretion based on individual circumstances and informs the employee that it is not required.
- Following advice from the Delegate that they are required to provide evidence for future personal/carer's leave absences. Delegates may request that evidence be provided for any length of personal/carer's leave where there is a concerning pattern of leave use or the Delegate has reason to believe that the absence is not consistent with the appropriate use of personal/carer's leave.

The evidence must satisfy the Delegate that a reasonable person would consider the employee is genuinely entitled to use the personal/carers leave for the purposes it is provided.

The evidence must be uploaded into Aurion when entering personal/carer's leave. Where an employee is on personal/carer's leave for three or more consecutive days and the Delegate has advised that evidence is not required, an email to this effect from the Delegate must be uploaded with the leave application form in place of evidence.

Where an employee takes extended or frequent periods of personal/carer's leave they may be directed to attend a medical examination to have their fitness for continued duty determined and will be provided with support as required. See the [Fitness for Duty Guidelines](#), employees and managers are encouraged to contact [the Wellbeing Team](#) for support in these circumstances.

11.4 Options and considerations when personal/carer's leave credits are exhausted

Employees who have exhausted their personal/carer's leave credits may access other appropriate paid leave (e.g. annual leave), flex time or TOIL for the same purpose as personal/carer's leave, with the approval of their manager. It is reasonable for managers to approve alternate paid leave or flexibilities in these circumstances.

Unpaid Personal leave - Employees are expected to exhaust their paid personal/carer's leave entitlements before applying for unpaid personal leave (that is, leave related to their own illness or injury) unless there are exceptional circumstances. In these instances, employees are encouraged to contact the [Wellbeing Team](#) for support and advice.

Unpaid carer's leave - Under the National Employment Standards, employees who have exhausted their paid personal/carer's leave are entitled to up to two days unpaid carer's leave each time a family member or household

member needs care because of illness, injury or an unexpected emergency. The Delegate may approve additional miscellaneous without pay if required. Employees may also request access to other appropriate paid leave types or flexibilities such as flex or TOIL.

Additional half pay personal/carers leave- In exceptional circumstances, where an employee has exhausted all of their personal/carers leave and is not due to accrue more in the near future the Delegate may grant additional half pay personal/carer's leave. Applications for additional half pay personal/carer's leave should be in writing to the Delegate and include supporting evidence. Requests will be considered by the Delegate on a case-by-case basis. Delegate considerations include:

- The nature of the circumstances, including any compassionate grounds or exceptional circumstances (exceptional circumstances generally include those which are out of the ordinary, unusual, special or uncommon).
- The availability of other appropriate leave types.
- The likely duration of the absence.
- Whether alternative financial support may be more appropriate for a prolonged illness, e.g. [income protection insurance](#), [invalidity retirement](#) or [JobSeeker payments for illness/injury](#).
- Any previous requests of this nature and their frequency.

11.5 Not working when unwell or unfit to do so

Employees should not remain at, or return to, work when they are unwell or have a medical certificate outlining that they are not fit for duty. Both managers and employees have a duty to ensure that illness or injury does not present a risk to the employee or others in the workplace.

Managers may exercise their duty of care by directing ill or injured employees to discontinue duties and/or leave the workplace. The absence may be recorded as personal/carer's leave or other appropriate leave type. In some instances a medical clearance (or suitable supporting evidence) may be requested to demonstrate the employee has the capacity to perform their duties without exposing themselves or others to an unnecessary level of risk.

To support early intervention and appropriate wellbeing support, managers and/or the employee are encouraged to contact the [Wellbeing Team](#) where they have taken an extended period of personal/carers leave of ten days or more or received a diagnosis that may impact them at work.

12. Compassionate Leave

12.1 Entitlement and administration

PM&C supports employees needing leave for compassionate circumstances and grief.

Ongoing and non-ongoing employees are entitled to 3 days paid compassionate leave, and casual employees are entitled to up to 3 days unpaid compassionate leave, on each occasion where a member of the employee's family or household contracts or develops an illness or injury that poses a serious threat to their life, or dies. This includes when a pregnant employee or person pregnant with an employee's child has a miscarriage, or if a child who would have been an immediate family or household member is stillborn (see section 19.5 for more information on leave in the case of miscarriage or stillbirth).

Where compassionate leave is taken in relation to illness or injury that poses significant threat to life, and the ill or injured person subsequently dies, there is an entitlement to a further three day period of leave.

Compassionate leave may be combined with other forms of leave, flex or TOIL to extend the period.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to manager as soon as practical and delegate approval in Aurion on return to work (see 6.2).	Aurion	No (see 6.3)	No (see 6.4)	No (see 6.5)	Leave counts for service for all purposes (see 6.6)

12.2 Taking compassionate leave

On each occasion, compassionate leave may be taken for up to three days as a single continuous period or as needed in separate periods. For example, it can be used to visit a family or household member in hospital, to make funeral arrangements or attend to matters on behalf of the family or household member. There is no requirement for an employee to take the full three day entitlement where they do not wish to.

13. Community Service Leave (voluntary emergency management or jury service)

13.1 Entitlement and administration

Employees are entitled to leave to engage in eligible community service activity (voluntary emergency management to respond to an emergency or natural disaster; or jury service). With the exception of jury duty, community service leave is normally unpaid. Employees required to attend jury service will be paid for their ordinary hours by PM&C and are therefore required to decline jury service pay.

Separately, the Delegate may grant miscellaneous leave (with or without pay) to any employee for emergency or crisis response. In these circumstances, PM&C will adopt any APS-wide arrangements put in place from time to time relating to community service leave for emergency and crisis response.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to manager as soon as practical and delegate approval in Aurion on return to work (see 6.2). Evidence requirements may apply (see 13.2)	Aurion	No (see 6.3)	No (see 6.4)	No (see 6.5)	Unpaid community service leave counts as service except for long service leave purposes (unless determined by the Delegate (see 6.6)

13.2 Taking community service leave

Where employees engage in a voluntary emergency management activity, including training and ceremonial duties, the period of leave consists of the time spent undertaking the activity plus any reasonable travel and recovery time.

For leave to be formally approved for jury service, appropriate evidence must be provided to the manager, such as a letter from the relevant court requesting appearance. For leave for voluntary emergency management the employee should supply evidence that they are a member of a recognised emergency management body and is participating on a voluntary basis at the request of that body. If unavailable, the manager needs to be satisfied that this is the case (i.e. where it would be reasonable to accept that evidence would have otherwise been provided if circumstances permitted).

14. Family and Domestic Violence (FDV) Leave

14.1 Entitlement and administration

Staff are strongly encouraged to refer to the [Family and Domestic Violence Policy](#) to supplement the information provided in this section and view the full range of supports available.

Full time, part time and casual employees are entitled to a **minimum of 10 days of paid FDV leave** (facilitated through paid miscellaneous leave) in a 12 month period under the National Employment Standards (NES). This entitlement is not reduced or pro-rated for part time employees. The 10 days paid leave can be accessed up front or as required, and does not accumulate year to year if it isn't used.

Additional FDV leave may be granted above and beyond the 10 day paid minimum entitlement under the NES with a view to providing maximum support. Additional FDV leave will be considered by the Delegate on a case-by-case basis. FDV leave may support employees with the following needs (but is not limited to):

- moving into emergency accommodation and/or seeking more permanent and/or safe accommodation
- attending court hearings or police appointments
- accessing legal advice
- organising alternative care and educational arrangements for children
- attending medical appointments
- attending counselling appointments
- recovery periods.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to delegate as soon as practical for first 10 days (NES entitlement) with pre-approval required for leave beyond 10 days (see 14.2)	Aurion (to ensure confidentiality, the Wellbeing team will process leave on behalf of the employee - see 14.2)	No (see 6.3)	Yes – (see 6.4)	No	Paid miscellaneous leave counts for service for all purposes (see 6.6)

14.2 Taking FDV leave

In accessing the 10 days of FDV leave under the NES, employees need to notify their manager, and/or the Wellbeing team, as soon as practical. We recognise that it may not always be practical to provide this notification before the leave has commenced, the leave can be backdated if required.

The Chief People Officer is the Delegate for approving additional FDV leave (above and beyond the 10 day NES entitlement), to ensure that an approach of maximum support is taken relevant to the circumstances. Approval can be sought through the employee's manager and/or the Wellbeing team, prior to taking the leave (unless it is impractical to do so).

The taking of FDV leave is managed sensitively and in confidence by the Wellbeing team. The Wellbeing team will process FDV leave (as miscellaneous leave) on behalf of the employee in Aurion, including any required Delegate approvals.

The Delegate may request evidence that the employee is entitled to the FDV leave, with appropriate sensitivities considered. The Wellbeing team will advise if this is required. Evidence may include, but is not limited to:

- documents issued by a court or the police service.
- medical evidence.
- documents issued by a FDV support service.
- a statutory declaration.

FDV leave will not appear on an employee's payslip to protect the safety and privacy of employees. If an employee would prefer that the leave appear on the payslip (for example as 'miscellaneous leave'), this can be accommodated at the employee's request.

If an employee requires FDV leave during another period of approved leave, such as personal/carers leave or annual leave, the leave may be substituted to FDV leave and the original leave re-credited.

NOTE- Where paid FDV leave is approved for casual employees, it will be paid at their full pay rate for the hours they were rostered to work in the period they took leave.

14.3 Other forms of leave

Employees may also choose to access other forms of accrued leave for reasons related to FDV, through the normal approval channels.

For example, an employee can notify their manager that they are taking personal/carers leave. Personal/carer's leave can be accessed for illness (including mental health issues/illness), injury, or providing care or support for someone who is ill or injured or experiencing an unexpected emergency relating to FDV. Where an employee has exhausted all personal/carer's leave credits, the Delegate may grant additional personal/carer's leave at half pay. Personal/carers leave must be entered into Aurion for formal approval on their return to work.

Other options include annual and long-service leave. These leave types are normally pre-approved, unless there are exceptional circumstances or it is impractical to do so. Employees are not required to disclose the reason for taking these leave types.

15. Long Service Leave

15.1 Entitlement and administration

Employees may become eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act). Long service leave may be taken at full and half pay.

Long service leave accrues at a rate of nine days per year, and is granted to employees with 10 or more years' Commonwealth service, as defined in the LSL Act. Employees with both full time and part time work patterns during their qualifying service receive the same entitlement of 90 days of leave, but the credited leave will be prorated. For

example, if an employee worked full time for seven years and 0.6 part time for three years, their long service leave accrual would be 63 days paid at their full time salary, and 27 days at 0.6 FTE.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Prior Delegate approval required, unless impractical to do so (see 6.2)	Aurion	Yes (see 6.3)	Yes (see 6.4)	No (see 6.5)	Leave counts for service for all purposes (see 6.6)

15.2 Taking long service leave

Long service leave is accrued and accessed in calendar days, not working days. The minimum period of long service leave that can be taken is 7 calendar days at full pay, or 14 calendar days at half pay. Long service leave is not extended by any public holidays that occur during the leave period. Long service leave is paid based on an employee's salary at the time their leave is taken, not when it was accrued.

Long service leave cannot be broken by other periods of leave e.g. long service leave for a week, then a week of annual leave, then another week of long service leave. The exception to this is if it is substituted with, for example, personal/carer's leave or compassionate leave after the fact. Multiple applications for long service leave cannot be approved where they are only separated by a weekend and/or public holiday.

16. Cultural and Ceremonial Leave

16.1 Entitlement and administration

Employees may access up to three days paid leave, pro rata for part-time, each financial year to participate in activities to meet cultural and/or ceremonial obligations associated with their culture or ethnicity during work time.

This leave can be used to attend to cultural or religious obligations that occur during normal working hours and are celebrated broadly across a whole cultural, ethnic or religious community at a particular time of day. Employees should discuss leave requests with their manager and enter leave into Aurion for approval prior to using the leave.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Prior Delegate approval required, unless impractical to do so (see 6.2)	Aurion	No (see 6.3)	No (see 6.4)	No (see 6.5)	Leave counts for service for all purposes (refer to section 6.6)

16.2 NAIDOC Leave

Employees may access up to one full day leave with pay each financial year to participate in NAIDOC Week celebrations, to meet cultural and/or ceremonial obligations during work time. The leave can be split into multiple instances across NAIDOC week, or used for preparations leading up to NAIDOC week.

Employees are not required to take leave to participate in PM&C/APS sponsored events associated with NAIDOC celebrations, such as playing in NAIDOC football games. Participation in such events can be undertaken during work time with approval from an employee's manager.

16.3 Unpaid Cultural/Ceremonial Leave

Employees may access up to a total of two months leave without pay each financial year to fulfil cultural and/or ceremonial obligations. This leave may be broken into multiple instances across the year. Employees should discuss this leave with their manager and seek approval from the Delegate with as much notice as practical beforehand, including estimating the period they will be absent.

If more than two months' leave is needed in a year of service, an employee can apply for miscellaneous leave without pay (LWOP), or an alternate leave type such as annual or long service.

16.4 Considerations when requesting/approving cultural and ceremonial leave

Cultural/ceremonial leave recognises the traditional roles and obligations of Aboriginal and Torres Strait Islander people to participate in cultural and ceremonial activities. Managers should be particularly aware of and recognise the traditional roles and obligations of First Nations employees when considering leave requests.

It also extends to employees who are culturally diverse and require leave to fulfil their cultural obligations relating to cultural and/or religious days of significance.

Activities related to cultural/ceremonial obligations will be different for different employees. The following is a non-exhaustive list of examples where the Delegate could consider approving cultural/ceremonial leave during normal work time:

- Undertaking cultural and ceremonial obligations under First Nations lore, customs or traditional law
- Celebrating Lunar New Year for employees with relevant cultural/heritage ties
- Attending morning prayers and attending celebrations for Eid al-Fitr
- Attending Mass for the Feast of the Assumption
- Gathering with family and preparing for/participating in festivities for Diwali
- Attending the Divine Liturgy or other services for Orthodox Easter.

Before requesting leave, employees should consider whether their intended use of cultural/ceremonial leave is consistent with the purpose of the leave and discuss the proposed leave with the Delegate, providing as much prior notice as possible. An employee's access to leave to undertake paid or unpaid cultural or ceremonial activities must be balanced with operational needs and will be considered by the Delegate on a case-by-case basis.

Employees are required to provide sufficient information about the nature of occasion and their cultural obligations to allow the Delegate to consider the leave request and make a decision and ensure that the leave is being used as intended, unless they feel it is unsafe to do so. The Delegate, in understanding the reasons for the request, should be sensitive to the employee and seek only the information required to make their decision.

Note: Employees who would like to participate in a day of cultural or religious significance but have no specific cultural and/or ceremonial obligations can alternatively substitute a public holiday for a cultural or religious day of significance, by agreement with their manager. See section 7.3 for more information.

17. Defence Related Leave

17.1 Entitlement and administration - Defence reserve leave

Employees will be granted leave to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations. Employees are entitled to leave with pay, of up to 4 weeks during each financial year, and an additional 2 weeks paid leave in the first year of ADF Reserve Service, for the purpose of fulfilling service in the ADF Reserve. With the exception of the additional 2 weeks in the first year of service, leave can be accumulated and taken over a period of 2 years. The additional leave provided in the first year of service will be forfeited if not used.

PM&C will adopt any APS-wide arrangements relating to reservists called out for emergency and crisis response which may be in addition to the above.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to manager as soon as practical and delegate approval in Aurion on return to work (see 6.2).	Aurion	No (see 6.3)	No (see 6.4)	No (see 6.5)	Leave counts as service for all purposes, except for unpaid leave to undertake CFTS (see 6.6)

17.2 Taking defence reserve leave

Defence reserve leave will always be granted in accordance with the *Defence Reserve Leave (Protection) Act 2011* when the employee:

- Provides their supervisor with documentary evidence of their eligible defence-related obligation, and
- Has an available defence reserve leave balance.

As much notice as practical should be given to the manager and leave must be entered into Aurion for formal Delegate approval and employee records. Employees are not required to pay their tax-free ADF Reserve salary to PM&C.

17.3 Defence service sick leave

Employees who are unfit for duty due to a war-caused or defence-caused condition are entitled to Defence service sick leave of nine weeks on commencement in the APS and an annual credit of three weeks for each subsequent year of APS service. Unused credits will accumulate to a maximum of nine weeks, and may be used by the employee to receive treatment for, or to rest and recuperate from flare ups of the war- or defence-caused condition(s).

The Delegate will approve the crediting of defence service sick leave when an employee provides a letter from the Department of Veterans' Affairs confirming they have a war-caused or defence-caused condition within the meaning of relevant legislation. Upon Delegate approval, [HR Help](#) must be notified to arrange the leave type to become available in Aurion for the employee.

18. Miscellaneous Leave

18.1 Entitlement and administration

Miscellaneous leave provides flexibility for absences that are not covered by other more appropriate leave types. Miscellaneous leave may be granted by the Delegate, with or without pay, for an appropriate purpose that is not otherwise provided by PM&C.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Prior Delegate approval required, unless impractical to do so (see 6.2)	Aurion (for paid leave) Service Portal (for unpaid leave)	No (see 6.3)	Yes, if paid (see 6.4)	Yes, unless related to FDV (see 6.5)	Paid leave counts as service for all purposes. See 6.6 for details related to unpaid leave.

18.2 Taking miscellaneous leave

Miscellaneous leave, with or without pay, may be granted by the Delegate. The Delegate will consider appropriate supporting evidence and as much information about the circumstances as is reasonable to reach a decision, for example:

- The reason for the proposed leave.
- The employee's length of PM&C / APS service.
- The employee's employment type (ongoing or non-ongoing).
- The employee's recent leave history and if other appropriate leave types are exhausted.
- Other leave requests of this nature and their frequency.
- The operational needs of the work area and PM&C.
- The financial impact on PM&C and reasonable community expectations.

The Delegate may grant miscellaneous leave, with or without pay, for the period of the request, or for an alternate period, or decline the application.

Paid miscellaneous leave

Employees can apply for paid miscellaneous leave through Aurion. The Delegate will give consideration to the circumstances outlined above, and whether the purpose of the leave provides a clear benefit to the community, and/or if the leave is required to support an individual in line with community standards and expectations.

Examples where paid miscellaneous leave may be approved, but not limited to, include:

- Providing maximum possible support for employees affected by family and domestic violence.
- Competing as an athlete in significant international sporting events (such as the Olympics).
- Gender affirmation procedures.
- Blood or plasma donation.
- Early treatment assistance.
- COVID-19 vaccination.
- Union training.

- Attending court as a witness.
- Emergency leave where employees have been directly affected by an emergency or natural disaster.
- Up to four weeks emergency response leave for employees who are members, or have a member-like association, with a recognised volunteer emergency management body and are deployed as part of an emergency service response. For more information see [Guidance for Agency Heads - Paid emergency response leave for APS employees](#).

Miscellaneous leave without pay (LWOP)

Employees can apply for Miscellaneous leave without pay (LWOP) through the [Service Portal](#).

Generally the Delegate will support leave without pay to undertake the following, where **appropriate evidence** is provided with the LWOP application:

- Accept a role employed under the *Members of Parliament (Staff) Act 1984* (a MOPS transfer) or the *Governor-General Act 1974* (a GGs Act transfer).
- Temporarily work at a Parliamentary Department (Departments of the Senate, House of Representatives or Parliamentary Services, and the Parliamentary Budget Office).
- Accompany a spouse on a diplomatic or defence posting.

Other reasons to request LWOP require a **business case**. These may include but are not limited to:

- Working in outside employment at a non-APS agency or in other sectors.
- Undertaking study or a career break/sabbatical.
- Personal or wellbeing reasons.
- Other circumstances where LWOP may be considered appropriate.

The business case should address, for Delegate consideration:

- The individual circumstances of the request and reason for the leave, including any appropriate evidence.
- The employee's employment relationship with PM&C. Generally LWOP will not be supported for non-ongoing employees unless there are exceptional circumstances.
- LWOP will generally not be approved where an employee accepts an ongoing role outside of the APS. In this circumstance, the individual may consider resignation as a more suitable option.
- Intention to return at the conclusion of the leave. Generally if there is no intention to return to PM&C, LWOP will not be approved as it requires the position to be left vacant.
- Benefits gained through the LWOP period directly relevant to PM&C/APS, such as gaining unique skills, knowledge, or capability that cannot otherwise be gained through opportunities in PM&C/APS.
- Any real or perceived [conflict of interest](#), and appropriate mitigating strategies, particularly if undertaking [outside employment](#) (paid or unpaid).

The Delegate will also consider any impact on operational requirements, in consultation with the relevant manager, including the feasibility of holding the relevant position vacant or temporarily backfilling the role while the person is undertaking LWOP (and any impact this may have on business outcomes).

Miscellaneous leave without pay provides for absences that are not covered by other leave types. Therefore, individuals seeking LWOP via a **business case** are usually required to exhaust annual leave and purchased leave credits prior to accessing LWOP. Employees may seek a waiver of this requirement in exceptional circumstances, for example, where there is a compelling reason to maintain a leave balance on return to work at PM&C. The Delegate may agree to waive this requirement, decline the request or ask that a portion of the credits are used prior to LWOP commencing.

The [Employee Relations Team](#) provide assistance and advice on miscellaneous leave requests.

19. Parental Leave

19.1 Entitlement and administration

PM&C provides equitable access to parental leave, recognising that children are welcomed into families of diverse makeup, and that parents will have varying caring priorities irrespective of their gender. PM&C is an inclusive employer, providing parents with the time and opportunity to bond with their children. Details of entitlements are outlined in the sections below.

Pre-approval / Notice requirement	Method of application	Half Pay available?	Can I substitute approved leave for another leave type?	Subject to recall to duty	Effect on service history
Notice to manager as soon as practical and delegate approval in Aurion / Service Portal on return to work (see 6.2).	Service Portal (Aurion for Supporting Partners Leave)	Yes (see 6.3)	No (see 6.4)	No (see 6.5)	Paid leave counts for service, noting when paid over a longer period (i.e. half pay), only the full pay equivalent period will count. Unpaid parental leave generally does not count for service excepting in specific circumstances (see 6.6).

19.2 Paid parental leave

Eligibility for paid parental leave

Ongoing and non-ongoing employees with at least 12 months continuous qualifying service in the Commonwealth (as defined in section 6 of the *Maternity Leave (Commonwealth Employees) Act 1976* – the ML Act) may be eligible for the relevant paid parental leave type set out below, as well as unpaid parental leave totalling a 24-month absence. Parental leave for non-ongoing employees will only be granted up to the end date of their employment contract. Hiring areas cannot prematurely shorten the contracts of non-ongoing employees where an employee indicates their intention to access parental leave of any type.

Maternity leave

Pregnant employees are eligible for 14 weeks paid maternity leave. This is made up of 12 weeks paid maternity leave (provided under the *ML Act*) and an additional 2 weeks paid leave for maternity purposes. The additional 2 weeks must immediately follow the first 12 weeks.

Adoption, Foster and Permanent Care Order Leave

Employees with primary caring responsibilities are eligible for 14 weeks paid leave, where they:

- Are the adoptive parent of a newly-adopted child, or
- Enter into a long-term formal fostering arrangement to be the primary carer of a foster child, or
- Are granted custody and guardianship of a child, as a result of a permanent care order or
- Are an Aboriginal or Torres Strait Islander employee undertaking a traditional adoption arrangement.

To be eligible for adoption, foster and permanent care order leave in respect of a child, the child:

- Must be under 16 years of age at the date of placement and
- Must not be a child or step-child of the employee or the employee's partner, unless that child had not been in the custody and care of the employee or their partner for a significant period of time.

Adoption, Foster or Permanent Care Order leave will commence from the date of placement of the child with the employee. The Delegate may approve the employee commencing paid leave up to seven days before the child's placement, to allow them time to prepare. Employees may also take two days unpaid pre-adoption leave to attend interviews or examinations required to obtain approval to adopt a child, where their paid leave credits are insufficient.

Note: where a fostered child is subsequently adopted, employees are not eligible for adoption leave if foster leave has previously been granted in relation to that child.

Primary carer's leave

Employees who have primary carer responsibilities immediately following the birth of a child and are otherwise ineligible for paid maternity, adoption, foster or permanent care order leave, are eligible for 14 weeks paid primary carer's leave.

Supporting partner (secondary carer's) leave

Employees who do not have primary carer responsibilities are eligible for seven weeks paid supporting partner leave, to be taken within 12 months of the birth or placement of their dependent child. This leave can be used in one or more blocks taken at full or half pay.

Note: Employees are not eligible for supporting partner leave where they have accessed another paid parental leave type in relation to the birth or placement of that child.

19.3 Unpaid parental leave

Unpaid leave if ineligible for paid parental leave

Employees who have not completed 12 months continuous qualifying service when they need to commence a parental leave period as the primary carer are eligible for 12 months' unpaid parental leave, and may request a further 12 months of unpaid leave (for a total of 24 months) approved at the Delegate's discretion.

Unpaid parental leave following paid parental leave

Employees who are eligible for any type of paid parental leave are entitled to access up to 12 months of unpaid parental leave to care for a child. The unpaid leave period is reduced by the number of weeks of paid leave an employee has accessed, e.g. 14 weeks of paid leave plus 38 weeks of unpaid leave = 52 weeks (or 12 months) leave. The 12 month period commences from the start of the paid leave or the birth/placement of the child, whichever is earlier. Employees are then entitled to unpaid parental leave to care for a child for a further period of up to 12 months, immediately following the end of the initial 12 month period, totalling up to 24 months of leave. The unpaid leave period will not count as service, but will not break continuity of service.

Employees may also access other forms of paid leave (e.g. annual leave, government parental leave pay) during the unpaid parental leave period.

Achieving qualifying service during unpaid parental leave

Employees who complete 12 months continuous qualifying service during the first 14 weeks (or seven weeks for supporting partner leave) of unpaid parental leave are entitled to paid parental leave for the balance of the 14 weeks (or seven weeks for supporting partner leave). They may then access the remaining balance of 52 weeks as unpaid leave, and are entitled to unpaid parental leave for a further period of up to 12 months immediately following the end of the initial 12 month period, totalling up to 24 months of leave. The unpaid leave period will not count as service, but will not break continuity of service.

For example, an employee commenced working in the APS on 1 March 2021. They commence maternity leave on 8 February 2022. Because they have not yet completed 12 months' service, they are entitled to 52 weeks unpaid maternity leave, with the first 14 weeks counting as service. However, after 3 weeks of unpaid leave, they pass 12 months in the APS and become eligible for paid leave for the next 11 weeks of their leave period. On 24 May 2022 when the initial 14 weeks of leave has elapsed, they go back onto unpaid leave for the next 38 weeks. They are entitled to a further 12 months of unpaid parental leave upon request.

19.4 Government Parental Leave Pay

The Paid Parental Leave Scheme is a government-provided scheme aimed at helping families taking time off work to care for a newborn or newly adopted child. Employer-funded paid parental leave doesn't affect an employee's eligibility for the Australian Government's Paid Parental Leave scheme. Employees can get both. Services Australia is the government organisation that manages the Paid Parental Leave scheme. For more information about eligibility, making a claim, receiving payments and choosing how to take your payment, visit [Services Australia](#).

19.5 Leave entitlements in unexpected circumstances

Where employees face pregnancy loss or stillbirth, PM&C will provide access to appropriate leave and other supports like the [EAP](#) and [wellbeing supports](#) in accordance with the employee's needs and wishes.

This will include three days of paid compassionate leave when they or their partner has a miscarriage (less than 20 weeks gestation), or if a child who would have been an immediate family or household member is stillborn (greater than 20 weeks gestation) and the Delegate may consider miscellaneous leave (paid or unpaid) in recognition of the circumstances.

An employee with 12 months qualifying service can also access paid maternity, primary carer or supporting partner leave as applicable if their child is stillborn after 20 weeks gestation (see 19.2). Employees are also entitled to unpaid parental leave, outlined in 19.3, if their child is stillborn, or dies within the first 24 months of their life. Should an employee wish to return from this leave earlier than originally planned, their manager must facilitate this.

Employees on unpaid parental leave whose child/children require hospitalisation immediately following birth can request to pause their unpaid parental leave and return to work during the period that their baby is hospitalised. The employee can then resume the balance of their unpaid parental leave once their child is discharged from hospital.

Employees may also access personal/carers leave or annual leave where they require further time away from work to grieve and the Delegate may consider miscellaneous leave (with or without pay) on a case by case basis. Managers can reach out to the [Employee Relations Team](#) for advice on leave options, and the [Wellbeing Team](#) for advice on compassionately supporting employees experiencing loss.

19.6 Keeping in touch days

Employees on unpaid parental leave may access up to the equivalent of 10 'keeping in touch' days (i.e. up to 76 hours), in the first 12 months of their leave. Keeping in touch days could be used individually, in small blocks, or in one block to attend training, to attend a planning day, or for a series of regular work days to transition back into work.

Where an employee extends their unpaid parental leave beyond 12 months, they are entitled to the equivalent of a further 10 keeping in touch days, to be used by the end of the employee's up to 24 month unpaid parental leave period.

Employees using keeping in touch days must arrange them in advance with their manager through [HR Help](#) to ensure they are paid their normal salary and entitlements (e.g. leave accruals) for the hours worked.

Employees are not obliged to use keeping in touch days if they do not want to.

For more information see this information page by the [Fair Work Ombudsman](#).

19.7 Preparing for parental leave

Discussing leave plans

Employees are encouraged to plan for parental leave as early as practical, notifying their manager to allow them to make any necessary plans for backfilling. Anticipated leave periods should be entered in the Service Portal (or Aurion for Supporting Partners Leave, prior to the leave commencing. Employees can contact [HR Help](#) for tailored information on timing, combining leave types and documentary requirements, as explained in this section.

Note: parental leave dates may be subject to change based on medical advice or other factors. Agreed leave periods can be adjusted by contacting [HR Help](#), if unexpected circumstances arise and the employee cannot make the leave adjustment themselves.

'Fitness for duty' for pregnant employees

Pregnant employees may work up until the day before their expected due date, subject to the following conditions (as required by the ML Act):

- Employees who wish to remain at work within six weeks of their expected due date must provide a 'fitness for duty' certificate to their manager. This certificate must provide the last date the employee can attend work (no later than the day before their expected due date) and can be issued by a doctor or a midwife.
- If no fitness for duty certificate is provided, the employee must commence maternity leave six weeks from their expected due date.
- If the child is born before their expected due date and the employee has not yet commenced leave, their maternity leave commences immediately.

- Once the fitness date or the expected due date has passed (whichever is earlier) the employee must commence maternity leave immediately.
- Employees with a fitness for duty certificate may choose to commence maternity leave before the expiration of the certificate.

Payment for parental leave

Any paid parental leave must be taken in a single continuous block. Employees may apply to take parental leave at half pay (refer to section 6.3). It is not possible to interchange part full and part half-pay. You must elect one rate of pay. When paid over a longer period (i.e., at half pay), only the full pay equivalent period will count as service. Parental leave entitlements will be paid according to an employee's ordinary hours immediately prior to taking leave. For employees with a part time work agreement, this will be their pro rata salary.

Employees with part time work arrangements

An employee with a part time work agreement may increase their part time working patterns or revert to full time in the lead up to parental leave where their part time work agreement ends (noting flexible work agreements must be reviewed annually) or if the Delegate agrees and the work is available.

A reversion to full time hours or increase in part time working hours in the lead up to parental leave will increase the rate of payment of parental leave.

Delegates making a decision about a request to increase working hours should reasonably consider the employee's remaining work period before they commence parental leave. Applications made in close proximity to parental leave (for example less than three months prior) should be closely scrutinised to ensure that the intent is not to solely maximise the rate of payment on parental leave. Delegates will also weigh up the availability of work and operational needs.

19.8 Evidence requirements for parental leave

Maternity leave

Employees must provide their manager with evidence of their expected due date, issued by a doctor or a midwife.

Adoption, Foster and Permanent Care Order leave

Employees must provide their manager with evidence of the adoption or permanent care order from the person/organisation with statutory responsibility for the placement of the child. In the case of traditional adoptions, other acceptable evidence such as a statutory declaration may be provided.

Primary carer leave and supporting partner leave

Employees must provide their manager with evidence that would satisfy a reasonable person that they will be undertaking primary care/supporting partner care for a child, e.g. medical certificates for their partner's pregnancy or a statutory declaration.

19.9 Eligibility for further periods of parental leave for subsequent children

Once employees have completed 12 months qualifying service employees are entitled to the applicable type of paid parental leave set out in this policy. That is, there is no additional qualifying period to access parental leave following the birth/placement of a subsequent child. It is not a requirement to return to work following leave for one child prior to leave for any subsequent children.

Note: In accordance with the *Maternity Leave (Commonwealth Employees) Act 1976* – the ML Act), parental leave will not be paid to employees who are undertaking an approved period of miscellaneous leave without pay (LWOP) of more than 6 weeks when they would ordinarily have commenced paid parental leave. Paid parental leave will commence from the end of the approved LWOP period, and will not be extended by it.

19.10 Return to work from parental leave

Employees returning from parental leave are entitled to return to their pre-parental leave position. If the position no longer exists, the employee will return to a position at their substantive classification for which they are both suited and qualified.

Employees may return to their role on the same basis (full time or part time) as before their leave commenced. If an employee previously had a part-time working arrangement, or would like to negotiate part-time hours, this should occur before their return to work. The employee or their manager must notify the Payroll Team of their changed hours by contacting HR Help.

Prior to returning to work, the employee and their manager should discuss the employee's intentions and needs (e.g. options for flexible work or breastfeeding breaks), as well as their return role and current business priorities.

- An employee returning from parental leave who has the care of a child school age or younger will have their flexible work request (including part time work) granted unless it cannot be accommodated under any operational circumstances. Flexible work requests must subsequently be reviewed annually. For more information see the [Flexible Work Policy](#).
- PM&C provides paid breaks to staff to breastfeed or express milk during work hours. More information is available in the [Breastfeeding in the Workplace Policy](#).

20. Seeking a review of decision

PM&C acknowledges the right of employees to raise concerns and make complaints professionally and in good faith, and to have them received and considered fairly. Employees are encouraged to raise concerns about decisions relating to their employment with their manager in the first instance, or with another senior manager. Where concerns cannot be resolved locally, employees can seek assistance from People Branch by contacting [HR Help](#).

A non-SES employee may seek a formal review of APS actions under section 33 of the *Public Service Act 1999*. See the [Review of Action Procedures](#) for further information.

21. What happens if this policy is not followed

Managers that do not reasonably consider a leave request and provide their decision making rationale may be provided feedback and asked to reconsider their decision in line with this policy. Employees or managers may be counselled on appropriate actions under this policy, including entering and approving leave in a timely fashion. Repeated or egregious behaviour may result in investigation under the APS Code of Conduct.

22. Useful resources

[PM&C Enterprise Agreement](#)

[National Employment Standards](#)

[HR Delegations](#)

[Flex-time, TOIL and Overtime Policy](#)

[Family and Domestic Violence Policy](#)

[Breastfeeding in the Workplace Policy](#)

[Flexible Work Policy](#)

[Support for significant health conditions](#)

[Manager's Conversation Guide – Excess Annual Leave](#)

[Resource Management Dashboard](#)

[Fitness for Duty Guidelines](#)

[Government Paid Parental Leave Scheme](#)

[Prime Minister's Direction on leave for emergency volunteers](#)

23. Document control

Date published	Approved by	Brief description of change
August 2023	Melinda Bopping, Chief People Officer	Redraft to improve guidance and align with the PM&C EA 2021-24 and National Employment Standards under the <i>Fair Work Act 2009</i>

From: s 22(1)(a)
To: (ii)
Subject: FW: Long service leave query - negative balance [SEC=UNCLASSIFIED]
Date: Monday, 25 February 2019 11:29:31 AM

UNCLASSIFIED

From: APSC - Workplace Relations <s 22(1)(a)(ii)@apsc.gov.au>
Sent: Wednesday, 15 August 2018 11:08 AM
To: s 22(1)(a)(ii)@pmc.gov.au>
Subject: RE: Long service leave query - negative balance [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hello s

The APSC does have responsibility for administering the *Long Service Leave (Commonwealth Employees) Act 1976* (LSL Act) and the *Long Service Leave (Commonwealth Employees) Regulation 2016* (LSL Regs), however, please note that the powers and functions conferred under the LSL Act were delegated to Agency Heads in 1996.

The 2013 advice to which you refer was formulated following the provision of legal opinion about the intent and interpretation of sections 18 and 19 of the LSL Act which state the method to be used to calculate long service leave credit.

That opinion indicated that, it is not considered that a credit can be a debt or liability owed by a person. The word 'credit' connotes a benefit in the nature of something owed to a person. The purpose of sections 18 and 19 of the LSL ACT is to provide the tools for working out the LSL credit of Commonwealth employees. Section 18 sets out the formula for calculating the credit, while section 19 defines an important element of the formula – the amount of long service leave previously granted. Both sections are ancillary to sections 16 and 17 and operate purely for the purposes of determining whether a person has a credit for the purposes of those provisions, and if so, the size of the credit.

In this context, sections 18 and 19 cannot be regarded as creating a debt simply because the application of these provisions in particular circumstances produces a negative number. All that this means is that there is no credit for the purposes of determining entitlements under section 16 or 17. There is nothing in sections 16–19, or in the LSL Act as a whole, to suggest that these sections may be used to calculate or create a debt rather than a credit.

If the application of the section 18 formula yields a negative number in these circumstances, this means that the person has no credit, and thus no entitlement to either a grant of leave or a payment in lieu under the LSL Act. It does not mean the person has a 'negative credit' such that they are liable for a debt owed to the Commonwealth (or a Commonwealth body) if their Commonwealth employment ceases before they acquire a credit. In our view, the LSL Act does not provide for or contemplate the concept of a negative credit.

Whilst the employee does not have a 'debt' the 'negative' is not forgotten or 'written off' for the purposes of accruing long service leave from that point forward. The credit remains at zero until such times as the calculation yields a positive result resulting in a credit to the employee. So, if the calculation yields, for example, a minus 0.6 months' result, the employee's balance would be 'zero' and the employee would not receive a credit. The following year, the calculation would be done again and the result would be minus 0.3 months so the employee's balance would be 'zero', with the employee receiving no credit. When the calculation was done the next year, the result would be 'zero' so the employee would not receive a credit. And, finally, the next year, the calculation would result in a plus 0.3 month credit so, only then would the

employee be credited with 0.3 of a month of long service leave.

So, essentially, the 'negative' remains a 'negative' but recorded as zero until such time that the 'negative' is fully accounted for.

I trust this information is of assistance and please note, the above advice is based on the information you have provided and our understanding of the LSL Act and is not legal advice. In this context, the Agency may wish to seek independent legal advice on this matter. If you do seek legal advice, please forward me a copy of the resulting advice in accordance with the Attorney-General's *Legal Service Directions 2017*.

Please note that this advice is only provided to human resource practitioners and senior executives in Commonwealth agencies only. It is, therefore, not to be disseminated to other recipients, including individual employees, without the express permission of the Commission.

Best regards

S 22(1)(a)(ii) | **C**onditions Policy

P: s 22(1)(a)(ii) | **E:** s 22(1)(a)(ii) | **W:** www.apsc.gov.au

From: s 22(1)(a)(ii)

Sent: Wednesday, 8 August 2018 10:53 AM

To: APSC - Workplace Relations

Subject: Long service leave query - negative balance [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi

I'm seeking your advice on what the current policy is for employees who have a negative long service leave balance due to recognising prior service with another organisation.

Historically, I was always under the impression that a negative long service leave balance was allowed as outlined in the 1994 edition of the Personnel Operations Program training workbook on 'Advanced Long Service Leave'

Prior service which has resulted in a negative credit of LSL

An employee may have State service recognised for LSL purposes, however these conditions may be less or more generous than Commonwealth conditions. Where an employee has been paid in lieu for State service and has then had their service recognised under the Commonwealth LSL Act, they may have a "negative" credit. This employee is not entitled to further LSL entitlements until their payment in lieu is subtracted and their balance under Commonwealth provisions becomes positive.

However, the more recent 2013 'Recognition of prior service' participant workbook prepared by the HR Operations Training Program (APSC) contradicts the above and states clearly the LSL Act does not provide for, or contemplate, the concept of negative credit.

3.10 Prior service that results in a 'negative credit'

If a payment in lieu of LSL is made to an employee under State or Territory legislation, this must then be accounted for in any calculation of long service leave credits on commencement in the APS.

Some state and territory schemes are more generous than the LSL Act and, in some of these circumstances, the calculation results in a negative. I.e. they have accrued LSL earlier, or have accrued a greater quantity, than they would have under the Commonwealth Scheme. When the calculation is done under the LSL Act provisions, the resulting credit may be less than they have been paid in lieu for.

If this occurs, it does not mean that the employee 'goes into the red or has a negative credit'. The employee will have a zero balance, i.e. the negative is automatically waived and they are not liable for any debt to the Commonwealth.

THE LSL ACT DOES NOT PROVIDE FOR, OR CONTEMPLATE, THE CONCEPT OF A NEGATIVE CREDIT

As mentioned above, we have an employee that will have a negative LSL balance due to recognising prior service with another organisation. Can you advise if I am to ignore the negative balance and reset that balance to Nil?

Please don't hesitate to contact me if you wish to discuss further.

Regards

s 22(1)(a)(ii) | Assistant Director
Payroll Services | Financial Accounting Branch
Corporate Division | Department of the Prime Minister and Cabinet
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