

Policy – Employee Leave



Purpose

This policy establishes how the management of leave entitlements and discretionary provisions are managed within DMTC in accordance with applicable Contracts, Awards and legislation and, if applicable, relevant DMTC policies.

1. Policy Scope/Coverage

This policy applies to the DMTC's senior management and all company employees.

DMTC values diversity in its workforce. Diversity may result from a range of factors: origin, age, gender, sexual identity, race, religion, cultural heritage, lifestyle, education, physical ability, appearance, language, or other factors. We value the differences between people, including LGBTIQ+ and Aboriginal and Torres Strait Islander peoples, and the contribution these differences make to our business.

2. Policy Statement

2.1. Policy Overview

DMTC's Employee leave policy has been developed in line with legislative, operational requirements, and best practice guidance in relation to diversity and inclusion. All employees are entitled to accrue and take leave in accordance with the relevant legislation in the applicable state/territory, including relevant awards (if applicable). This policy seeks to clarify the employee's entitlements and obligations in relation to leave as well as defining policy positions for those matters that are not governed by legislation.

Notwithstanding details specified herein with regard to leave categories, DMTC will at all times comply with relevant legislative requirements relating to leave and employee entitlements. In the event that legislative requirements specify entitlements which exceed those specified in this policy, it shall be the position of DMTC that the legislative provisions will take precedence and DMTC will update the policy at the earliest opportunity

2.2. Types of Leave

DMTC recognises the following types of leave entitlements and provisions:

- Annual Leave
- Long Service Leave
- Personal Leave (Including Sick Leave & Carers Leave)
- Compassionate & Bereavement Leave
- Parental Leave
- Community Service Leave
- National & State Services Leave

- Leave Without Pay
- Study Leave
- Family and Domestic Violence Leave
- Negative Leave
- Time off in Lieu (TOIL)

2.3. Annual Leave

DMTC employees are entitled to four (4) weeks paid annual leave (pro-rated for part-time employees) per continuous year of service. This is in addition to statutory holidays and office close down days, with leave entitlements accumulating progressively during a year of service according to the employee's ordinary hours of work and the National Employment Standards (NES).

Annual leave is to be taken at such time or times during the year as agreed or otherwise as reasonably directed by the CEO. Annual leave loading is not payable.

All employees (except for casual employees) get paid annual leave.

2.3.1. Public Holidays and Illness While on Annual Leave

Public holidays can be different depending on the state or territory you work in and are not deducted from annual leave.

An employee is entitled to public holidays depending on where they are based for work not where they are working on the day of the public holiday.

Employees who are ill while on annual leave may have the annual leave re-credited for the period of the illness, subject to the provision of a medical certificate or statutory declaration to cover the period and provided that the employee has sufficient personal/carer's leave accrued. In such cases, the period of illness will be deducted from the employee's personal/carer's leave balance.

Employees may choose to swap out a statutory public holiday for a religious or cultural day that they celebrate. Any arrangements in this context need to be clarified in advance in writing with the relevant Manager.

2.3.2. Unpaid Leave, Leave on Half-pay and Purchased Leave

Employees may take unpaid leave or leave on half-pay. In some circumstances, it may also be possible to purchase additional annual leave.

All available paid annual leave must be taken prior to an employee using their purchased leave i.e., their annual leave balance must be at zero before any purchased leave balance may be used. The decision to award unpaid leave, leave on half-pay or purchased leave will be at the discretion of the CEO (or the Chair in the case of a request from the CEO).

2.3.3. Cashing Out of Annual Leave

In certain circumstances employees may cash out annual leave in accordance with legislative requirements and subject to the following conditions:

- the employee must have taken at least the equivalent amount of annual leave to that being cashed out during the 12 months prior to the application to cash out leave.
- only one application to cash out annual leave may be made in any 12-month period.
- remaining accrued entitlements can never be less than four (4) weeks as a result of any cashing out of annual leave.

2.3.4. Taking Annual Leave

The process of taking annual leave to be followed is specified in the Code of Conduct.

2.3.5. Excessive Leave

DMTC can direct an employee with an excessive accrual of annual leave to reduce the excessive annual leave balance, but only if the request is fair and reasonable.

A requirement to reduce excessive annual leave may be reasonable if, for example:

- the employee has accrued an excessive amount of annual leave, or
- the employer's business is being shut down for a period, for example, between Christmas and New Year.

An employee is deemed to have an excessive leave accrual if the employee has accrued more than eight weeks (40 days) paid annual leave.

If an employee has an excessive leave accrual, DMTC or the employee may seek to confer with the other and develop an agreed leave management plan with the aim of reducing or eliminating the excessive leave accrual. However, if an employee does not agree to take annual leave, DMTC may at its discretion, direct an employee who has an excessive leave accrual to reduce the excessive annual leave balance, provided that:

- the remaining balance after direction to take leave is at least six weeks (30 days).
- the period of annual leave must be at least one week, and
- the leave must be taken at least eight weeks after the direction is given to an employee or as agreed with management.

Note that any reduction of excessive leave balance through cashing out of leave must be done in compliance with item 3.3.3 above.

2.4. Long Service Leave (LSL)

Employees are entitled to LSL in accordance with applicable state/territory LSL laws or provisions (or applicable Award or Agreement). Employees will be eligible to take all or a portion of their long service leave at a mutually agreeable time having regard to the operational requirements of DMTC, provided that a request for leave will not be unreasonably refused.

An employee's entitlement to long service leave comes from long service leave laws in each state or territory. Victorian employees will be able to take LSL after 7 years of continuous employment and will also be able to take LSL in short or long term periods., provided each period is not less than 1 day.

Employees cannot cash out their LSL, unless they are based within a jurisdiction in which this is allowed. An employee can request to take a period of LSL for twice as long as the period to which they are entitled, at half their ordinary pay.

Long service leave can't be cashed out while the employee is still working for the business. However, long service leave will be paid out at the end of employment in line with National Employment Standards (NES).

Employees based in other States or Territories will need to consult the relevant LSL legislation.

2.5. Personal Leave (Including Sick Leave & Carers Leave)

Each employee will be entitled to ten (10) days' paid personal/carer's leave (pro-rated for part-time employees) per year of service bases on ordinary hours of work if he/she;

- cannot attend work due to illness or injury; or
- needs to provide care or support to an immediate family member or member of the employee's household due to their illness or injury or an unexpected emergency.

The Employee must give DMTC notice of the taking of personal/carer's leave as soon as practicable. The Employee must also advise DMTC of the period or expected period of leave.

DMTC may at its discretion, request the employee to provide a Medical Certificate for more than 1 day of personal leave taken.

Paid personal/carer's leave accrues progressively during a year of service and accumulates from year to year but will not be paid out on termination.

Each Employee is entitled to two (2) days of unpaid carer's leave if he/she has exhausted paid personal/carer's leave for each occasion that the Employee needs to care for or support an immediate family member or member of the Employee's household due to their illness or injury or an unexpected emergency.

All employees except casuals are entitled to paid sick and carer's leave.

2.6. Compassionate & Bereavement Leave

DMTC's compassionate and Bereavement leave follows the standards prescribed through Fair Work Australia and NES and provides additional coverage in the context of DMTC's Diversity and Inclusion policy.

Each Employee is entitled to two (2) days paid compassionate leave for each occasion where an immediate family member or member of the Employee's household contracts, develops or sustains a serious life-threatening illness or injury or dies.

Compassionate and bereavement leave may also be taken to cover the unfortunate event of a miscarriage, for employees or their partners.

Compassionate leave may also be taken for reasons including, but not limited to, allowing employees to meet obligations related to traditional law, cultural customs, and religious obligations and;

"Immediate family includes an employee's:

- spouse or former spouse
- de facto partner or former de facto partner
- child
- parent
- grandparent
- grandchild
- sibling
- child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner)
- LGBTIQ + partners'
- other relatives (e.g., cousins, aunts and uncles) if they are a member of the employee's household
- any other relative or close personal and/or social connection at the discretion of the CEO

This definition includes step-relations (e.g., step-parents and step-children) as well as adoptive relations.

DMTC may require the Employee to provide evidence that would satisfy a reasonable person for any absence from work for compassionate leave.

2.7. Parental Leave

DMTC recognises the importance of parental leave in enabling employees to balance their work and family responsibilities. It is also a vital aspect of fostering diverse and inclusive workplaces.

Eligible employees are strongly encouraged to claim Parental Leave Pay (PLP) from the Australian Government in accordance with the Paid Parental Leave Scheme.

It is important to note that qualifying for PLP through the Australian Government does not affect an Employee's eligibility for Employer-funded Paid Parental Leave (EPPL) payments or unpaid parental leave.

In addition to and independent of eligibility for PLP through the Australian Government Paid Parental Leave Scheme, DMTC will offer employees up to an additional 8 weeks' EPPL, when they first become the primary carer of a child/children.

Parental leave entitlements include:

- birth-related leave and adoption-related leave (including in relation to premature birth, stillbirth or infant death)
- consultation requirements
- a return-to-work guarantee
- unpaid pre-adoption leave
- unpaid special maternity leave
- a right to transfer to a safe job in appropriate cases, or to take 'no safe job leave'.

Any period of paid parental leave will count as service for the accrual of paid leave entitlements (including annual leave and long service leave). However, while on unpaid leave, employees will not accrue other forms of paid leave, or any STI entitlement. In these circumstances, the accrual of paid leave will resume once an Employee returns to work.

Parental leave is an individual entitlement, and there are no restrictions on the number of times a staff member can take such leave.

DMTC acknowledges that personal circumstances may require consideration of unique leave arrangements. Amendments to the following parental leave conditions will be evaluated on a case-by-case basis at the discretion of the CEO.

2.7.1. Employer-funded Paid Parental Leave

EPPL is available to Primary Carer Employees, whether full-time or part-time, who have completed or will complete 12 months of employment by the expected date of birth (including surrogacy arrangements) or adoption or commencement of period of care of their child/children. A Primary Carer in the context of this policy means a person who assumes the principal role of providing care and attention to a child/children.

Primary Carer Employees are entitled to 8 weeks' pay at their current total fixed remuneration (TFR). This TFR amount is at the pro-rated rate for part-time Employees. EPPL must be taken within the first 12 months of the child's birth or placement.

In line with DMTC's commitment to flexible workplace arrangements, EPPL will be

provided as a 'bank' of leave, paid at the employee's TFR but not exceeding a monthly sum greater than their established salary. This bank of leave can be distributed at the Employee's discretion over a 12-month period from the commencement of primary care of the child/children. The amount due will be paid as part of the Employee's monthly salary in the usual manner.

If an Employee's pregnancy terminates other than by the birth of a living child after week 20 of pregnancy or if the child passes away during the period of leave, the Employee will be entitled to the full approved period of EPPL. If an Employee's pregnancy terminates prior to week 20 of pregnancy, the Employee is entitled to 5 days of paid leave in addition to existing Compassionate & Bereavement and Personal/Carers Leave arrangements.

EPPL payments are made under the condition that they must be repaid to the company if the Employee ceases their employment at DMTC within six months of returning to work following their period of parental leave.

2.7.2. Unpaid Parental Leave

Employees are entitled to unpaid Parental leave in accordance with the Fair Work Act 2009 and the NES. Employees are entitled to unpaid parental leave if they have worked for DMTC for at least 12 months.

Employees are entitled to up to 12 months of unpaid parental leave. An employee taking 12 months parental leave can request an extension of a further 12 months leave (up to 24 months in total).

Employees can take up to 30 days (6 weeks) of their unpaid parental leave flexibly at any time within 24 months of a child's birth or adoption.

Flexible unpaid parental leave can be taken as:

- a single continuous period of one day or longer
- separate periods of one day or longer each.

An employee can take flexible unpaid parental leave on the same day their partner is on continuous unpaid parental leave. The 2 employees can only take a total of up to 8 weeks of unpaid parental leave at the same time.

All employees are entitled to unpaid parental leave including casuals who have worked regular and systematic work for at least 12 months.

An employee is not entitled to take unpaid parental leave unless they:

- inform DMTC of their intention to take unpaid parental leave by giving at least 10 weeks written notice (unless it is not possible to do so)
- specify the intended start and end dates of the leave
- at least 4 weeks before the intended start date:
- confirm the intended start and end dates, or

- advise the employer of any changes to the intended start and end dates (unless it is not possible to do so).

2.8. Community Service Leave

DMTC has elected to provide one (1) day of paid Community Service Leave for employees annually.

This leave is designed for DMTC employees to support non-commercial activities which confer a “public good” benefit to the broader community. For guidance, this would include:

- Volunteering for a registered charity or community organisation
- Volunteering for a government organisation
- Participating in community activities operated by DMTC partner organisations
- Donation of blood products
- Voluntary work as part of DMTC’s Reconciliation Action Plan initiatives.

Other activities of this nature. This leave is provided at DMTC’s discretion and approval is at the discretion of the CEO. Noting the discretionary nature of Community Service Leave, this leave does not accrue if not taken in any given year.

The Employee is entitled to be absent for paid community service leave to engage in volunteer activity. The Employee must give notice as soon as practicable and is entitled to be absent for the period whilst engaged in the activity together with traveling time and reasonable rest time immediately following the activity.

Please note that the Employee is entitled to Jury Service leave in accordance with the Fair Work Act 2009 and the NES.

2.9. Leave Without Pay (LWOP)

An Employee will be able to take an unpaid leave of absence from employment at the CEO’s absolute discretion and subsequent approval.

Under the Fair Work Act, an employee does not accrue annual leave, personal/carer’s leave, or have an entitlement to a public holiday during a period of LWOP.

2.10. Study Leave

Any paid study leave agreement will be at the sole discretion of the CEO and will, if approved, be structured individually on a case by case basis.

2.11. Family and Domestic Violence Leave

Family and Domestic Violence Leave is governed by provisions set forth in the NES. In summary, all employees (including part-time and casual employees) are entitled, in accordance with the NES, to 10 days paid family and domestic violence leave each year..

Family and domestic violence means violent, threatening or other abusive behaviour by

an employee's close relative that:

- seeks to coerce or control the employee
- causes them harm or fear.

A close relative is:

- an employee's:
 - spouse or former spouse
 - de facto partner or former de facto partner (including LGBTIQ+ partner)
 - child
 - parent
 - grandparent
 - grandchild
 - sibling
- an employee's current or former spouse or de facto partner's child, parent, grandparent, grandchild or sibling, or
- a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

This definition includes step-relations (e.g. step-parents and step-children) as well as adoptive relations.

2.12. Negative Leave

DMTC has elected to allow employees to accrue a negative leave balance (annual and personal leave) in some circumstances. Negative leaves occurs when an employee applies for more leave than their current accrued leave entitlement.

DMTC will allow a negative annual leave balance of up to 5 days. DMTC may allow a negative balance to exceed this 5 day cap at the CEO's absolute discretion and subsequent approval. In general, the CEO will only approve one instance of a negative annual leave balance accrual in any 12 month period.

DMTC will allow a negative personal (Including Sick Leave & Carers Leave) leave balance of up to 1 day. DMTC may allow a negative balance to exceed this 1 day cap at the CEO's absolute discretion and subsequent approval. In general, the CEO will only approve one instance of a negative personal leave balance accrual in any 12 month period

2.13. Time Off in Lieu (TOIL)

DMTC Employees are paid a total remuneration package which incorporates their annual salary including penalties, overtime, allowances (including any all-purpose allowance), loadings, as well as any other monetary benefit under any legislation, award or agreement including any statutory minimum hourly rates of pay.

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DMTC recognises the importance of work life balance and where it is deemed by the employer that overtime hours are not satisfied by the total remuneration package outlined above, the Employer and Employee may agree that the Employee can take time off during business working hours, instead of being paid for the additional hours worked (that is, time off in lieu).

Any agreement for TOIL must be in writing (this can include an email) in advance of any applicable overtime being worked. The agreement must contain the number of overtime hours to which it applies and when those hours will be worked. For the avoidance of doubt, TOIL must not be applied for retrospectively.

TOIL will be at a ratio of one hour worked to one hour time in lieu and must be taken:

- Within the period of 6 months after the overtime is worked; and
- At a time that is agreed between the Employer and the Employee.

TOIL can be taken only with the prior approval of the CEO.

Circumstances where TOIL can be taken include, but not limited to, the time outside of ordinary hours required to travel to events and additional work required during events, such as DMTC supported conferences and seminars and any urgent work required on Public Holidays.

2.14. National & State Services Leave

DMTC will support employees by providing limited paid leave for employees who engage in Defence Reserve and Emergency Services activities. Examples of service supported would be Army Reserves, Country Fire Authority (CFA) and State Emergency Services (SES) or equivalent.

Noting the variety of circumstances in which employees might be required or wish to utilise this leave, each request will be considered on a case-by-case scenario, including the quantum of any agreed paid or unpaid leave to be provided and must be approved by the CEO.

3. Linked Policies, Procedures and Forms

- [Policy - Policy Approval](#)
- [Policy - Internal Control](#)
- [Policy – Diversity and Inclusion](#)