

3.29 Excessive Leave

POLICY TITLE: EXCESSIVE LEAVE

FILE REF: SC67

EXPIRY DATE: AUGUST 2025

OBJECTIVE

To establish a framework for managing and monitoring excessive leave for the purposes of ensuring the health and wellbeing of Council's staff and managing the significant financial liability associated with excessive levels of accrued leave.

DEFINITIONS

"Award" means the NSW Local Government (State) Award.

"Excess Annual Leave" for the purposes of this Policy means accrued annual leave in excess of eight weeks.

"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.

"Excess Time off in Lieu" for the purposes of this Policy means accrued time off in lieu in excess of one week.

POLICY STATEMENT

Lockhart Shire Council is committed to maintaining a supportive and healthy working environment. This includes ensuring the wellbeing of its staff by providing annual and long service leave, as determined by the Local Government (State) Award, so that staff may have breaks from work.

Council endorses a proactive leave management strategy and the use of leave within a reasonable time of it falling due. Accrual of excess leave is discouraged as excess levels of accrued leave can be a significant financial liability.

Managers and individual employees are responsible for managing leave accruals. Managers are required to identify instances of excess leave accruals and where appropriate develop strategies that are designed to ensure leave accrual is within the set limits. These strategies should be designed to suit their workforce keeping in mind competing demands such as staff shortage and increased workloads.

To enable managers and individual employees to fulfill their responsibilities under this Policy, the Payroll Officer will provide managers and supervisors with a monthly report on leave balances for those employees who directly report to them.

AWARD CONDITIONS

The Local Government (State) Award provides that:

- For each year of service an employee (other than a casual) is entitled to 4 weeks of paid annual leave;
- Unless otherwise provided, paid annual leave may be taken for a period agreed between the employee and the employer.
- The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.
- The employer may direct an employee to take annual leave by giving at least four weeks prior notification where the employee has accumulated in excess of eight weeks annual leave.
- The employer may direct an employee to take long service leave accrued on or after 23 June 1988 and not taken within five years of it falling due provided that at least four weeks' notice is given to the employee.
- 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.
- The employer may direct an employee to take accrued time in lieu of overtime by the giving of at least two weeks' notice where the employee has accumulated in excess of one weeks' time in lieu of overtime.

LEAVE MANAGEMENT RESPONSIBILITIES

The management of excess leave and time off in lieu should occur in consultation with the employee and with the support of management and the Human Resources/ Work Health and Safety Co-ordinator. In this regard:

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Employees will:

- 1) Schedule recreational leave as soon as practical after it falls due.
- 2) Plan leave in consultation with their supervisor or manager to optimise the balance between operational and employee needs.
- 3) Work towards the depletion of any accrued excess leave and excess time off in lieu, through the development of an excess leave management plan with their supervisor or manager.

Managers will:

- 1) Encourage and support staff in scheduling leave to promote wellbeing, performance and morale.
- 2) Ensure operational needs are met in the planning and authorisation of staff leave, while making certain that work demands are not an insurmountable obstacle to negotiating leave arrangements.
- 3) Proactively manage excess leave liability through developing Excess Leave Management Plans with employees who have accrued excess leave or excess time off in lieu.

EMPLOYEE LEAVE MANAGEMENT PLANS

- 1) An Employee Leave Management Plan (ELMP) is an agreement between the employee and employer that designates actions for reducing excess leave accrual in a timely manner (refer attached sample ELMP).
- 2) It is the responsibility of managers and employees to develop an ELMP where the employee has "Excess Annual Leave" and/or "Excess Time off in Lieu".
- 3) An ELMP must take into consideration the additional leave that will fall due during the ELMP timeframe.
- 4) An employee who is entitled to annual leave or long service leave may, with the consent of the employer, take annual leave or long service leave:
 - a) on full pay; or
 - b) on half pay; or
 - c) on double pay

When an employee takes annual leave or long service leave, the leave entitlement will be deducted on the following basis:

- a) a period of leave on full pay - the number of days so taken; or
 - b) a period of leave on half pay - half the number of days so taken; or
 - c) a period of leave on double pay - twice the number of days so taken
- 5) Where an employee has not complied with the agreed ELMP, the manager may direct the employee to take annual leave at a time convenient to Council, taking into account, where possible, the wishes of the staff member. Such a direction must provide a minimum of four (4) weeks' notice to the employee.
 - 6) Where an employee has not complied with the agreed ELMP, the manager may direct the employee to take long service leave at a time convenient to Council, taking into account, where possible, the wishes of the staff member. Such a direction must provide a minimum of four (4) weeks' notice to the employee and can only apply in respect of long service leave accrued on or after 23 June 1988 and not taken within five years of it falling due.
 - 7) Where an employee has not complied with the agreed ELMP, the manager may direct the employee to take time off in lieu at a time convenient to Council, taking into account, where possible, the wishes of the staff member. Such a direction must provide a minimum of two (2) weeks' notice to the employee.

*Adopted by Council 15 August 2022
Refer minute 169/22*

*Adopted by Council 17 June 2019
Refer minute 158/19*