

POLICY REGISTER

EMPLOYEE LEAVE POLICY AND PROCEDURE

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PURPOSE

The purpose of this Policy is to inform all employees of their entitlements to leave and the requirements that need to be complied with in order to access the various forms of leave.

The guiding principle of the Policy is the requirement to maintain operational effectiveness at all times. Supervisors and Department Managers must be able to guarantee the effective operation of work groups and individuals when approving leave.

This Policy applies to all employees of Warren Shire Council and must be read in conjunction with the relevant Leave Provisions of the Local Government (State) Award.

Council may introduce, vary, remove or replace this Policy at any time in consultation with employees and their respective unions.

SCOPE

Warren Shire Council will endeavour to, where possible, approve leave requests by employees to best accommodate personal, family, work and community commitments, without compromising the undertaking of Council's core business functions.

RESPONSIBILITIES

Employees

To comply with all aspects of this Policy including the provision of appropriate and adequate notice to Supervisors when applying for and taking leave, provision of supporting documentation and ensuring that they have appropriate leave available prior to application.

Supervisors

Will liaise with Payroll/HR to ensure that employees have the correct amount of leave available, that supporting documentation if required is provided and that the operational requirements of Council will be met prior to authorising employee leave requests.

Leave is not to be approved where the employee does not have sufficient entitlement.

Divisional Manager/Department Manager

Will review on a bi-monthly basis employee leave balances as provided by the Treasurer to ensure that staff leave balances are maintained at appropriate levels and that forward work planning can accommodate requests for and/or unplanned employee leave. Issues in regard to leave balances and the provision of supporting documentation will be raised with the Supervisor and employee.

Payroll/HR

Will provide to the Treasurer on a monthly basis a report outlining employee leave balances, any issues in regards to the provision of leave forms, supporting documentation and frequent and/or excessive leave taken.

Leave is not to be paid until the correct forms and/or supporting documentation has been provided. In the event that an authorised application has been received that is not supported by adequate leave the application is to go back to the Supervisor and employee so that the correct leave type and new leave application can be submitted.

Treasurer (or equivalent role)

Will provide reports to the Divisional Manager/Department Manager on the frequency and amount of employee leave being taken, leave balances and any other leave related issues such as excessive leave balances.

ANNUAL LEAVE**Eligibility & Entitlement**

Permanent full-time employees are entitled to 4 weeks paid annual leave per year (pro rata for permanent part-time employees), or 5 weeks paid annual leave if the employee is regularly required to work a seven day a week rotating roster, which accrues progressively throughout the year according to an employee's ordinary hours of work and is cumulative from year to year.

Annual leave is exclusive of public holidays.

Casual employees are not eligible for paid annual leave.

Simply making a request for annual leave does not automatically entitle an employee to take such leave. Council may refuse to authorise a period of annual leave on the grounds of the operational requirements of Council or in the event that the employee has provided insufficient notice of the desire to take leave or the employee does not have sufficient leave available.

Council will not unreasonably refuse to approve a period of annual leave or deny an employee a period of annual leave which has already been authorised.

When an employee suffers illness or injury whilst on leave.

If an employee becomes ill or injured whilst on annual leave, they are entitled to have the leave reccredited and replaced with sick leave subject to Council being satisfied that:

1. The illness or injury resulted in the employee being unable to derive benefit from the leave;
2. The illness or injury did not arise from the employee engaging in other employment;
3. The period of illness is at least 5 consecutive working days;
4. The employee will be returning to work at the conclusion of the leave;
5. The employee has enough sick leave to cover the period of illness or injury;
6. The employee is required to complete the Leave Application Form; and
7. Council requires the employee to provide satisfactory medical evidence.

Procedures for requesting annual leave

1. Employees must complete a Leave Application Form 14 days in advance;
2. Employees must have adequate leave entitlements to cover the period;
3. Employees will not be able to take paid leave where they have exhausted their leave and accrued leave balance, Council will not approve employees going into a leave deficit;
4. The employee's Supervisor will consider the employee's request in conjunction with the operational needs of Council; and
5. The leave form will be approved by the Supervisor and signed off by the Divisional Manager/Department Manager.

Council requiring employees to take annual leave

Council may direct an employee to take annual leave in circumstances by giving at least 4 weeks prior notice when:

1. The employee has accumulated in excess of 8 weeks annual leave; and
2. There is a period of annual close-down of up to and including 2 weeks.

If an employee does not have leave accrued during the close-down period, they may be given meaningful duties or instructed to take leave without pay.

SICK LEAVE

Eligibility & Entitlement

Sick leave is for instances when you are unable to perform your duties due to illness. Full-time employees are entitled for each year of service to receive two (2) weeks sick leave (exclusive of public holidays), which is granted at the commencement of employment and every anniversary thereafter. Sick leave accumulates from year to year and is paid at the ordinary rate.

Employees on a fixed term or temporary basis of less than 12 months shall be entitled to 1-week sick leave on commencement. The employee is then entitled to a further 1-week sick leave after each 4 months of continuous service.

Part-time employees are entitled to pro-rata sick leave.
Casual employees do not receive sick leave entitlements.

The entitlement to sick leave is subject to the following conditions:

1. Council is satisfied that the sickness or illness is such that it justifies the time off;
2. Council is satisfied that the illness does not arise from engaging in other employment;
3. Council may request that the employee provide proof of illness to justify payment:
 - Where Council believe it reasonable, Council can request that the employee provide proof of illness or injury having regard to the employee's pattern of sick and/or amount of sick leave taken by the employee; and
 - Where Council has provided the employee with prior written notice of the requirement to provide proof of illness or injury; and
 - Proof of illness shall indicate the employee's inability to undertake their normal duties.

Employees who have a pattern of absences that fall on the day before or after a weekend, public holiday, RDO or annual/long service leave may be requested to provide proof of illness, or if Council requires it due to the employee's pattern of sick and/or amount of sick leave taken.

In this instance an employee may be required by Council to attend a medical examination by a medical practitioner nominated by Council (at Council expense) where:

- there is extended or frequent absence due to illness or injury; and
- there is a need to establish the fitness for work of an employee.

Procedures for taking sick leave

1. The employee is to notify their Supervisor as soon as possible when they are absent because of illness or injury and to indicate how long they expect to be absent. Text messaging, Facebook or leaving a message with another employee is not considered as providing adequate notice;
2. Complete the Leave Application Form as soon as possible and provide evidence of illness or injury, as relevant or where requested given the extent of leave or circumstance; and
3. Proof of evidence is a statutory declaration or a medical certificate from a qualified medical/health practitioner registered with the appropriate government authority which gives the employees name, date of consultation, evidence of incapacity for being unfit to undertake duties and the period of incapacity.

Workers Compensation and Sick Leave

During the time between when an employee's compensation claim is made and liability is accepted or denied by Council's insurer, an employee may be able to access sick leave. This is usually in circumstances where there is a delay in liability acceptance or a claim is in dispute.

If an employee has accessed sick leave and subsequently becomes entitled to the payment of workers compensation sick leave will be credited back to the employee's entitlement balance for the period covered by worker's compensation. *Please refer to Workers Compensation Act 1987 S50 Weekly Compensation and Sick leave.*

MY LEAVE

Eligibility & Entitlement

An employee (other than casual) shall be entitled to one (1) week of MyLeave at ordinary pay during each year of service, which becomes available on commencement or each anniversary thereafter, as provided in the Local Government (State) Award. MyLeave may be used by an employee for any purpose or activity and can be taken on a flexible basis, as single or multiple hours/days accordingly.

Employees are required to provide Council with advance notice of the intention to take MyLeave, where application is for more than one (1) day consecutively, upon agreement between the employee and Council, where such application should not be unreasonably refused.

Council will recognise accumulated MyLeave during the employee service only, upon each annual commencement anniversary the accumulated (unused) MyLeave will be converted to Sick Leave, which cannot be reversed.

MyLeave accumulated outside of an annual commencement anniversary scenario, where it is unused, will not be paid out on termination of employment nor be recognised as Sick Leave.

CARER'S LEAVE

Eligibility & Entitlement

Employees (other than casuals) can access their sick leave entitlements with responsibilities in relation to class of person as defined in the Local Government (State) Award, who require care and support due to illness, or who require care due to an unexpected emergency.

The Local Government (State) Award defines a family member as:

- a spouse of the employee; or
- a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
- a child or an adult child (including an adopted child, a step child, foster child or ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step sibling) of the employees or spouse or de facto spouse of the employee; or
- a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- a relative of the employee who is a member of the same household, where for the purpose of this paragraph;
 - a) 'relative' means a person related by blood, marriage or affinity;
 - b) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - c) 'household' means a family group living in the same domestic dwelling.

Carer's leave is not intended to be used for routine medical, dental appointments, foreseen periods of childcare or intended to be used for long term care.

In normal circumstances, an employee must not take carer's leave where another person has taken leave to care for the same person.

An employee with the consent of Council may elect to take time in lieu instead of payment for overtime (where overtime is required of the position) for the purpose of providing care and support for a person as defined above. *Refer to the Local Government (State) Award.*

An employee with the consent of Council may elect to work "make up time" under which the employee takes time off during ordinary hours, and works those hours at a later time, within the spread of ordinary hours provided by the award, and at the ordinary rate of pay, for the purpose of providing care and support for a person as defined above.

An employee may elect with the consent of Council to take annual leave or leave without pay for the purpose of providing care or support. *Please refer to the Local Government (State) Award for Annual Leave and Special Leave.*

Procedures for taking carer's leave

1. The employee where practical will give Council notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practical to give prior notice then the employee shall notify the Supervisor by telephone at the first opportunity on the day of absence. Text messaging or leaving a message with another employee is not providing adequate notice;
2. To complete the Leave Application Form as soon as possible and with evidence of the requirement for care such as a statutory declaration or a medical certificate from a qualified medical/health practitioner registered with the appropriate government authority which gives the employee's name, date of consultation, the relationship to the person concerned, the illness of the person and that the illness is such as to require care by another person where less than two weeks sick leave in any service year is used for carers leave;
3. Where more than two weeks sick leave in any year of service is sought to be used for caring purposes Council requires the employee to produce a medical certificate from a qualified medical/health practitioner showing the nature of illness of the person concerned and such other information as may be reasonably necessary to demonstrate that the illness is such as to require care by the employee and that no other appropriate care arrangements are reasonably available; and
4. Where more than two working weeks of sick leave hours in an anniversary year is to be used for caring purposes Council and employee shall discuss appropriate arrangements which, as far as practicable, take account of Council's and the employee's requirements.

BEREAVEMENT LEAVE

Eligibility & Entitlement

The purpose of taking bereavement leave is for an employee to take leave as a result of the death of an immediate family or extended family member. *Please refer to the Local Government (State) Award Clause for Bereavement Leave, also for the definition of family and extended family member.*

Paid bereavement leave

Employees other than casual employees are eligible to access:

1. Up to 4 days paid bereavement leave upon the death of a member of the employee's immediate family; or
2. Up to 2 days paid bereavement leave upon the death of a member of the employee's extended family.

Employees who wish to attend the funeral of a person that is not immediate, or extended family can access their paid leave entitlements on the recommendation of their Supervisor and subject to the approval of the Department Manager.

Unpaid Bereavement Leave

Casual employees are entitled to not be available to attend work, or to leave work upon the death of an immediate or extended family member. Casual employees are not entitled to any payment for the period of non-attendance.

Procedures for taking bereavement leave

1. An employee shall, where practicable, advise their Supervisor by phone call (not text message) of their inability to attend for work prior to the commencement of their start time and as far as possible state the reason for the absence and the estimated period of absence;
2. On return to work after a period of compassionate leave the employee will be required to complete the Leave Application Form and provide appropriate documentation as evidence to prove their inability to attend for duty on the days in respect of which compassionate leave is claimed;
3. The Leave Application Form will be approved by the Supervisor and signed off by the Divisional Manager/Department Manager;
4. An employee taking their own paid leave entitlement to attend a funeral of a person who is not an immediate or extended family member must complete the Leave Application Form; and
5. The leave form will be approved by the immediate Supervisor and signed off by the Divisional Manager/Department Manager.

OTHER PAID LEAVE

JURY SERVICE LEAVE

Eligibility & Entitlement

An employee required to attend jury service during the employee's ordinary working hours shall be reimbursed by Council an amount equal to the difference between the amount in respect of the employee's attendance for such jury duty and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service.

Procedures for taking jury service leave

1. Employees are required to notify their Supervisor as soon as possible of the jury service dates;
2. Employees are to complete the Leave Application Form and provide proof of attendance, the duration of attendance and the payment received in respect of such jury service; and
3. The form is to be signed by the Supervisor and Divisional Manager/Department Manager.

UNION TRAINING LEAVE

Eligibility & Entitlement

Council shall agree to release employees to attend an accredited trade Union training course with up to 5 days paid leave and such agreement shall not unreasonably be withheld.

Procedures for taking Union training leave

1. The employee must provide 4 weeks written notice of their request to attend a training course;
2. The request must include the type, content and duration of the course to be attended; and

3. Upon completion of the training, the employee must provide proof of attendance and satisfactory completion of the course.

UNION CONFERENCE LEAVE

An employee of Council who is an accredited delegate to the union's Annual Conference, will be granted paid leave for the duration of the Conference provided that Council's operational requirements are met and the union notifies Council of the accredited delegates nominated to attend the Conference at least one month prior to the commencement of the conference.

UNION PICNIC DAY

The Union Picnic Day is a public holiday for financial members of the Union(s). Council allows non-financial members to observe Union Picnic Day and requires non-financial members of a Union, who are not required to work that day, to submit a leave application for annual leave, long service leave, and time in lieu or leave without pay.

EMERGENCY SERVICES LEAVE

Eligibility & Entitlement

An employee other than a casual with more than 12 months continuous service with Council, who engages in "voluntary emergency management activity" shall be entitled to up to 5 days paid emergency services leave per calendar year from their accrued sick leave balance.

An employee is not entitled to emergency services leave if the taking of such leave will result in the employee having an accumulated sick leave balance of less than 3 weeks.

Please refer to the Local Government (State) Award for Leave Provisions related to Emergency Services and for definitions of "voluntary emergency management activity" and "recognised emergency management body"

Procedures for taking emergency services leave

1. On return to work after a period of emergency services leave the employee will be required to complete the Leave Application Form and provide appropriate written documentation as evidence to prove their participation in the voluntary emergency management activity on the days in respect of which emergency services leave is claimed; and
2. The leave form will be approved by the Supervisor and signed off by the Divisional Manager/Department Manager.

SPECIAL LEAVE

Eligibility & Entitlement

Council may grant special leave, with or without pay, to an employee for a period as determined by Council to cover any specific matter approved by Council including but not limited to:

- Compassionate leave for employees facing unforeseen circumstances such as injury or terminal illness; and
- Leave to attend duties as a member of the Australian Defence Force, provided such leave is consistent with the Defence Reserve Service (Protection) Act 2001.

Such applications will be considered on a case by case basis.

Climatic Circumstances

An employee's ordinary pay shall not be reduced when the employee is prevented from attending work due to bushfire or other climatic circumstances beyond their control, provided that the following does not apply:

- Alternative duties are available that the employee can usefully perform;
- The bushfire or other climatic circumstances occurred outside of the State of New South Wales; and
- The employee has been unable to attend work for more than one week per climatic event and may make application in writing to the Department Manager for special leave.

Procedures for taking special leave

1. The employee must make application for special leave in writing to the Department Manager; and
2. Details must include the purpose of the leave and duration of leave expected.

FAMILY AND DOMESTIC VIOLENCE LEAVE

Eligibility & Entitlement

All employees of Council are eligible to access 10 days of family and domestic violence leave during each 12-month period of employment. This entitlement does not accumulate from year to year.

Dealing with the impact of family and domestic violence includes taking leave for:

- Making arrangements for the employees' safety or safety of a close relative (including relocation);
- Attending court hearings; and
- Accessing Policing services.

Procedures for taking family and domestic violence leave

1. The employee must tell their Department Manager as soon as possible of their need to take family and domestic violence leave, and the duration of the leave; and
2. The employee must show sufficient evidence to convince a reasonable person that the leave is taken to deal with the impact of family and domestic violence and it's not practical for them to do so outside of work hours.

Council will only use this information to satisfy itself that the employee is entitled to family and domestic violence leave, unless otherwise consented to by the employee, required to deal with the information by law or its necessary to protect the life, health or safety of the employee or another person.

Acceptable evidence includes:

- Statutory declaration;
- Documents issued by the police service;
- Documents issued by a court; and
- Family violence support service documents.

Such applications will be considered on a case-by-case basis and dealt with in accordance with Council's Privacy Policy.

STUDY LEAVE

Please refer to Council's Training and Education Policy

LEAVE WITHOUT PAY

Department Managers may approve leave without pay for a period of up to 5 working days *in exceptional circumstances*. All other accrued annual and/or long service leave entitlements and time in lieu time must be used before leave without pay can be considered.

Leave without pay, other than *in exceptional circumstances* will only be considered on the Department Manager's recommendation and employee application, only the General Manager can approve Leave Without Pay applications.

Periods of leave without pay are not considered service for the purpose of computing long service leave, sick leave, or annual leave. Such periods shall not however constitute a break in the employee's continuity of service and public holidays during this period will not be paid.

Procedures for taking leave without pay

1. Employees must in the first instance seek leave without pay in writing, detailing the circumstances, to support their request and provide this request to the Divisional Manager/Department Manager, along with a Leave Application Form.
2. The Divisional Manager/Department Manager is to submit the leave without pay application, supported or not supported, for final approval or other determination by the General Manager. Only the General Manager can approve leave without pay applications.

ROSTERED DAY OFF (RDO) – also referred to as Flextime

Eligibility & Entitlement

The day of a rostered day off can be altered by mutual consent at any time prior to the RDO taking place, provided that the operational needs of Council are met.

Council may alter the day of a rostered day off by giving 2 weeks notice where there are genuine operational, or safety reasons and the alteration does not unreasonable disadvantage the employee.

An employee who works on a rostered day off at the request of Council will be paid in accordance with the *Local Government (State) Award for Overtime*.

Council will only allow employees to accrue upto 42 hours. The accrued RDO's are to be used before annual leave when requesting leave.

Procedures for changing a rostered day off (RDO)

1. Employees are to complete the Change of RDO form; and
3. The form is to be approved by the Supervisor and Department Manager

TIME IN LIEU

Eligibility & Entitlement

Time in lieu is only approved where the employee has been directed to work additional hours by their Supervisor (who has sought approval from the Divisional Manager/Department Manager) due to operational requirements and where overtime is not paid, or the employee has requested payment be made as time in lieu.

Time in lieu is not to accrue beyond 42 hours and is to be used before annual leave when requesting leave.

PARENTAL LEAVE

Employees may be able to access a period of unpaid leave when their child is born or adopted. Parental leave includes birth-related leave, concurrent leave, special maternity leave and adoption leave.

Unpaid Parental Leave and No Safe Job Leave are also considered in this area, to recognise inclusion or relationship with relevant federal legislation and compliance with provisions of Fair Work Act. This is considered on application of a case by case basis.

Eligibility & Entitlement

Employees with at least 12 months' service with the Council can access unpaid parental leave for a period of 12 months. Casual employees are only eligible for parental leave if they have worked for the Company on a regular and systematic basis for at least than 12 months and have a reasonable expectation of continuing employment on a regular and systematic basis.

Procedures for taking parental leave

Please refer to the Local Government (State) Award;

Clause for Unpaid Parental Leave and No Safe Job Leave;

Clause for Paid Parental Leave;

Clause for Concurrent Parental Leave; and

Clause for Adoption Leave.

LONG SERVICE LEAVE

Eligibility & Entitlement

An employee other than a casual is entitled to long service leave at ordinary pay as follows:

Length of Service Entitlement

After 5 years' service	6.5 weeks
After 10 years' service	13 weeks
After 15 years' service	19.5 weeks
After 20 years' service	30.5 weeks
For every 5 years thereafter	11 weeks

A casual employee is entitled to long service leave in accordance with the Long Service Leave Act 1955 (NSW), provided that in calculating the employees long service leave entitlement there shall be a deduction of the long service leave accrued as a casual employee prior to 1 July 2023.

Long Service Leave shall be taken at a mutually convenient time to the employee and Council giving regard to operational requirements or in the event that the employee has provided insufficient notice of the desire to take leave or the employee does not have sufficient leave available.

Council will not unreasonably refuse to approve a period of annual leave or deny an employee a period of annual leave which has already been authorised.

When an employee suffers illness or injury whilst on leave.

If an employee becomes ill or injured whilst on long service leave, they are entitled to have the leave recredited and replaced with sick leave subject to Council being satisfied that:

1. The illness or injury resulted in the employee being unable to derive benefit from the leave;
2. The illness or injury for not arise from the employee engaging in other employment;
3. The periods of illness are at least 5 consecutive working days;
4. The employee will be returning to work at the conclusion of the leave;
5. The employee has enough sick leave to cover the period of illness or injury;
6. The employee is required to complete the Leave Application Form; and
7. Council requires the employee to provide satisfactory medical evidence.

Council requiring employees to take long service leave

Council may direct an employee to take long service leave accrued on or after 23 June 1988 and not taken within 5 years of it falling due by giving at least 4 weeks notice.

Procedures for taking long service leave.

1. Employees must complete a Leave Application Form 14 days in advance;
2. The employee's Supervisor will consider the employee's request in conjunction with the operational needs of Council; and
3. The leave form will be approved by the Supervisor and signed off by the Department Manager.

ABSENT WITHOUT LEAVE

An employee who has failed to complete the appropriate leave form and notify their Supervisor as required will be considered to be “Absent Without Leave”.

Disciplinary action will commence from the first incident of failing to notify their Supervisor. After recording three (3) such absences employees may be given notice to show cause why their employment should not be terminated.

TERMINATION OF EMPLOYMENT

Employees who leave Council will receive payment for all relevant leave entitlements except for sick/carers leave upon cessation of employment. Employees will not be granted leave more than their accrued balance.

LINKS TO POLICY

Warren Shire Council Privacy Policy
Staff Education and Training Policy

LINKS TO FORMS

Leave Application Form

RELEVANT LEGISLATION

Local Government (State) Award
Fair Work Act 2009
Workers Compensation Act 1987 (NSW)
Long Service Leave Act 1955 (NSW)
Industrial Relations Act 1996 (NSW)
Defence Reserve Services (Protection) Act 2001

REVIEW

This Policy should be reviewed every four (4) years or within 12 months following an election of Council. The Policy may be reviewed and amended at any time at Councils discretion (or if legislation changes occur)