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# STAFF LEAVE Policy

# TEMPLATE

## **1. Purpose**

To detail the principles related to leave for continuing and fixed-term staff for:

1. Annual Leave
2. Personal Leave
3. Long Service Leave
4. Community Service Leave (Jury Service)
5. Parental and Adoptive Leave
6. Unpaid Leave

Leave for time off in lieu (TOIL) is dealt with in the Staff Time Off In Lieu (TOIL) Policy.

## **2. Scope**

This policy applies to all eligible staff members employed at Indigenous Remote Communications Association ([ORGANISATION]).

## **3. Definitions**

**Annual Leave**: Annual Leave (also known as holiday pay/leave) allows an employee other than a casual employee to be paid while having time off from work. Annual Leave attracts an Annual Leave loading of 17.5% on the value of the leave taken at any given time.

[ORGANISATION] recognises the value of an effective break from the working environment. Time away from the workplace to re-charge and relax is encouraged and we are committed to ensuring that Annual Leave is taken by employees each year in order to provide this. For this reason, Annual Leave should be taken within 12months of its accrual.

**Personal Leave**: Personal leave (also known as Personal/Carers Leave) allows an employee other than a casual employee to be paid according to the entitlements set out in this Policy while having time off from work for purposes of:

* Personal sickness and injury.
* Cultural or ceremonial leave for which an employee has cultural obligations of attendance.
* Compassionate leave for bereavement and/or funeral attendance as relevant for immediate family members.
* Support for illness, injury or care needs of immediate family members.

Immediate family members are:

* Spouse or former spouse
* De facto partner or former de facto partner
* Child
* Parent
* Grandparent
* Grandchild
* Sibling, or
* Child, parent, grandparent, grandchild, or sibling of the employee’s spouse or de facto partner (or former spouse or de facto partner).

The definition of immediate family members includes step-relations, adoptive relations and same sex spouses or de facto partners.

Attendance at medical/dental/health/wellbeing related appointments or for elective surgery, that are pre-arranged, do not fall within the meaning Personal Leave.

**Long Service Leave**. Long service leave recognises continuous employment of 10 years and more with an employer, and in certain circumstances for service between 7 and 10 years. Long Service Leave provides paid leave additional to Annual Leave and for purposes other than Personal Leave. Provisions for Long Service Leave are those set in the Northern Territory Long Service Leave Act 2015,

**Community Service Leave:** Community service leave providesfor paid leave when an employee is called for jury selection and for jury service where selected. Jury leave is available to full and part-time employees as well as to casual employees.

**Parental and Adoptive Leave:** Parental and Adoptive Leave is leave that can be taken when an employee gives birth, an employee's spouse or de facto partner gives birth, or an employee adopts a child under 16 years of age.

**Unpaid Leave:** Unpaid Leave (also known as Leave Without Pay/LWOP) is approved leave where a Leave provision is not payable whether through unapproved absence from the workplace, or for approved absence where relevant paid entitlements have been exhausted. Unpaid leave does not count for accruals of Annual Leave, Personal or Long Service Leave.

**Ordinary hours of work**. Ordinary hours of work are the hours that are regularly worked each week by full-time and part-time employees, but excluding approved overtime or excess hours that would otherwise be calculated for Time off in Lieu entitlements.

## **4. Policy**

[ORGANISATION] Staff Leave provisions are guided by the National Employment Standards (NES) and the Employee Entitlements set out by the Fair Work Ombudsman under the Fair Work Act 2009 (The Act), and any future revisions of that Act.

[ORGANISATION] provides paid leave to eligible employees for:

* **Annual Leave** at the rate of 4 weeks per annum (pro rate for part-time employees).
* **Personal Leave** at the rate of 10 days per annum (pro rate for part-time employees)
* **Long Service Leave** at the rate set out in the [name of state/territory]Leave Act 2015.
* **Community Service Leave** for jury selection or service at the rate of 10 days per annum (pro rata for part-time employees)

Unused Annual Leave and Personal Leave accumulate annually as per the conditions set out in the relevant Schedule to this Policy. Community Service Leave does not accumulate.

Casual employees are not eligible for Annual or Personal Leave.

[ORGANISATION] may approve unpaid leave for:

* Parental or Adoptive Leave
* Absences where relevant entitlements to leave have been exhausted and under certain conditions. Any approvals for unpaid leave will be at Management discretion according to the needs of the workplace and the nature of the absence.

Summaries of the conditions of leave are set out in the **Schedule of Leave Entitlements and Conditions** attached to this Policy. Where there is a discrepancy, either in fullness of detail or in substance, between the provisions and conditions set out in the Schedule on the one hand, and the National Employment Standards (NES) and the Employee Entitlements set out under the Fair Work Act 2009 (The Act) on the other, the provisions of the NES and The Act are the final authority.

**Related Policies**

* TOIL Policy
* Workplace Grievance and Dispute Resolution Policy

**Relevant Legislation**

* Fair Work Act 2009
* [State/Territory] Long Service Leave Act 2015

## Authorisation

<Signature of Board Chair>

<Signature of Manager>
<Date of approval by the Board>
<Name of Organisation>

## **Schedule of Leave Entitlements and Conditions**

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## **Preamble**

Where there is a discrepancy either in fullness of detail or in substance between the provisions and conditions set out in this Schedule the one hand, and the National Employment Standards (NES) and the Employee Entitlements set out under the Fair Work Act 2009 on the other, the provisions of the NES and The Act are the final authority.

## **1. Annual Leave**

**1.1 Entitlement**

Full-time permanent employees are entitled to five (5) weeks’ paid Annual Leave for each completed year of service, calculated on a pro-rata basis in accordance with relevant legislation. Part-time permanent employees accrue Annual Leave on a pro-rata basis. Casual employees are not entitled to Annual Leave; instead the Annual Leave entitlement is included as a loading in the hourly rate.

Annual Leave may be taken at such time as may be agreed between the employee and [ORGANISATION]. Where excessive balances of Annual Leave have accrued (more than 8 weeks), [ORGANISATION] may direct an employee to take Annual Leave.

Annual Leave may be taken prior to completing the first year of service, with approval. Annual Leave may not be taken in advance of it being accrued, unless agreed with the [ORGANISATION] General Manager or his/her delegated authority. Annual Leave does not accrue during any period of unpaid leave, including parental leave.

**1.2 Calculating Annual Leave**

An employee’s entitlement to Annual Leave accrues progressively during a year of service according to their ordinary hours of work and accumulates year to year. Hours for public holidays that fall within the ordinary hours of work as well as paid annual, personal leave or long service leave that applies within the employee’s ordinary hours are included in the calculation of Annual Leave entitlements - see Schedule Clauses 1.8 and 1.9.

An employee will be paid Annual Leave at their base rate of pay for their ordinary hours during the period of leave plus Annual Leave loading as set out in Schedule Clause 1.7. Any entitlement to bonuses, other loadings, monetary allowances, overtime or penalty rates is additional to this and is calculated on a case by case entitlement as may be set out in the employee’s contract of employment or any other mutually agreed arrangement.

**1.3 Taking Annual Leave**

**1.3.1 Full and part time employees**

Annual Leave should be taken at a time mutually convenient to the employee and [ORGANISATION].

An application for Annual Leave must be submitted to cover the staff member’s absence and will normally be requested and approved in advance. A supervisor, however, may approve a retrospective application for Annual Leave.

Staff members are required to take a minimum of five weeks Annual Leave (or the full amount of leave credited to the staff member if it is less than five weeks) during the calendar year.

Notwithstanding the above, a staff member may apply to their Manager to defer taking leave to enable accrual to a maximum of 8 weeks. All deferral requests will identify dates the leave will be taken.

Approval of Annual Leave will be at the discretion of a supervisor who will consider the:

* operational requirements of the work area, and
* personal circumstances of the staff member

A Manager will organise workloads to ensure that each staff member has the opportunity to take Annual Leave in an unbroken period at a mutually convenient time.

Annual Leave may, subject to the approval of the General Manager, or his/her delegated authority, be taken on half-pay so as to allow an employee to reduce the ordinary hours set out in their contract of employment for reasonable or pressing purposes.

A Manager will not be unreasonable in refusing an application for Annual Leave or half-time Annual Leave. Where a Manager declines an application for leave, the Manager will negotiate an alternative period of or arrangement for Annual Leave with the employee.

**1.3.2 Fixed-term employees**

Fixed-term staff members, where practicable, are required to take their accrued Annual Leave prior to the end of their employment contract.

**1.4 Excess accumulated leave**

Staff members and Managers will work cooperatively to ensure that Annual Leave balances are kept within maximum limits.

[ORGANISATION] may direct a staff member to take leave if they have accumulated eight weeks or more of Annual Leave. All requests will be with three month’s written notice.

**1.5 Cashing out Annual Leave**

A staff member may, subject to the conditions of their relevant contract of employment, submit a written request to their Manager to cash out an amount of Annual Leave within prescribed limits and subject to conditions as set out in Schedule Clauses 1.5.1 and 1.5.2.

 **1.5.1 Payment of cashed out Annual Leave**

A staff member may only have annual leave above 4 weeks accrual cashed out.

**1.5.2 Approval of cashed out Annual Leave**

Approval of a cashing out request is at the absolute discretion of [ORGANISATION]. Any approval by [ORGANISATION] must be in writing.

**1.6 Re-crediting Annual Leave**

Where a staff member becomes ill, injured or incapacitated during Annual Leave they may, in accordance with the Personal Leave procedures set out in this Policy, and on production of supporting documentation, take Personal Leave for the period of their illness or incapacity. In this circumstance, Annual Leave will be re-credited and Personal Leave debited.

Annual Leave will not be re-credited where the staff member:

* has not complied with the Personal Leave procedures set out in this Policy with respect to notification, or
* is on leave immediately prior to termination of employment.

**1.7 Annual Leave Loading**

An Annual Leave loading payment will be made to eligible staff members, calculated at 17.5% of five weeks (or pro rata leave for part-time staff) of the staff member’s base salary.

**1.8 Public Holidays**

Public holidays will be paid where they fall within a period of approved Annual Leave and count as service.

**1.9 Continuity of service**

All paid Annual Leave will count as service for the purposes of Annual Leave accrual, length of service and incremental progression. Where Annual Leave is taken on half-pay, Annual Leave entitlements will accrue at the rate of half during the leave period.

**1.10 Termination of employment**

All Annual Leave entitlements will be paid at the termination of employment and include the Annual Leave Loading as per Clause 4.7 and any other loadings or allowances for which an employee is entitled and that are payable at the time of the termination.

If an employee has taken leave in advance and the employment ends before the required replacement Annual Leave has been accrued, [ORGANISATION] may deduct the amount still owing from the employee’s termination pay.

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## **2 Personal Leave**

**2.1 Entitlement**

Full-time permanent employees are entitled to ten (10) days Personal Leave, as defined in the Definitions section of this Policy, for each completed year of service, calculated on a pro-rata basis. Part-time permanent employees accrue Personal Leave on a pro-rata basis. Casual employees are not entitled to Personal Leave; instead the Personal Leave entitlement is included as a loading in the hourly rate.

**2.2 Calculating Personal Leave**

An employee’s entitlement to Personal Leave accrues progressively during a year of service according to their ordinary hours of work and accumulates year to year. Hours for public holidays that fall within the ordinary hours of work as well as paid annual and long service leave that applies within the employee’s ordinary hours are included in the calculation of Personal Leave entitlements.

An employee will be paid Personal Leave at their base rate of pay for their ordinary hours during the period of leave. Any entitlement to bonuses, other loadings, monetary allowances, overtime or penalty rates is additional to this and is calculated on a case by case entitlement as may be set out in the employee’s contract of employment or any other mutually agreed arrangement.

**2.3 Taking Personal Leave**

Personal leave should be applied for using the [ORGANISATION] approved form and/or process as soon as possible. It is understood that the nature of Personal Leave does not lend itself to prior application for leave, but where possible prior application is encouraged.

The General Manager or his/her delegated authority may reasonably request documentation to support a Personal Leave application where the Personal leave application exceeds one (1) day as per the National Employment Standards. Documentation may include a medical certificate, a Statutory Declaration or other mutually agreed documentation.

Paid Personal Leave may be taken prior to completing the first year of service to the level of entitlement accrued, Personal Leave may not be taken in advance of it being accrued,

An employee may apply for Personal Leave for up to three (3) months where they provide evidence of illness or injury for themselves or other eligible family members as per the Personal Leave definition. The absence may be made up of any combination of paid Personal Leave entitlements and unpaid Personal Leave. The employee may also apply to:

* Include other Paid Leave entitlements in the period of absence
* Take the Personal Leave, and any other form of paid leave entitlements on half pay.

Paid Leave entitlements do not accrue during any period of unpaid leave.

**2.4 Personal Leave entitlements during Annual Leave**

Where illness or injury or any other Personal Leave entitlements arise that would otherwise have resulted in the absence of the employee from work the conditions of Schedule Clause 1.6 apply.

**2.5 Public Holidays**

Public holidays that fall within a period during which Personal Leave is taken will be calculated as Public Holiday hours.

**2.6 Continuity of service**

All paid Personal Leave will count as service for the purposes of Annual and Long Service Leave accrual, length of service and incremental progression.

**2.7 Termination of Employment and Cashing out**

Accumulated Personal Leave is not payable as part of termination payment entitlements, nor is it eligible for cashing out arrangements.

## **3. Long Service Leave**

**3.1 Entitlement**

**3.1.1 Ten (10) years or more service**

Full-time and part-time employees are entitled to Long Service Leave under the provisions of the [State/Territory] Long Service Leave Act.

Long service leave is paid leave at an employee’s ordinary rate of pay. In the normal employment situation, it first becomes available after ten (10) years of continuous service with [ORGANISATION], and becomes available again at the completion of each five (5) years after the ten (10) years.

**3.1.2 Seven (7) to ten (10) years service**

In some circumstances Long Service Leave becomes available as a payout if the employee has worked for seven (7) years for [ORGANISATION] but under ten (10) years in one of the following situations:

* The employee has reached retirement age.
* [ORGANISATION] ends employment for a reason other than serious misconduct, such as redundancy.
* The employee has an illness, incapacity or domestic or other pressing necessity which prevents the employee from being able to work.

**3.2 Calculating Long Service Leave**

When Long Service leave entitlements become available as under Schedule Clause 3.1 it is calculated at 1.3 weeks (or pro rata hours for part-time employees) of leave for each year of employment.

The qualifying period does not include unpaid absences.

**3.3 Taking Long Service Leave**

Long Service Leave should be taken at a time mutually convenient to the employee and [ORGANISATION]. An application for Long Service Leave must be submitted to cover the employee’s absence and is to be requested and approved in advance.

Annual Leave may be combined with Long Service Leave with the approval of the [ORGANISATION] General manager or his/her delegated authority.

An employee shall not, during any period while on long service leave, engage in any other remunerative employment with duties of a kind performed by the employee in the employment from which leave was granted.

**3.4 Personal Leave entitlements during Long Service Leave**

Where illness or injury or any other Personal Leave entitlements arise that would otherwise have resulted in the absence of the employee from work, the Personal Leave will be deemed to be part of the long service leave and the period of leave shall not be increased because of the holiday.

**3.5 Public Holidays**

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 holiday.

**3.6 Continuity of service**

All Long Service Leave will count as service for the purposes of Annual and Personal Leave accrual, length of service and incremental progression.

**3.7 Termination of Employment and Cashing out**

Long Service Leave entitlements are payable on termination according to the provisions of The Act.

Long Service Leave entitlements cannot be cashed out, other than when an entitlement is paid out on termination of employment.

**3.8 Other matters**

All other provisions are as set out in the Northern Territory Long Service Leave Act 2015.

## **4. Community Service Leave**

**4.1 Entitlement**

* Full-time employees are entitled to ten (10) days paid Community Service Leave as defined in the Definitions section of this Policy, in each completed year of service, and as calculated on a pro-rata basis. Part-time employees are entitled to the same leave on a pro-rata basis. Community Service Leave is not cumulative.
* Casual employees may apply for Community Service Leave.

**4.2 Payment during Community Service Leave**

* Full-time and part-time employees are to be paid 'make-up pay' for the first ten (10) days of jury selection and jury duty. Make-up pay is the difference between any jury duty payment the employee receives (excluding any expense-related allowances) from the court and the employee's [base pay rate](https://www.fairwork.gov.au/Dictionary.aspx?TermID=2130) for the ordinary hours they would have worked.
* Before paying make-up pay, [ORGANISATION] may request evidence from the employee to show:
* that the employee has taken all necessary steps to obtain jury duty pay
* the total amount of jury duty pay that has been paid or will be payable to the employee for the period.
* Casual employees are not entitled to “make-up” pay.

**4.3 Taking Community Service Leave**

* The employee is to advise [ORGANISATION] of the period or expected period of leave as soon as possible.
* If an employee requests leave they are to provide evidence showing jury selection or jury duty attendance.

**4.4 Continuity of service**

All paid Community Service Leave will count as service for the purposes of Annual and Personal Leave accrual, length of service and incremental progression.

## **5. Parental and Adoptive Leave**

**5.1 Entitlement**

**5.1.1 First instance with [ORGANISATION]**

* Employees are entitled to up to twelve (12) months of parental leave, and may request an additional twelve (12) months of leave.
* Employees who are taking parental leave to care for an adopted child are also entitled to two (2) days unpaid pre-adoption leave to attend relevant interviews or examinations.
* The twelve (12) months leave may include a mix in any combination of available Annual Leave, TOIL, Long Service Leave and unpaid leave, but may not include Personal Leave.
* Employees are able to take parental leave if they have worked for [ORGANISATION] for at least twelve (12) months:
* before the date or expected date of birth if the employee is pregnant
* before the date of the adoption, or
* when the leave starts (if the leave is taken after another person cares for the child or takes parental leave) and
* has or will have responsibility for the care of the child.
* In the case of casual employees, the employee needs to have:
* been working for their employer on a regular and systematic basis for at least twelve (12) months
* a reasonable expectation of continuing work with the employer on a regular and systematic basis, had it not been for the birth or adoption of a child.

**5.1.2 Second and subsequent instances with [ORGANISATION]**

* Employees who have taken parental leave do not have to work for another twelve (12) months before they can take another period of parental leave with [ORGANISATION].

**5.2 Taking Parental and Adoptive Leave**

* Employees should apply for Paternity and Adoptive Leave at least ten (10) weeks before starting their unpaid parental leave. This notice needs to be in writing, and say how much leave the employee wishes to take, including the starting and finishing dates. If an employee is not able to give ten (10) weeks’ notice, they need to provide as much notice as possible.
* An employee has to confirm their parental leave dates with [ORGANISATION] at least four (4) weeks before the leave is to start. If there have been any changes to the dates the employee should inform [ORGANISATION] as soon as possible.
* Employees should provide in their leave application details of the types of leave and matching dates for each type of leave be taken during the planned absence.

**5.3 Other Leave Entitlements, Public Holidays and Leave Accumulation**

* An employee will not accumulate any type of paid leave entitlements while on unpaid parental leave.
* During the twelve (12) month parental leave employees can take accumulated annual leave. However, If a public holiday falls during the annual leave, the public holiday will not be paid, but the Annual Leave period may be extended by one day.
* Employees on unpaid parental leave may not take:
* Personal Leave, or
* Community Service Leave

**5.4 Leave for illness during pregnancy**

* Pregnancy is not considered an illness or injury, however if a female employee experiences a pregnancy-related illness or injury, personal leave can be taken.
* A pregnant employee who is eligible for unpaid parental leave can take unpaid special maternity leave if:
* she has a pregnancy-related illness or
* her pregnancy ends after twelve (12) weeks because of a miscarriage, termination or stillbirth.
* If an employee takes special maternity leave because of a pregnancy-related illness, the leave will end when the pregnancy or illness ends, whichever is earlier. If she takes leave because of a miscarriage, termination or still birth it can continue until she is fit for work.
* Special maternity leave does not reduce the amount of unpaid parental leave that an employee can take.

**5.5 Keeping in Touch Days**

* Employees on Parental and Adoptive Leave are entitled to up to ten (10) days paid Keeping in Touch Days during the twelve (12) month period of leave. The purpose of the Days is to ensure that employees are able to keep up to date with changes in the workplace such as new software, processes, information, etc.
* Keeping in Touch Days may be worked in part time mode, for a single day at a time, or for a number of days in a row, etc.
* [ORGANISATION] will not request an employee on Parental and Adoptive Leave to attend a Keeping in Touch Day during the first six (6) weeks after the birth of a child or the adoption date.
* The payment rate on a Keeping in Touch Day will be at the employee’s ordinary hours’ rate.

**5.6 Termination of Employment during Parental and Adoptive Leave**

Employees are entitled to payment of any unused Annual Leave or eligible Long Service Leave entitlements where they resign during the period of Parental and Adoptive Leave.

## **6. Unpaid Leave**

**6.1 Entitlement**

There is no entitlement to Unpaid Leave except in the case of Parental and Adoptive Leave. However, the [ORGANISATION] General Manager may consider approval of unpaid leave in extenuating circumstances and where relevant leave entitlements have been exhausted. Any approval is subject to the needs of the workplace and the [ORGANISATION] General Manager may deny applications for unpaid leave that compromise the effective operation of the workplace.

Any approved unpaid leave is not eligible for calculation of Annual, Personal and Long Service Leave entitlements.

**6.2 Other Leave Entitlements, Public Holidays and Leave Accumulation**

* Approved Unpaid Leave does not count as service for the purposes of Annual and Personal Leave accrual or for the calculation of the qualifying period of Long Service Leave.
* An employee on unpaid leave is not entitled to payment for a public holiday falling within the unpaid leave period.