

# OTHER LEAVE

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## Authority and Application

Clause 70 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement) applies to Victorian Public Service Departments and Agencies (Employers) and their Employees covered by the Agreement.

## Overview

Employees may apply for Other Leave with Pay or Leave Without Pay (LWOP) for any purpose, for example:

- cultural and religious purposes; or
- activities inherently associated with an Employee's disability not already provided for by specific leave entitlements under the Agreement or otherwise agreed with the Employer; or
- paid family violence leave for casual Employees; or
- additional study leave under clause 69.6 of the Agreement.

Other Leave (whether paid or unpaid) is not an automatic right, approval of the leave is at the discretion of the relevant delegate. Requests for Other Leave will be assessed on a case by case

basis and will be considered having regard to both the needs of the Employee including their personal and family responsibilities and the reasonable business needs of the Employer. Approval of requests for Other Leave with pay will generally only be approved for a short duration and for a specified purpose at the express discretion of the Employer.

## Relevant provisions of the VPS Agreement

### 70. Other Leave

## Supplementary Guidance Information

### 1. Requests for Other Leave

- 1.1. Requests for Other Leave must be made as soon as reasonably practicable prior to the proposed commencement of the leave.
- 1.2. Clause 70 of the Agreement does not relate to requests to take LWOP in connection with a period of parental leave or unpaid personal/carers leave. Employees seeking to take unpaid leave in connection with a period of parental leave resulting from the birth or adoption of a child or as a result of exhausting all their accrued personal/carers leave entitlements should refer to clauses 55 (Parental Leave) or 51 (Personal/Carer's Leave) of the Agreement and its associated guidance for further information.
- 1.3. Other Leave must be approved prior to leave being taken. However, in exceptional circumstances, the Employer may grant Other Leave where it has not been approved in advance (for example, in the case of an emergency or other unforeseeable circumstance).
- 1.4. Other than in exceptional circumstances, an Employee requesting Other Leave, whether paid or unpaid, should exhaust all paid leave and time in lieu credits prior to the proposed commencement of the Other Leave.
- 1.5. Employees may request leave for a period of any duration and approval is at the discretion of the relevant delegate. However, approval for LWOP requests in excess of 12 months will be given in exceptional circumstances only. Approval of requests for Other Leave with pay will generally only be approved for a short duration and for a specified purpose.
- 1.6. Each period of Other Leave must be agreed and approved. For extended periods of Other Leave, the Employer may require the Employee to seek approval at least every 12 months. There is no automatic entitlement to have further requests approved simply because an earlier request was approved. The Employer will consider each individual request on its merits.
- 1.7. Employees applying for Other Leave for the purpose of undertaking outside employment must refer to their Employer for further guidance and restrictions on engaging in outside employment.

### 2. Considering whether to grant a request for Other Leave

- 2.1. Other Leave is not an automatic right. In considering a request for Other Leave, the Employer, in consultation with the Employee, should consider whether another form of leave for example, unpaid personal/carer's leave, extended family leave or any other leave outlined in the Agreement more appropriately suits the circumstances of the request.

- 2.2. The Employer should consider Other Leave requests promptly and in a balanced way, having regard to both the needs of the Employee (including their personal and family responsibilities) and the reasonable business needs of the Employer.
- 2.3. Whilst Other Leave is not an entitlement where the Employer refuses a request, the Employer should endeavour to discuss the reasons for the refusal with the Employee as soon as reasonably practicable.

### **3. Extended periods of Other Leave without pay**

- 3.1. Where an Employer and Employee agree on an extended LWOP arrangement, for example, a period of extended LWOP without pay for a career break, the Employer may grant LWOP for an extended basis conditional on the Employee accepting they may be unattached from their substantive position and that the Employer may reallocate the Employee to a position or duties other than the Employee's pre-leave position or duties for which the Employee is qualified for and is capable of performing upon their return to work. If no suitable duties can be allocated when the Employee is due to return, the Employee may be declared surplus to requirements and a redeployment process commence on their return to work. This condition may be applied regardless of whether the extended absence was approved upfront or occurred as a result of a series of approved absences.
- 3.2. It is recommended that arrangements of this nature be recorded in writing, and the Employee be required to acknowledge they are aware that in the event there are no suitable duties to which the Employee can be re-allocated to upon their return to work, the Employee may be declared surplus to requirements and the redeployment process outlined in the Redeployment Policy be applied to their employment.
- 3.3. An Employee granted a period of extended LWOP may request to return to work earlier than the agreed date. The Employer is not obliged to grant a request for early return, however should facilitate a request where reasonably practicable. Where not reasonably practicable, the Employer may consider other options, such as the Employee returning to a different role, if a suitable position is available, on a temporary basis until the end of the approved LWOP period.

### **4. Effect of LWOP on an Employee's service**

- 4.1. Unless otherwise expressly provided for by the Agreement, LWOP shall not break the Employee's continuity of service but will not count as service for the purpose of accrual of leave including, annual leave, personal leave, long service leave and redundancy entitlements etc.

### **5. Communications during a period of Other Leave**

- 5.1. The Employer will take reasonable steps to make information available to an Employee on Other Leave in relation to a decision to introduce major change likely to have a significant effect on the Employee.

### **Making decisions under this policy**

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

## Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 70 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

## Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

## Related policies or documents

### VPS Enterprise Agreement Common Policies

- Annual Leave
- Parental Leave
- Personal/Carer's Leave
- Surrogacy Leave
- Gender Transition Leave
- Family Violence Leave
- Cultural and Ceremonial Leave
- Leave to attend First Peoples Assembly
- Leave for Blood Donations
- Leave for Voluntary Emergency Management Activities
- Voluntary Community Activities Leave
- Participation in Sporting Events
- Outside Employment
- Redeployment
- Implementation of Change
- Grievance/Review of Action

All policies in the VPS Enterprise Agreement common policies collection can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>

Authorised by Industrial Relations Victoria:

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