

1. POLICY CERTIFICATION

Policy title:	Leave Policy
Policy number:	011
Category:	Policy
Classification:	HR
Status:	Approved

2. PURPOSE

Roper Gulf Regional Council (RGRC) requires all employees to abide by the leave policy and procedures when taking any leave entitlements. Any employee that breaches this policy may have disciplinary action taken against them.

3. ORGANISATIONAL SCOPE

This policy applies to all RGRC employees.

4. POLICY STATEMENT

RGRC will comply with all minimum leave standards of the Local Government Industry Award 2010 (LGIA 2010) and the National Employment Standards (NES). RGRC takes seriously its obligation to ensure that all employees are able to take leave as required throughout the year.

Prior to the commencement of any leave employees must submit a leave application form and obtain written approval from their supervisor or manager. The only exception to this rule is in the event of illness, sickness or special circumstances. On immediate return from such leave employees must complete a leave application form and submit it to their supervisor or manager for approval.

5. DEFINITIONS

Award	<i>Local Government Industry Award 2010</i>
Cash out	Means employees get payment instead of taking the time off work
Child	<p>A child of a person is:</p> <ul style="list-style-type: none"> • A biological child of the person; or • An adopted child or step-child of the person; or • If, at any time, the person was in a relationship as a couple with another person (whether the persons are the same sex or different sexes) – a child who is a product of the person’s relationship with that other person. <p>It does not matter whether the child is an adult.</p> <p>For the purposes of the above, a child cannot be the product of a relationship between two persons (whether the persons are the same sex or different sexes) for the purposes of this Part unless the child is the biological child of at least one of the persons or has been legally adopted.</p>
Cultural Business	The Ceremonial rituals relating to burials; coming of age and discipline. Some cultural business such as funerals is referred to as ‘sorry business’.
De facto partner	<p>A de facto partner in relation to an employee:</p> <ul style="list-style-type: none"> • Means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and

	<ul style="list-style-type: none"> Includes a former de facto partner of the employee.
Immediate Family	The following are members of an employee’s immediate family: <ul style="list-style-type: none"> A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.
Medical certificate	Means a certificate signed by a medical practitioner.
Medical practitioner	Means a person registered, or licensed, as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners.
NES	The National Employment Standards
Other definitions	For a full list of definitions refer to The National Employment Standards.
RGRC	Roper Gulf Regional Council
The Act	<i>Fair Work Act 2009 (Cth)</i>

6. PRINCIPLES

6.1 Annual Leave

This section applies to all employees other than casual employees.

Full time employees of RGRC are entitled to six (6) weeks paid annual leave for each year of service. This entitlement will be calculated on a pro-rata basis for part time employees.

An employee’s entitlement to paid annual leave accrues progressively during a year of service, according to ordinary hours of work (including hours of paid leave). Employees will be paid their hourly ordinary time rate of pay during periods of annual leave, plus an annual leave loading of 17.5%.

Annual leave shall be taken at such a time mutually convenient to RGRC and the Employee, and may be taken for a period agreed between an employee and his or her supervisor. Supervisors and managers cannot unreasonably refuse to agree to a request by an employee to take annual leave.

Leave forms should be lodged at least two weeks prior to the period of leave, so that supervisors and managers are able to manage workloads and deadlines. Only in exceptional circumstances should supervisors and managers approve leave forms which are lodged within two (2) weeks of the period of leave.

When approving leave supervisors and managers must consider the operational requirements and resourcing of RGRC prior to approval.

If a period of annual leave includes a part or full day public holiday in the place where the employee is based then the employee is taken to not be on annual leave during that public holiday period.

RGRC may direct an employee who has an excessive leave accrual to take annual leave provided that:

- The employee has a leave accrual balance of greater than eight weeks;
- There has been a genuine attempt by the employer to reach agreement with the employee as to how to reduce the leave accrual;
- The employee is not required to take a period of annual leave which begins less than 8 weeks from the date the direction to take the leave is given; and
- As a result of the direction to take leave, the employee does not at any time have a remaining accrued entitlement to annual leave of less than six (6) weeks.

Any unused accrued annual leave will be paid to an employee on termination of their employment. In paying such leave, the employer will pay to the employee the amount that would have been payable to the employee had the employee taken the leave as leave.

Leave Loading

A loading of 17.5% of an employee's hourly ordinary time rate of pay shall be payable to an employee when taking a period of annual leave

Leave Paid at Commencement of Leave Period

An employee may choose to be paid annual leave at the commencement of their approved period of annual leave rather than be paid annual leave fortnightly during the period of the approved annual leave.

If an employee wants to be paid annual leave at the start of their period of leave, it needs to be specified on the leave form.

The employee must have the full annual leave entitlement to have the annual leave component paid in advance. If there is insufficient annual leave accrued at the time of payment, it will not be paid.

Cashing Out of Annual leave

The employer and an employee may agree to the employee cashing out a particular amount of paid annual leave, provided that:

- The agreement does not result in the employee's remaining accrued annual leave entitlement to paid annual leave being less than 4 weeks;
- Each agreement to cash out a particular amount of paid annual leave is a separate agreement, and in writing;
- The employer pays to the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone;
- There is no undue employer influence forcing the employee to cash out paid annual leave.

A maximum of two (2) weeks paid annual leave can be cashed out in any twelve month period.

All agreements to cash out annual leave must be signed by the CEO.

6.2 Personal / Carer's Leave

This section applies to all employees other than casual employees.

Full time employees of RGRC are entitled to 10 days paid personal / carer's leave for each year of service. This entitlement will be calculated on a pro-rata basis for part time employees.

An employee's entitlement to paid personal / carer's leave accrues progressively during a year of service, according to ordinary hours of work (including hours of paid leave). Personal / carer's leave accumulates from year to year.

An employee may take paid personal / carer's leave if the leave is taken:

- Because the employee is not fit for work because of a personal illness or personal injury, affecting the employee; or
- To provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of personal illness or injury affecting the member, or an unexpected emergency affecting the member.

If a period of personal / carer's leave includes a part or full day public holiday in the place where the employee is based then the employee is taken to not be on personal / carer's leave during that public holiday period.

An employee must notify their employer as soon as is practicable of their inability to attend for work, and the expected period of the absence. Where this notification is not provided within 30 minutes of the employee's scheduled work starting time, the leave may not be approved.

Notification of absence must be directly to the employee's supervisor or manager. It is a requirement that the initial notification of non-attendance be verbal. Where such notification includes advice that the absence could be for an extended period, subsequent updates may be made via text message or email.

An employer can request evidence about the reason for personal/carer's leave. The request for evidence has to be reasonable. If the employee doesn't provide the requested notice or evidence the leave will not be approved.

Where an employee has utilised all paid personal/carer's leave entitlements, he or she may utilise accrued annual leave.

Personal/carer's leave will be paid at the employees' base rate of pay for ordinary hours of work in the period.

Documentation Requirements

An employer may request evidence that would satisfy a reasonable person of an employee's entitlement to the leave. This may be in the form of a medical certificate, or statutory declaration.

The employee must provide a medical certificate and/or statutory declaration if they:

- take two or more consecutive days of personal/carer's leave; or
- take one or more days of personal/carer's leave on either side of a public holiday or a period of annual leave; or
- take five or more days in a six month period; or
- take personal/carer's leave on any day, at the discretion and direction of the Council.

Pre-arranged medical appointments and/or elective surgeries relating to the employee will be covered by personal/carer's leave (as sick leave), provided that written confirmation is given to the employer detailing the time, duration, and location of such appointment and/or surgery (including details relating to expected recovery time). Travel time may be included in the leave period, but such travel time will be based on the nearest location at which the appointment and/or surgery is available, whether or not that is the actual location.

An employee cannot access personal/carer's leave for pre-arranged medical appointments and/or elective surgeries where such appointments relate to the employee's immediate family or household, unless medical certification is provided which confirms that the employee is required to care for and/or assist the person in attending and/or recovering from the appointment and/or surgery.

Long Periods of Sick Leave

An employee can take as much paid sick leave as they have accumulated to get better from an injury or illness.

An employee cannot be dismissed because they are sick. This includes when an employee is on paid sick leave for a long period of time.

When an employee has run out of paid sick leave, they can take unpaid leave if they are not fit for work because they are sick or injured. If the employee is on unpaid sick leave, they cannot be dismissed if:

- they have been away for three (3) months or less; and
- they provide evidence of their illness or injury.

6.3 Unpaid Carer's Leave

Employees are entitled to two (2) days of unpaid carer's leave for each permissible occasion when a member of the employee's immediate family or a member of the employee's household, requires care or support because of:

- A personal illness, or injury, affecting the member; or
- An unexpected emergency affecting the member.

An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid carer's leave. That is to say, all paid carer's leave must be utilised by the employee before taking unpaid carer's leave.

An employee may take unpaid carer's leave for a particular permissible occasion as;

- A single continuous period of up to two (2) days; or
- Any separate periods to which the employee and his or her employer agree.

6.4 Compassionate Leave

All employees (including casual employees) are entitled to five (5) days of compassionate leave for each permissible occasion when a member of the employee's immediate family:

- Contracts or develops a personal illness that poses a serious threat to his or her life; or
- Sustains a personal injury that poses a serious threat to his or her life; or
- Passes away.

In the event of a death the employee may be required to provide one of the following as evidence;

- a copy of the funeral notice; or
- a letter from the funeral service; or
- a copy of the death certificate; or.
- A statutory declaration.

In the event of a serious illness or injury evidence to be provided can be either a letter or note from an appropriately qualified medical practitioner. An employee may in exceptional circumstances, in consultation with their Manager provide an alternative form of evidence.

Taking Compassionate Leave

An employee may take the five (5) days compassionate leave for each permissible occasion if the leave is taken:

- For the purpose of spending time with the member of the employee's immediate family or household who has contracted or developed the personal illness or sustained the personal injury referred to above in Compassionate Leave.
- After the death of the member of the employee's immediate family or household referred to above in Compassionate Leave.

An employee may take compassionate leave for each permissible occasion as:

- A single continuous period of five (5) days; or
- Any separate periods to which the employee and his or her employer agree.

An employer can request evidence about the reason for compassionate leave (as per dot points above). The request for evidence has to be reasonable. If the employee does not provide the requested notice or evidence, the compassionate leave will not be approved.

An employee will be paid at their base rate of pay for their ordinary hours of work for the period.

6.5 Community Service Leave

All employees (including casual employees) can take community service leave for certain activities such as:

- Voluntary emergency management activities;
- Jury duty (including attendance for jury selection).

Voluntary emergency management activity

An employee engages in a voluntary emergency management activity if:

- The activity involves dealing with an emergency or natural disaster;
- The employee engages in the activity on a voluntary basis;
- The employee was either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted;
- The employee is a member of, or has a member-like association with a recognised emergency management body.

Employees must give notice of their absence prior to taking community service leave to their supervisor or manager. All community service leave must be approved prior to taking the leave by the CEO through the HR department.

If the leave is for the purpose of engaging in emergency service activities and the matter is urgent the employee may provide notice to any Regional manager or supervisor. If it is not practicable to provide notice prior to the leave, the employee must give notice as soon as possible after commencing the leave. Notice must include the period or expected period of absence from the workplace. It is noted employees engaged in emergency service activities may not be able to provide a definitive period of absence; they should however attempt to provide an indicative period.

Employees taking leave for the purposes of jury duty must provide the evidence documents provided by the courts.

With the exception of jury duty, community services leave is unpaid. Refer to the NES for payment of jury duty.

6.6 Defence Reserve Leave

Australia's Defence Reserves are an essential component of the Navy, Army and Air Force. Reservists may be required to be deployed on operations overseas or in Australia.

As well as workplace rights and entitlements under the *Fair Work Act 2009* (Cth), reservists have additional workplace protections under the *Defence Reserve Service (Protection) Act 2001* (Cth).

Employers are required by law to release employee reservists to undertake all types of Defence service, and to continue to employ them on their return. This includes training.

Reservists should, as a matter of good practice, always try to give their employer as much notice as possible of the dates they will be absent from work on Defence service.

There is no legal obligation for employers to pay employees while they are absent on Defence service, including training. Employees cannot be required to take their annual leave or long service leave for absences on Defence service, but may voluntarily elect to do so by mutual agreement with their employer.

6.7 Long Service Leave

Long service leave will be in accordance with the Long Service Leave Act of the Northern Territory as amended from time to time.

All employees, including casual employees, who have been employed for a continuous period of 10 years will be entitled to take long service leave for a period equal to 1.3 weeks for each completed year of that 10 years continuous service.

Where an employee has completed a period of 10 years of continuous service, the employee becomes entitled to take long service leave on the completion of each subsequent 5 years continuous service for a period of 1.3 weeks for each completed year of that five (5) years continuous service.

Periods of long service leave, and periods of unpaid leave do not count as service for the purposes of accruing long service leave.

Where a public holiday occurs during a period of long service leave, the public holiday shall be deemed to be part of the long service leave, and the period of leave shall not be increased because of the public holiday.

Where an employee has been employed for a continuous period of less than 10 years but not less than seven (7) years, their pro-rata entitlement to long service leave will be paid on termination of employment if:

- The employee has reached retirement age;
- The employer terminates the employee (unless due to serious misconduct);
- The employee terminates due to illness, incapacity, or domestic or other pressing necessity of such a nature as to justify so ceasing to be an employee.

Long service leave cannot be cashed-out.

Generally, the time for using leave is by mutual agreement between the employer and employee. However, the employer can require the employee to take their long service leave entitlement provided the employee is given two (2) months' notice.

Leave should be taken as a single continuous period unless agreed by the employee and employer, in which case it cannot be taken in more than three (3) separate periods of not less than 4 weeks each.

RGRC will comply with Section 109 of the *Local Government Act*, which enables a person to elect to transfer their accrued and accruing rights to long service leave, where they have left one eligible employer, and, within a three month period, commenced employment with another eligible employer. For these purposes, an eligible employer\ is:

- A council for an area within the Northern Territory;
- A local government subsidiary formed with the Minister's approval under the Local Government Act (this includes CouncilBiz); and
- LGANT.

6.8 Parental Leave

Parental leave is leave which can be taken when:

- a) The leave is associated with:
 - The birth of a child of the employee or the employee's spouse or de facto partner;
 - The placement of a child under 16 years of age with the employee for adoption; and
- b) The employee has or will have a responsibility for the care of the child.

Parental leave is available to full time, part time, and eligible casual employees who have at least 12 months continuous service:

- As at the date of birth, or the expected date of birth, of the child;
- As at the day of placement, or expected day of placement, of the child; or
- As at the date on which the period of leave is to start, when the employee is taking a period of parental leave that is to start within 12 months after the birth or placement of the child.

An eligible casual employee is one who has been employed on a regular and systematic basis for a period of at least 12 months and who would have a reasonable expectation of ongoing employment.

Employees who satisfy the eligibility requirements of parental leave may have an entitlement to the following:

- **6 weeks** paid parental leave, in the form of maternity, paternity, or adoption leave, available to the primary care giver of the child. This paid leave reduces the employee's entitlement to unpaid parental leave.
- **12 months** unpaid parental leave, available to the primary care giver of the child.
- **2 weeks** paid partner leave, available to an employee who is the spouse/partner of the primary care giver. An employee taking paid partner leave can also request an additional six (6) weeks unpaid partner leave. Partner leave will reduce an employee's subsequent entitlement to parental leave.

Parental leave must be taken in a single continuous period.

The Employee may take any other forms of paid leave to which they are entitled, such as annual or long service leave, during the course of unpaid parental leave.

An employee who is pregnant can commence parental leave no earlier than six weeks before the expected date of birth, unless by agreement between employee and employer.

If a pregnant employee continues to work during the period of six weeks before the expected date of birth of the child, the employer may ask for a medical certificate containing the following:

- A statement of whether the employee is fit to work
- If the employee is fit for work – a statement of whether it is inadvisable for the employee to continue in their current position during the stated period because of:
 - Illness, or risks, arising out of the employees pregnancy; or
 - Hazards connected with the position

Parental leave can commence at any time within 12 months after the date of birth or date of placement of the child.

Notice of parental leave must be provided in writing no later than **10 weeks** prior to the commencement of the leave, or, if it is not possible to so, as soon as practicable. The notice must provide the intended start and end dates of the leave.

Employees applying for parental leave may be required to provide evidence that would satisfy a reasonable person of the actual or expected date of birth of a child (e.g. a medical certificate), or the day or expected day of placement of a child under 16 years of age.

For further full entitlement detail and information refer to the NES.

6.9 Cultural Business Leave

Cultural Business Leave may be granted after a Community Elder notifies the Regional Services Manager, Director or CEO of the cultural business event with 24 hours' notice. A level of service delivery needs to be determined depending on the application and staff may access this leave via 1 of 3 options:

1. Compassionate leave;
2. Annual leave and;
3. Leave without pay.

Refer to the RGRC GOV004 Cultural Business Policy for further information.

6.10 Leave Without Pay

Leave without pay is not an employee entitlement.

Employees may make application for leave without pay in circumstances where they have exhausted all other leave entitlements. Employees must disclose the purpose and timeframe when requesting leave without pay. Leave without pay will not be granted for periods in excess of six (6) months. Leave without pay will not be granted for the purpose of taking up other paid employment.

Leave without pay may be granted for:

- The purpose of extending a holiday/travel,
- To settle personal matters where an extended period of leave is needed,
- To undertake a study program

Leave without pay will not be approved if it is not in the best interests of RGRC and conflicts with operational requirements.

Current RGRC staff members are prohibited from holding office as elected members of RGRC (s37(1)(d) *Local Government Act*). Section 110 of the *Local Government Act* makes provisions for staff members to resign for the purposes of standing as candidates for election.

If a staff member chooses to stand as a candidate for election as an elected member of RGRC, the Legislative Assembly, or the Commonwealth House of Representatives, or the Senate, they must choose to resign specifically for that purpose by giving the CEO written notice no more than 28 days before the close of nominations for the relevant election. If the staff member is not elected, they may apply to the CEO to be reinstated within seven (7) days after the result of the election is known, and they shall be reinstated,

A staff member who is reinstated under this provision is to be treated as having been on leave without pay between the date of resignation and the date of reinstatement.

6.11 Study Leave

RGRC supports the professional development of its employees in a manner which is beneficial to both the employee and the organisation.

Paid leave may be granted to employees to attend external studies and shall include travelling time but only if that travel occurs during normal hours in which the employee would normally have been required to work.

Paid time off for the purpose of study will be negotiated between the employee and the Department Manager. This paid time will not exceed five (5) hours per week and will include travelling time. The greater or equivalent period of time spent studying must be conducted in the employees own time.

Operation requirements and a requirement not to disadvantage RGRC service delivery will be taken into consideration prior to the approval of study leave.

The CEO, or their delegate, may retract preapproved study leave under extreme operational requirements.

Staff who participate in authorised external studies may be offered a reasonable amount of time during working hours for the purpose of study.

The amount of time offered will depend on the nature and length of the course, and may vary depending on operational requirements.

6.12 Time Off in Lieu (TOIL)

The employer and an employee may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

Any amount of overtime that has been worked by an employee in a particular pay period which is to be taken as time off in lieu must be the subject of a separate agreement.

Time in lieu accrues as an hour of TOIL for an hour of overtime worked – it does not accrue at overtime rates.

TOIL must be taken within six (6) months of the overtime being worked.

All overtime must be approved by the Director, including overtime which is to be taken as time off in lieu.

7. PUBLIC HOLIDAYS

Roper Gulf Regional Council recognises the following public holidays:

- New Year's Day
- Australia Day
- Good Friday
- Easter Saturday
- Easter Monday
- Anzac Day
- May Day
- Queen's Birthday
- Christmas Day
- Boxing Day
- Katherine Show Day – all employees except for Borroloola staff
- Borroloola Show Day – Borroloola employees only

For full information and entitlements refer to The National Employment Standards, Fair Work Act 2009 (Cth), Local Government Industry Award 2010 and the Local Government Act.

8. REFERENCES

Acknowledgements (original author/source documents)	Human Resource Unit
Related Policies	<ul style="list-style-type: none"> • ADM004 - Cultural Business Policy • HR007 - Study Leave Policy • HR014 – Employee Training and Development Policy
Related Publications	<ul style="list-style-type: none"> • <i>Long Service Leave Act of the Northern Territory</i> • <i>Local Government Industry Award 2010</i> • the National Employment Standards • <i>Fair Work Act 2009 (Cth)</i> • <i>Defence Reserve Service (Protection) Act 2001 (Cth)</i>
Relevant Forms	<ul style="list-style-type: none"> • HR005 - Leave Form • HR023 - Overtime Request Form

9. DOCUMENT CONTROL

Policy number	011
Policy Owner	HR
Endorsed by	OCM
Date approved	10 October 2013
Revisions	2 July 2017, 23 August 2017
Amendments	16 December 2015, 24 March 2016, November 2016 – Policy Statement; Definitions, 6 Principles , 7 & 8 TOIL 23 August 2017
Next revision due	June 2021

10. CONTACT PERSON

Contact person	Human Resource Manager
Contact number	08 8972 9012