



ACT
Government

Disability Leave Guidelines

Office of Industrial Relations and
Workforce Strategy

Chief Minister, Treasury and Economic Development Directorate (CMTEDD)

Policy Number: 6/2023

Issued: October 2023

Contents

Purpose.....	3
Application.....	3
Key Legislative Provisions	3
Principles	3
Procedure	5
How to apply for disability leave	5
Example where disability leave may be appropriate	6
Example where an individual plan may be appropriate.....	6
Example where disability leave may not be appropriate	6
Resources for Managers.....	6
Consultation	6
References	7
Further Information.....	7
Review	7
Approval Authority	7
Attachment A – Applicable Enterprise Agreements.....	8

Disability Leave Guidelines

Purpose

1. These guidelines provide advice to staff and managers on the eligibility requirements and the process of applying for disability leave.
2. Disability leave supports employees with disability to balance their work commitments with appointments or activities associated with their disability and supports the Territory's commitment to being an equitable employer.

Application

3. These guidelines are a whole-of-government strategy issued by the Head of Service under section 17(2)(a) of the *Public Sector Management Act 1994* (ACT) (PSM Act) and binds all employees engaged under the PSM Act.
4. For the purpose of these guidelines, employees are defined as including permanent officers and temporary employees, but not casual employees of the ACTPS.

Key Legislative Provisions

5. The key provisions of these guidelines are contained in the relevant ACTPS Enterprise Agreement. To confirm clause references that apply to you please review **Attachment A**.

Principles

6. Employees with disability are eligible for disability leave, in accordance with the Enterprise Agreement. For the purposes of Disability Leave within the Enterprise Agreement, Disability is defined as a permanent or ongoing physical or psychological disability attributable to one or more intellectual, cognitive, neurological, sensory or physical impairment, or to one or more impairment attributable to a psychiatric condition. This includes disabilities where the individual is experiencing significant impact to major life activities on a permanent or ongoing basis.
7. Impairments may be temporary or permanent; visible or invisible; developed or acquired over time or present from birth. For some people, the impact of their impairment and disability may increase over time. Others may experience fluctuating impairment and disability on a day-to-day basis, which may be contributed to through environmental factors or treatment.
8. A permanent disability is where an employee's condition may affect them on a permanent basis in everyday activities in their life. The disability is considered permanent due to the likelihood the employee will be impacted across their lifetime.
9. An on-going disability is where an employee's condition may affect them on a regular or irregular basis and is on-going in nature. This may include psychological (PTSD, bipolar), or physiological (Crohn's, Multiple Sclerosis, chronic fatigue or an auto immune condition) conditions. These conditions may be managed through treatment and have varying effects on individuals on a day-to-day basis, however they have an ongoing impact to major activities in their life.
10. Employees eligible for disability leave are entitled to up to a maximum of 5 days/shifts of disability leave per calendar year, subject to the provision of appropriate evidence. Disability leave is non-cumulative. Disability leave may be taken as a part day or full day and can be taken in consecutive days. The leave will be deducted accordingly.
11. An employee may be granted access to disability leave from their first day of service.

12. Disability leave is available with pay. The rate of payment is the same as if the employee was granted personal leave. Disability leave will count as service for all purposes.
13. Disability leave is to be used for activities or appointments associated with the employee's disability, including, but not limited to any of the following:
 - a. To attend appointments with medical practitioners.
 - b. To attend treatment, rehabilitation, therapy, or counselling.
 - c. To attend tests or assessments.
 - d. To receive delivery, fitting, repairing, maintaining, and undergoing training in use of orthoses, prostheses, adaptive equipment or other aids.
 - e. To obtain wheelchair or other equipment maintenance or replacement.
14. The use of disability leave is restricted to activities associated with an employee's disability. Additional time may be taken in relation to any of the above activities to facilitate travel time.
15. Applications for disability leave will not be approved where the employee is unfit for duty due to a personal illness associated with the disability. Personal leave should be accessed in these circumstances.
16. Where an employee has exhausted their disability leave entitlement, they may apply for other forms of leave available in accordance with the Leave Section of the relevant Enterprise Agreement, or access flextime/TOIL where relevant.
17. For an employee to be able to access disability leave they must first confirm their eligibility for the leave. This must be completed via the [Disability Leave Eligibility Form](#). The form need only be completed once for employees to be able to access disability leave on an ongoing basis. It is the employee's responsibility to ensure that where there are changes to the employee's circumstances that they advise their manager. The [Disability Eligibility Form](#) can be accessed via the OneGov Service Centre and is to be submitted to the employee's manager or HR area for approval.
18. When confirming an employee's eligibility for Disability Leave, a manager may request appropriate evidence to reasonably satisfy that they meet the requirements of the Disability Leave provisions. This evidence should be sighted by the manager and returned to the employee immediately. Evidence may include any form of documentation that confirms the employee has a disability. It is not to be kept on file with the eligibility form. The eligibility form will be stored on the employees personal file maintained securely by the Shared Services Records Team.

*Please note: when considering eligibility requirements it is not the responsibility of the manager to make in depth enquiries or to determine an employee's disability type.
19. Where evidence confirming eligibility for disability leave has previously been provided by an employee to their manager for reasonable adjustments, access to leave etc. and is already on their personnel file, this information should be relied on in the first instance as evidence to support the employee's application for Disability Leave.
20. Information and medical certificates provided with the eligibility form will be handled with privacy and respect in line with the [ACTPS code of conduct \(2022\)](#).
21. Once the [Disability Eligibility Form](#) has been completed and approved, employees can [apply for disability leave](#) via the Shared Services Portal. Staff will need to select Disability Leave from the drop down list available in the leave form.

22. If an employee changes roles and will have a new manager, they do not need to complete a new Disability Eligibility form. The employee should provide a copy of the Disability Eligibility Form, or other evidence, to the new manager.
23. The Enterprise Agreement provides for employees with disability to be able to request Flexible Working Arrangements (FWA). A FWA may benefit employees where they require time away from work above the 5 days of disability leave entitlement. A FWA may explore adjustments to working locations, start and end times and work tasks. The flexible working arrangements form and/or reasonable adjustment guidance available on the employment portal should be used to develop individual arrangements.
24. The Enterprise Agreement provides for employees to be able to request reasonable adjustments through an individual plan. The purpose of an individual plan is to determine flexible working arrangements and relevant reasonable adjustments for a specific period. The plan may benefit employees where they require time away from work above the 5 days of disability leave entitlement. The plan may explore adjustments to working locations, start and end times and work tasks. It is recommended that managers and staff utilise the existing flexible working arrangements form and/or reasonable adjustment guidance already available on the employment portal in order to develop their individual plans.

Procedure

How to apply for disability leave

25. Employees wishing to access disability leave should discuss their intention to take leave, including dates and times required, with their manager or supervisor as soon as practicable. If this is the first time the employee is accessing disability leave, the Disability Eligibility Form must be completed. The disability eligibility form can be found on the OneGov Service Centre [here](#).
26. If the eligibility form is not approved the employee can appeal the decision in accordance with appeal procedures in their relevant enterprise agreement.
27. An [application](#) for disability leave is to be submitted to the delegate and must be accompanied by supporting documentary evidence. Documentary evidence may include any of the following:
 - a. A medical certificate from a registered medical practitioner or registered health professional operating within their scope of practice.
 - b. A written referral, issued by a registered medical practitioner.
 - c. A statutory declaration.
 - d. Other reasonable forms of documentation.
28. Having considered the requirements of the enterprise agreement, the delegate may approve an employee's application to access disability leave subject to operational requirements in the workplace. The delegate should make attempts to facilitate the request and can only refuse an employee's request for disability leave if the refusal is reasonable.
29. If the delegate does not approve an employee's application for disability leave because of operational requirements, the delegate and employee must determine a mutually convenient time for the leave to be taken. When declining leave the delegate must advise the employee in writing of the reasons for the application being declined if requested by the employee.

Example where disability leave may be appropriate

Lee is a paraplegic and uses a manual wheelchair. He has previously completed a disability eligibility form and provided it to his manager. Once a year Lee meets with his treatment providers to ensure the wheelchair is functioning correctly and does not need any adjustments. These appointments usually take around 2 hours and Lee is able to return to work afterwards. When Lee takes this time off, he applies for disability leave through the Shared Services Portal and attaches a certificate of attendance from the provider. Lee's manager approves the leave as it meets the criteria for this leave type. Following this absence Lee has 34.75 hours / 4.73 days of disability leave remaining for the calendar year.

Example where an individual plan may be appropriate

Chris has autism and has set up an individual plan with his manager. The plan contains flexible work arrangements which allow Chris to sit in a quieter area of the office, have the lighting adjusted to be dimmer than other areas of the office and he receives all communication through email or Teams chat, rather than phone calls. These are arrangements which allow Chris to work productively while in a busy office environment. The plan also contains an agreement for Chris to commence work early every second Friday to be able to finish sooner and attend relaxation therapy sessions related to his disability as Chris has exhausted his Disability Leave balances for the year. The plan is reviewed each year between Chris and his manager, which can be adjusted if required, where agreed by both parties. By having an individual plan in place, Chris is able to work to the best of his ability.

Example where disability leave may not be appropriate

Steph has Crohn's disease which she can usually manage through diet and medication. Sometimes she will have a flare up that causes her to feel very unwell and can be quite painful. Steph has previously completed a disability leave eligibility form and provided it to her manager. One morning Steph wakes up for work and feels nauseous, has a fever, and is fatigued. She is not able to attend work and notifies her manager that she feels unwell. The following day Steph feels better and can attend work. She applies for disability leave through the Shared Services Portal, however the application is declined by her manager as it does not meet the requirements for disability leave. Steph's manager emails her to advise of the reason for declining the leave and requests that she puts in an application for personal leave instead. The manager explains that while the absence was related to her disability, Steph was absent because she was unwell and unfit to work, not because she was attending an activity or appointment associated with her disability. In this case, personal leave is the appropriate leave type to be used.

Resources for Managers

- 30. ACTPS Disability Inclusion webpage
- 31. ACTPS Managers Guide on creating a disability inclusive workplace

Consultation

- 32. The following groups were consulted on the guidelines for disability leave:
 - a. OIRWS, CMTEDD
 - b. ACTPS JACS Staff Network for Employees with Disabilities
 - c. ACTPS People Forum
 - d. Unions

References

33. Enterprise Agreements
34. National Disability Insurance Scheme

Further Information

35. Employees should speak with their manager or HR area if they have any questions or concerns about accessing Disability Leave.
36. For further information please contact the Office of Industrial Relations and Workforce Strategy, Chief Minister, Treasury and Economic Development Directorate (CMTEDD) at eba@act.gov.au.

Review

1. This guideline is due for review 3 years from the last issued or reviewed date, or earlier where there are changes that affect the operation of the policy.

Item	Details
Document name:	Disability Leave Guidelines
Policy Number:	6/2023
Prepared by:	Assistant Director, Industrial Relations and Public Sector Employment, Office of Industrial Relations and Workforce Strategy, CMTEDD
Feedback to:	eba@act.gov.au
Issue Date:	October 2023
Last Review Date:	October 2023
Next Review Date:	October 2026

Approval Authority

Margaret McKinnon
Acting Deputy Director-General
Office of Industrial Relations and Workforce Strategy
Chief Minister, Treasury and Economic Development Directorate
On behalf of the Head of Service
October 2023

Attachment A – Applicable Enterprise Agreements

2021 – 2022 Enterprise Agreements

Instrument	Section – Disability Leave	Section – Flexible Working Arrangement
ACT Public Sector Health Professional Enterprise Agreement 2021-2022	F27	E2.3.4
ACT Public Sector Support Services Enterprise Agreement 2021-2022	F27	E2.3.4
ACT Public Sector Technical and Other Professional Enterprise Agreement 2021-2022	F27	E2.3.4
ACT Legislative Assembly Members' Staff Enterprise Agreement 2021-2022	F26	E2.3.4
ACT Public Sector Medical Practitioners Enterprise Agreement 2021-2022	106	69.3.4
ACT Public Sector Nursing and Midwifery Enterprise Agreement 2020-2022	136	98.3.4
ACT Ambulance Service Enterprise Agreement 2021-2022	F27	E2.3.4
Transport Canberra Operations (ACTION) Enterprise Agreement 2021-2022	F27	E2.3.4
ACT Public Sector Canberra Institute of Technology (Teaching Staff) Enterprise Agreement 2021-2022	100	62.3.4
ACT Public Sector Cultural Facilities Corporation Enterprise Agreement 2021-2022	F27	E2.3.4

2023 – 2026 Enterprise Agreements

Instrument	Section – Disability Leave	Section – Flexible Working Arrangement
ACT Public Sector Infrastructure Services Agreement 2023-2026	E26	B20.2.4
ACT Public Sector Education Directorate Teaching Staff Enterprise Agreement 2023-2026	E26	B20.2.4
ACT Public Sector Office of the Legislative Assembly Enterprise Agreement 2023-2026	E25	B19.2.4
ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2023-2026	E26	B20.2.4
ACT Public Sector Legal Professionals Enterprise Agreement 2023-2026	E26	B20.2.4
ACT Public Sector Correctional Officers Agreement 2023-2026	E26	B20.2.4
ACT Public Sector Canberra Institute of Technology Enterprise Agreement 2023-2026	E26	B20.2.4