



23

EMPLOYEE LEAVE

Strategic Outcome:	Good government	
Date of Adoption:	21 April 2021	Minute Number: 75
Date for Review:	23 April 2025	
Responsible Officer:	Enterprise and Risk Manager	
Document Control:	Replaces and revokes the Employee Leave Policy adopted 17 February, 2021	
Delivery Program Link:	2.1.3.1 <i>Coordinate Council investments, financial management, financial operations and processing.</i>	

1. POLICY STATEMENT

Berrigan Shire Council ensures leave entitlements and requests for leave are managed in accordance with relevant legislation and the Local Government (State) Award 2020 (the Award).

2. PURPOSE

The purpose of this policy is to support the conditions set out in the Award, and to clarify Council requirements in relation to accessing and using leave, and to provide guidance for those staff overseeing the application and use of leave.

3. SCOPE

This policy relates to all Berrigan Shire Council staff employed under full-time, part-time or limited tenure arrangements.

It sets out requirements for using annual leave, sick leave, rostered days off, and time in lieu. Other leave types not covered by this policy and are outlined in the Award.

4. DEFINITIONS

Rostered Day Off (RDO) leave of one day per fortnight, available to full-time staff

Statutory declaration a legal document that contains a written statement about something (in this case supporting information for the purposes of taking sick leave) that is true. It must be witnessed by an approved person such as a Justice of the Peace or a person from an approved occupation. Refer Australian Government, Attorney-General's department,



<https://www.ag.gov.au/legal-system/statutory-declarations/who-can-witness-your-statutory-declaration#lis>

Time in lieu Leave granted for overtime worked instead of receiving an overtime payment. Time off is paid at normal time.

5. POLICY IMPLEMENTATION

5.1 General principles

Where possible, Council and employees will work together to ensure leave is taken when it is mutually convenient.

Nothing in the policy is to be read as contrary to the requirements of the Local Government Act 1993, the Fair Work (Cth) Act 2009 and the Award.

5.2 Applying for leave

5.2.1 Arranging leave

Any employee wishing to take leave should first discuss this with their Manager.

Where possible, the Council will work with the employee to meet their request for leave, subject to the operational requirements of the Council. This is made easier if the employee provides the Council with adequate notice of their intention to take leave.

For a period of Annual Leave or Long Service Leave less than two weeks, two weeks' notice must be provided. For a period of leave greater than two weeks, four weeks' notice must be provided.

Shorter periods of notice may be accepted at the discretion of the employee's supervisor.

5.2.2 Applications

Employees must submit applications for leave using Council's software program.

Leave will not be permitted unless an application is made and the employee's Manager explicitly grants approval.

Leave taken without the appropriate approvals will be treated as unauthorised leave, payment will not be made, and disciplinary action will be taken.

5.2.3 Notification of sick leave



Employees taking sick leave must notify their Manager, Supervisor or Overseer via phone. Notification of sick leave via text message or email is not permitted and will result in sick leave being denied.

5.3 Sick leave

Employee entitlement to sick leave (including carer's leave and bereavement leave) is in accordance with the Award. The entitlement to sick leave is subject to the employer being satisfied that the illness or injury (or situation if relating to carer's leave or bereavement leave):

- Is such that it justifies the time off; and
- Does not arise from engaging in other employment.

5.3.1 Certificates

In accordance with the Award, employees are able to take three separate periods of sick leave per 12-month period starting from their commencement date, without producing a certificate or statutory declaration. Such periods are not to be more than two working days each.

Notwithstanding the above, the Council may still require an employee to produce a certificate or statutory declaration where:

- It is reasonable for the employer to require the employee to provide proof of illness or injury having regard to the employee's pattern of sick leave, the timing of the sick leave taken, and/or amount of sick leave taken by the employee, and
- The employer has provided the employee with prior written notice of the requirement to provide proof of illness or injury.

The employee must produce a medical certificate or statutory declaration once three separate periods of sick leave have been utilised within the twelve-month timeframe.

Sick leave periods requiring medical certificates, where a certificate is not provided, will be processed as unauthorised leave, the employee shall not receive payment for this period, and disciplinary action will be taken.

5.4 Parental leave

Parental Leave is provided in accordance with the Award and the *Fair Work Act 2009 (Cth)*. Eligible staff must submit a written request to the Chief Executive Officer, at a minimum of 12 weeks prior to their intended finishing date, outlining their preference for payment (i.e. full or half pay), and their intended return date. This is necessary to allow Council time to plan and replace staff on parental leave.



5.5 Time in lieu

Where there is prior agreement between the Council and the employee, an employee directed to work in excess of ordinary hours may elect to either be paid the appropriate overtime rate or be granted time in lieu equivalent to the actual hours worked.

Employees electing time in lieu must ensure they have explicit approval from the Supervisor/Manager for this arrangement. A record of time in lieu is kept by the Supervisor/Manager.

This does not apply to employees who are on call, called back to work or employees working on their RDO.

5.6 Leave without pay

As a general rule, the Council will not allow employees to take leave without pay. Employees are expected to manage their leave entitlements to ensure they have sufficient leave to meet their ordinary circumstances.

The Chief Executive Officer is the only person with authority to approve any application for leave without pay.

The Chief Executive Officer will only approve leave without pay where:

- The employee has exhausted all other leave entitlements, and
- The Chief Executive Officer is satisfied that the employee has a bona-fide personal emergency that requires leave without pay

5.7 Double-pay and half-pay

In accordance with the Award, employees, with the consent of the Chief Executive Officer, can elect to take their annual leave, long service leave or RDO entitlements at double-pay (i.e. less time at double the ordinary rate of pay) or half-pay (i.e. more time at half the ordinary rate of pay).

The entitlement to take annual leave at double pay is only available to an employee if, after taking the period of leave, the employee will have an accrued annual leave entitlement of not less than four (4) weeks.

5.8 Cashing out

In accordance with the Award and relevant legislation, employees, with the consent of the Chief Executive Officer, can request to be paid out of their annual leave, long service leave or



RDO entitlements. Employees electing to use the annual leave cashing out option must have accrued an annual leave entitlement of not less than four weeks.

An employee who is entitled to long service leave, may with the consent of the employer, cash out a particular amount of excess long service leave. Excess long service leave means the long service leave that an employee has accrued under the Award that is in excess of the long service leave that the employee would have accrued if covered by Section 4 of the *Long Service Leave Act 1955* (LSL Act). Each application will be considered against the LSL Act to determine the amount of excess leave available to be cashed out.

5.9 Annual closedown

At its discretion, the Council may put in place an annual closedown for part or all of its operations.

Where possible, employees subject to the annual close down should take leave already accumulated. In cases where there is insufficient leave accrued, the employee may, with the agreement of the Chief Executive Officer:

- Take leave without pay, or
- Have paid leave taken deducted from future leave entitlements (i.e. “go into credit”)

5.10 Accumulated leave

5.10.1 Annual leave

Where practical, employees should not accumulate more than eight weeks’ annual leave entitlement at any one time.

Where an employee’s annual leave entitlement exceeds eight weeks, the employee and the manager must jointly prepare an annual leave plan. The annual leave plan will set out a timetable for scheduled leave to bring the accumulated balance back within the limit set by the policy. The annual leave plan will also address any resource constraints to ensure the employee can take their scheduled leave.

In cases where an annual leave plan cannot be put in place or is not followed, the Council may direct the employee to take annual leave after giving the employee four weeks’ notice.

5.10.2 Long service leave

Where practical, employees are expected to take long service leave within five years of it falling due. Long Service Leave will not be permitted to accumulate beyond 13 weeks.



In cases where an employee has accumulated excess long service leave, Council and the employee may prepare a long service leave plan. The long service leave plan will set out a timetable for scheduled leave to bring the accumulated balance back within the limit set by the policy. The long service leave plan will also address any resource constraints to ensure the employee can take their scheduled leave

In cases where a long service leave plan cannot be put in place or is not followed, the Council may direct the employee to take long service leave after giving the employee four weeks' notice

5.10.3 Rostered Days Off

Employees who work their RDO will be permitted to accumulate RDO hours up to a maximum of five days.

The Chief Executive Officer may approve the accrual of more than five days in exceptional circumstances. Employees will be required to reduce their accumulated leave through discussion, and at a mutually agreeable time.

5.10.4 Time in lieu

Time in lieu can accumulate up to a maximum of five days, following that, employees will be required to reduce their time in lieu through discussion, and at a mutually agreeable time.

6. RETIREMENT

6.1 Notification of Intention to Retire

An employee's intention to retire must be made in writing to the Chief Executive Officer. The employee's application for access to accrued Annual and Long Service Leave must be made at the same time as their notification of intention to retire.

6.2 Acknowledgement of Intention to Retire

The Chief Executive Officer must acknowledge the notification of intention to retire in writing to the employee and clearly set out the parameters within which the retirement will be approved; including (but not limited to) approval of leave prior to the agreed retirement date, the amounts of any lump sum payments owed after the agreed retirement date and the date on which that payment will be made.

6.3 Restrictions to Taking of Accrued Leave



In line with 5.10.1 and 5.10.2, an employee may not access more than the allowable accruals for Annual Leave and Long Service Leave prior to their retirement date. (i.e. a total of eight (8) weeks Annual Leave plus thirteen (13) weeks Long Service Leave – total 21 weeks). This leave must be taken prior to the official agreed retirement date.

Any outstanding leave in excess above allowable accrual amounts will be paid in a lump sum unless otherwise negotiated and approved in writing by the Chief Executive Officer.

6.4 Responsibilities of Chief Executive Officer

The Chief Executive Officer may not continue employment of an employee post their official retirement date, therefore any outstanding amounts must be paid in full as per the requirements of the Award and the Long Service Leave Act 1955.

No previous employee shall be eligible for employee entitlements (i.e. superannuation payments, Award increments, continued accrual of leave entitlements etc.) after the passing of the agreed retirement date.

The method of payment (such as fortnightly instalments) of the amount outstanding amounts may be negotiable with the Chief Executive Officer however the method of payment may not amount to the continued employment of the retired person.

7. RELATED LEGISLATION, POLICIES AND STRATEGIES

- [Local Government Act 1993](#)
- [Fair Work Act \(Cth\) 2009](#)
- [Long Service Leave Act 1955](#)
- [Industrial Relations Act 1996](#)
- [Local Government \(State\) Award 2020](#)
- Berrigan Shire Council Salary Policy
- Berrigan Shire Council Human Resource Manual