



Staff Leave

Principle:

1. This policy commits TasCAHRD to an affirmative action strategy in regards to staff leave. Affirmative action is the term for a range of measures designed to remove the barriers, often hidden, which operate to restrict the opportunities of particular communities. In particular, TasCAHRD believes that it has an obligation to enable people with HIV/AIDS and/or HCV/Hepatitis to participate fully in its workforce.
2. Therefore, in addition to any statutory entitlement to leave contained in relevant Tasmanian Awards or legislation, the following provisions will apply.
3. Acknowledging that some clients may be living with impaired immune systems, TasCAHRD will exercise reasonable measures to reduce client exposure to common illness upon its premises.

Policy Statement:

Sick Leave:

4. TasCAHRD's sick leave policy is in accordance with the *Community Services Award*, clause 8.
5. In the event of an employee (other than a casual employee) becoming sick and unfit for duty, he/she shall be entitled to leave of absence without deduction of pay subject to the following conditions and limitations:

Worker's Compensation

- a) He/she shall not be entitled to such leave of absence in respect of any period for which he/she is entitled to worker's compensation.

Notification

- b) Notify place of work of his/her inability to attend work and as far as may be practicable state the nature of the illness or injury and estimated duration of absence.

Proof

- c) He/she shall prove to the satisfaction of the employer that he/she was unable on account of such illness or injury to attend for duty on the days for which sick leave is claimed. For this purpose, a medical certificate is required for two or more consecutive day's sick leave.
- d) Staff using sick leave to care for children/partner will be required to produce proof of children/partner illness.

Period

- e) He/she shall not be entitled in any one year to leave in excess of two weeks ordinary working time, plus unused sick leave accrued during previous years with the same employer. Provided that during the first three months of employment, sick leave shall accrue to full-time equivalent employees on the basis of 6.33 hours for each completed calendar month of service with the employer. Part-time employees accrue leave on a pro-rata basis.
- f) The Chief Executive Officer or President may grant additional periods of sick leave where all other accrued leave has been utilised and where an illness may impact on the health of clients with compromised immune systems, with all such instances being reported to the Board.

Leave Cumulative

- 6. Sick leave shall be cumulative from year to year; and any unused sick leave shall be credited to the employee without diminution of subsequent year entitlements.

Not Payable upon Termination

- 7. An employer shall not be required to make payment in respect of accumulated sick leave credits to an employee upon termination of employment.
- 8. The *Community Services Award* also provides that an employee, who becomes ill during their annual leave period, shall be entitled to sick leave instead of annual leave provided that he/she supplies the employer with a medical certificate stating the period of illness, and provided that he/she has sufficient accumulated sick leave credits. The annual leave not taken shall remain to the employee's credit.

Additional Sick Leave:

9. In accordance with TasCAHRD's specific commitment to affirmative action for HIV and HCV positive employees, and in accordance with TasCAHRD's commitment to affirmative action and anti-discrimination principles generally, the following additional sick leave provisions are available.
10. Upon provision of notice and proof in accordance with paragraph 5 (b) and (c) above, an employee who, by virtue of being HIV and/or HCV positive is eligible for extra sick leave as an anti-discrimination/affirmative action measure, is entitled to an additional ten (10) days sick leave in any twelve month period at half ($\frac{1}{2}$) pay ('additional leave').
11. If the full period of additional leave is not taken in any one year, the additional leave shall not be cumulative from year to year; and any unused additional leave shall not be credited to the employee.
12. In accordance with TasCAHRD's specific commitment to affirmative action in relation to HIV and HCV, employees who are taking sick leave to care for a partner or significant other with HIV and/or HCV will be entitled to the additional leave.

When all leave has been used:

13. When an employee is likely to use all sick leave and additional leave, the employer must make an assessment of the employee's ability to return to or continue with his/her work. The first consideration in this instance must be whether the employee can continue employment under some more flexible work arrangement.
14. Where possible, flexible working arrangements will be made to employees to perform their duties for as long as their health permits. Changes to an individual's working arrangements may facilitate this and such arrangements will be considered with the full involvement of the employee.
15. Any changes to individual working arrangements will balance the desirability of the employee to continue to work as long as possible, taking into account the need of the organisation to ensure continuity of work.
16. Where it is evident that an employee will require extended illness-related leave (paid in accordance with this policy or otherwise), it is TasCAHRD's policy that, resources permitting, relief employees will be employed to ensure that other employees are not expected to carry an extra work load. In some cases relief employees will be placed in the vacant position, in others they may be used to back-fill positions while existing employees act for the employee on leave.
17. TasCAHRD encourages and will assist employees to use available support services, including referral to other services, and provides the opportunity for employees to make use of these services during work hours.

Illness ending the Contract of Employment:

18. The following guidelines should be considered only where an employee has exhausted all available leave. The guidelines are not a policy statement but rather a guide for TasCAHRD management and employees to assist in reaching a resolution where it is clear that an employee will not be able to fully return to his/her duties due to ill health.

19. **The questions to be decided in cases such as these are:**

- a) Whether an employee's incapacitating illness is of such a nature, or appears likely to continue for such a period, that further performance of his/her obligations would either be impossible or could only be performed in a manner radically different from that originally contemplated and agreed to in the employment contract; and
- b) Where it is likely that illness will result in the termination of the employment contract, TasCAHRD must have regard to the following matters:
 - (i) the nature of the employment;
 - (ii) the length of the employment;
 - (iii) how long it had been expected that the employment would continue;
 - (iv) the nature, length and effect of the illness or disabling event;
 - (v) TasCAHRD's need for the work to be done, and the need for a replacement to do it;
 - (vi) TasCAHRD's obligation to the communities it serves;
 - (vii) TasCAHRD's obligation to its funding bodies;
 - (viii) TasCAHRD's industrial / legal obligations;
 - (ix) the risk to TasCAHRD of acquiring obligations in respect of a replacement employee;
 - (x) whether sick leave has continued to be paid;
 - (xi) TasCAHRD's conduct in relation to the employment, including failure to dismiss for a prolonged period of time;
 - (xii) whether in all the circumstances a reasonable employer could be expected to wait any longer for the employee to become fit to return to their employment;
 - (xiii) whether, at the time the employment began, the employer knew of the nature of the employee's health and whether the parties had contemplated such lengthy absences from work on account of incapacitating illness.

Parental Leave:

20. An employee with at least twelve months of continuous service is entitled to twelve weeks of paid parental leave and, in addition to the period of paid leave, up to forty weeks of paid and unpaid leave, inclusive of any other leave.
21. Such leave will be commenced within twelve weeks on either side of the expected date of birth. A medical certificate will be required stating fitness to work if the employee wishes to continue working within the six-week period before the expected date of birth.
22. An employee with less than twelve months of continuous service is entitled to parental leave on a pro-rata basis.
23. An employee will give at least four weeks of notice in writing prior to the commencement of parental leave. A medical certificate, stating the expected date of birth, will accompany this notice.
24. An employee on parental leave may return to work or recommence leave at any time, on agreement by the Chief Executive Officer or his/her nominee, or by giving at least four (4) weeks of notice.
25. Where practicable and subject to the agreement of the Chief Executive Officer or his/her nominee, a full-time employee may return to work on a part-time basis.
26. An employee who is an adoptive parent is entitled to parental leave in accordance with this clause.
27. Superannuation will be paid during paid parental leave. Contributors are not required to contribute to the superannuation scheme during periods of unpaid parental leave.
28. Leave entitlements will not accrue during periods of unpaid parental leave.

Payment of parental leave

29. The employee can be paid normally each fortnight or request payment at half the normal rate of pay for twice the period of the paid parental leave entitlement.

Special maternity leave

30. An employee who is entitled to maternity leave is entitled to maternity leave for any illness relating to the pregnancy or in the event of a miscarriage, stillbirth or termination.
31. This leave will be part of the entitlement for each pregnancy.
32. A medical certificate will be required to support an application for special maternity leave.
33. Additional leave without pay will be available as may be certified by a medical practitioner.

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