



COVID-19 Leave Policy

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Introduction/Purpose

1. The purpose of this document is to provide advice on managing workforce issues in the ACT Public Sector (ACTPS) in relation to the response to COVID-19 in the Territory.
2. This advice summarises employee entitlements and leave provisions under the relevant enterprise agreements.
3. This advice provides for proportionate responses appropriate in the current environment as the ACT Government continues to transition the management of COVID-19.
4. This advice should be read in conjunction with the latest communications and directions from the ACT Chief Health Officer (or delegate) and Head of Service. This advice is not designed to provide or replace medical advice.

Application

5. This policy is a whole-of-government strategy issued by the Head of Service under section 17(2)(a) of the *Public Sector Management Act 1994* (PSM Act) and binds all employees engaged under the PSM Act and all public sector employers within the meaning of section 152(1) of the PSM Act.
6. For the purpose of this policy, any reference to the Head of Service and/or Director General is also taken to be a reference to a public sector employer within the meaning of section 152(1) of the PSM Act.
7. For the purpose of this policy, employees are defined as including executives, permanent officers, and temporary employees.
8. For the purpose of this policy, casual employees are either eligible casual or casual employees as defined in this policy.

Key Legislative Provisions

9. The key principles of this policy are aligned with the following authorised sources:
 - a. *Public Sector Management Act 1994*
 - b. *Public Sector Management Standards 2016*
 - c. [ACTPS Enterprise Agreements](#).

Principles

10. COVID-19 leave is not a regular leave type. It was introduced by the ACT Government to address circumstances that arose due to the COVID-19 pandemic where traditional leave provisions were not able to be applied. ACT Government continues to provide COVID-19 leave as it has formed the view that employees ready and willing to work, but who are unable to work due to COVID-19, should be provided with income security and not have to access their personal or annual leave credits.
11. COVID-19 leave ensures that an employee who is ill and/or needs to quarantine or self-isolate to keep themselves and the community safe can do so without suffering undue detriment in their employment.
12. The entitlement to COVID-19 leave is not unlimited and employees can be recalled to work when they are well enough to work and the circumstances allow.
13. Unless the employee has tested positive to COVID-19 or is seeking COVID-19 leave for vaccination purposes, there are a number of conditions that employees must meet to be eligible for COVID-19 leave. The conditions include that the employee:

- is unable to attend their workplace due to COVID-19 and cannot be flexibly deployed to another workplace; and
 - cannot be provided with suitable duties to be performed from home; and
 - is willing, ready and well enough to work.
14. It is not expected that an employee would require access to COVID-19 leave for more than 7 days, unless exceptional reasons captured under this policy apply. Where COVID-19 leave extends past 7 days, it is incumbent on managers and employees to keep in regular contact and to regularly review the circumstances that have led to an employee accessing COVID-19 leave to ensure these conditions continue to be met, or whether the circumstances have changed.
15. Managers and employees should look for innovative and flexible ways for employees to contribute whilst they are unable to attend the workplace due to COVID-19 and where they are willing, ready and well enough to work.
16. These guidelines may be adapted in line with official health advice and the ACT Government's COVID-19 management priorities.
17. The general principles for accessing leave in COVID-19 related circumstances are provided below:

III or Not III	Circumstances	Options/Leave
III	Due to COVID-19	<ul style="list-style-type: none"> • COVID-19 leave up to one week (7 consecutive calendar days) for their ordinary hours occurring in that week
Not III	But required to look after or support an immediate family member who is ill due to COVID-19 and is unable to perform duties	<ul style="list-style-type: none"> • Carer's or other leave such as annual or long service leave • COVID-19 leave in extenuating circumstances case-by-case
Not III	But directed to quarantine or self-isolate in line with public health or Head of Service directions	<ul style="list-style-type: none"> • Work from home if possible • Otherwise COVID-19 leave
Not III	But at higher risk of severe illness due to COVID-19 and where adjustments to the workplace or work location are insufficient to mitigate risk	<ul style="list-style-type: none"> • Work from home if possible • Flexible deployment to other duties • Otherwise COVID-19 leave
Not III	But unable to attend the workplace due to COVID-19 related workplace closure	<ul style="list-style-type: none"> • Relocation to another workplace • Flexible deployment to other duties • Work from home if possible • Otherwise COVID-19 leave
Not III	But attending a COVID-19 vaccination appointment	<p>Where an appointment can't be arranged outside work time:</p> <ul style="list-style-type: none"> • Flexible working arrangements to allow attendance at appointments. • Otherwise COVID-19 leave
III	Experiencing adverse reaction from COVID-19 vaccination	<ul style="list-style-type: none"> • COVID-19 leave up to a maximum of 2 days

18. The ACTPS workforce needs to be prepared to change working arrangements in line with the ACT Government's COVID-19 management priorities.

Procedure

Possible Scenarios due to COVID-19

19. Possible scenarios that may arise due to COVID-19, and the relevant leave arrangements, are listed below.

A. Employee is ill (has COVID-19 symptoms or is diagnosed with COVID-19)

20. When an employee has COVID-19 symptoms or tests positive to COVID-19, they have an infectious medical condition and should not attend the workplace, similar to how they would manage testing positive to any other communicable infectious disease.
21. An employee who has COVID-19 symptoms and is unwell should access personal leave under the relevant enterprise agreement for the period of the employee's illness, subject to the paragraph below.
22. Effective from 6 January 2022 and until further notice, if an employee tests positive to COVID-19, they will be entitled to access COVID-19 leave for their ordinary hours occurring in the 7 days from the day of testing positive or the day when they were symptomatic and unable to perform work due to being ill with COVID-19. Employees who meet the criteria of this entitlement are entitled to seek reimbursement of any personal leave, annual leave or long service leave taken during their 7-day entitlement period.
23. At the end of this period the manager and employee should reassess the employee's situation on a case-by-case basis. If the employee is still symptomatic following the 7-day period, generally they will be required to utilise personal leave.
24. Where paid personal leave has been exhausted and documentary evidence of continuing personal illness is produced, personal leave with or without pay or annual leave may be available in accordance with the relevant enterprise agreement.

Evidentiary Requirements

25. The Enterprise Agreements provide that an employee may be asked to provide documentary evidence as proof of personal illness.
26. Managers are encouraged to use their discretion and sound judgement where they believe evidence is required.
27. Evidence of a positive COVID-19 test may be confirmed through a recognised diagnostic tool, such as a PCR test or Rapid Antigen Test (RAT), or any other relevant diagnostic tool as advised by ACT Health.
28. Employees may be asked to provide documentary evidence through a statutory declaration or where it is reasonable in the circumstances from a medical practitioner, such as an extended period of absence or a subsequent COVID-19 diagnosis.

B. Workplace closure

29. Where an employee's workplace is closed due to COVID-19 related reasons the employee may be asked to work from a different location and may also be asked to perform other duties.
30. Where this is not possible, the employee should work from home.
31. If the employee is unable to work from home, COVID-19 leave may be approved and the situation monitored.
32. This leave will be granted with the same pay and entitlements as if the employee had been on annual leave, with no reduction of leave credits.

C. Employee is not ill but is required to care for an immediate family member who is ill

33. Where a member of an employee's immediate family is unwell or requires care or support due to COVID-19 and requires the employee to care for them, the employee should access carers leave in accordance with the relevant enterprise agreement.
34. In this circumstance they will not meet the criteria for COVID-19 leave as they are not 'ready and willing' to be deployed to work due to their caring responsibilities.
35. Where an employee has caring responsibilities looking after a vulnerable family member or other circumstances relating to COVID-19 and they do not want to attend their workplace, it is appropriate that they take personal leave.
36. Where an employee has exhausted their personal leave or there are extenuating circumstances, COVID-19 leave may be approved on a case-by-case.

NOTE: Persons caring for children should not bring them into the workplace.

D. Employee is not ill but is required to care for a child who is not unwell for COVID-19 related reasons

37. Where schools or childcare services are closed due to COVID-19, in the first instance the employee should discuss their situation with their manager to find a suitable solution which may include work from home or flexible redeployment.
38. The employee should access personal leave in special, extraordinary or unforeseen circumstances or other leave as appropriate.
39. Where an employee has exhausted their personal leave or there are extenuating circumstances, COVID-19 leave may be approved on a case-by-case.

E. Where a home isolated employee subsequently becomes ill

40. If an employee has received a positive COVID-19 diagnosis, they will be entitled to a period of up to 7 days of COVID-19 leave if they are ill and unable to perform work. If the employee is still symptomatic following the 7-day period, generally they will be required to utilise personal leave.
41. Where paid personal leave has been exhausted and documentary evidence of continuing personal illness is produced, personal leave with or without pay or annual leave may be available.

F. Employee attends work and presents as ill

- 42. An employee who has COVID-19 related symptoms should not attend any ACT Government workplace under any circumstances.
- 43. If an employee is exhibiting COVID-19-related symptoms, the employee should be isolated and supported to leave the workplace according to workplace procedures.

G. Employee is not ill, but is at higher risk of severe illness

- 44. Additional work health and safety measures should be considered on a case-by-case basis for ACTPS employees who are deemed to be at higher risk of severe illness due to COVID-19.
- 45. People at higher risk of severe illness due to COVID-19, should speak to their regular healthcare provider about what to do if they become unwell, including how to access testing and treatments.
- 46. A higher risk employee and their manager should discuss risk mitigation in the workplace and through work from home arrangements or flexible redeployment to a role which allows for home-based work if available. For critical frontline workers, or other workers who cannot work from home, adjustments should be made to the work location and/or workplace if possible and where there is a need to mitigate the risks. In the event that this is not possible, COVID-19 leave is available where necessary in extenuating circumstances.
- 47. COVID-19 leave is not appropriate for the long-term management of higher risk employees. Where it is identified that it is unlikely that the higher risk employee can return to their position supported by appropriate risk mitigation measures, the directorate will work with the employee to find other suitable roles where work is available to them.

Casual Employees

H. Casual Employees who are directed to quarantine or self-isolate per instruction from the Chief Health Officer or the Head of Service or are affected by a workplace closure due to COVID-19

- 48. In the first instance, a casual employee directed to quarantine, self-isolate or who is affected by a workplace closure due to COVID-19 may be asked to work their scheduled hours in another location or at home if they are well and it is safe to do so. This may include performing other duties outside the normal range of duties. Any such deployment will be consistent with the skill set and training of the employee. No employee will be placed in an unsafe situation as a result.
- 49. The delegate should use their discretion in assessing whether to stand the casual employee down with pay on a case-by-case basis, taking into consideration the employee's regularity of work and the impact on the person if they are not paid during this time.
- 50. In determining the relevant payments to be made for a casual employee, the following may be appropriate:
 - a. Where an eligible casual employee has scheduled or agreed shifts during a period of quarantine, self-isolation or workplace closure – they are to be paid for those shifts.
 - b. Where an eligible casual employee has worked regular hours in the past month before a period of quarantine or self-isolation with no scheduled or agreed shifts during the

quarantine, self-isolation or workplace closure period - they are to be paid for any shifts based on their previous pattern of work.

- c. Where the casual employee has worked irregular hours in the past month before a period of quarantine, self-isolation or workplace closure with no scheduled or agreed shifts – they may be paid an average of the hours worked in the past month for the period of the quarantine, self-isolation or workplace closure.
- d. Where a casual employee has not worked within the month prior to the quarantine or self-isolation period – they will not be paid for the period of the quarantine, self-isolation or workplace closure.

ELIGIBLE CASUALS

- 51. Where an eligible casual, as defined in the relevant enterprise agreement, has been employed by the ACTPS on a regular and systematic basis and is anticipated to continue employment on a regular basis, standing down without payment should be considered only as a last resort during a COVID-19 workplace closure, period of quarantine or self-isolation.
- 52. Note that while the enterprise agreements require a casual to have worked for a period of 12 months before being considered eligible, for the purposes of this situation, the 12-month qualifying period will not apply. Rather, managers should look to the regularity, frequency and anticipated work pattern.
- 53. Eligible Casuals who are required to quarantine or self-isolate due to COVID-19 or subject to a COVID-19 workplace closure, are to be paid for any shifts that they would otherwise have worked during that period.
- 54. Provided that the eligible casual is not ill, they can be recalled to perform work from home where this is possible.
- 55. Where a casual worker is asked to work their scheduled hours in another location, including from home, and/or to perform other duties, but refuses, the casual will generally not be paid for those hours, provided that the request was reasonable. If the workplace reopens and the casual is asked to return to work, but refuses, the casual will generally not continue to be paid.
- 56. If there are no suitable duties that the employee can perform from home, the absence should be recorded as COVID-19 leave and the rate of pay should be what the eligible casual employee would have been paid had they worked the hours.

OTHER CASUALS

- 57. The Delegate should use their discretion in assessing whether or not to stand other casual employees down with pay on a case-by-case basis, taking into consideration the employee's regularity of work and the impact on the person if they are not paid during this time. It may be appropriate, for example, to pay the casual employee for a shift that had been accepted, but it may not be reasonable to anticipate a shift where there is no regularity of attendance.
- 58. The absence should be recorded as COVID-19 leave and the rate of pay should be what the eligible casual employee would have been paid had they worked the hours.

Vaccinations

- 59. The ACTPS continues to take proactive measures in response to COVID-19. Workplace health and safety (WHS) remains a priority for the ACT Government.

- 60. In addition to the control measures already in place, COVID-19 vaccinations are an additional measure to mitigate the impact and risk of COVID-19 in our workplaces.
- 61. The Commonwealth Government encourages all members of the community to participate in the nation-wide COVID-19 vaccination program which will assist in keeping our workplaces and the community safe.

I. If an employee is identified as eligible for or requiring a vaccination as part of their employment

- 62. Any employee that is eligible for the vaccine in the course of their employment and is assigned a vaccination appointment that is during their work hours, will be permitted to attend the appointment without any loss of pay or entitlements.

J. If an employee is vaccinated voluntarily as a member of the community

- 63. Employees may voluntarily seek to have a COVID -19 vaccination or booster shot.
- 64. An employee should make reasonable attempts to make a vaccination appointment outside of working hours. However, if an employee is unable to make their vaccination outside working hours, and needs to take leave from work, managers may approve COVID-19 leave for the employee.

K. If the employee experiences adverse effects from the vaccination

- 65. If the employee is not well enough to work due to adverse effects from the COVID-19 vaccination, COVID-19 leave is available to them up to a maximum of 2 days of leave. The manager can use their discretion as to whether a medical certificate or supporting documentation of the vaccination and adverse reaction is required in these circumstances.

Working from Home

- 66. In circumstances where an employee is not already working from home and they are not ill, but they unable to attend the workplace:
 - a. due to a requirement to quarantine or self-isolate; or
 - b. as a result of COVID-19 workplace closures, the first consideration should be that they are given the opportunity work from home (where possible).
- 67. Managers should make reasonable adjustments to the requirements of the employee's position, having regard to operational requirements and the suitability of the work. For example, an employee may undertake their e-learning requirements online, or undertake other tasks assigned by the directorate. Further information about determining appropriate home-based work arrangements can be found in clause B24 of the relevant enterprise agreement.
- 68. Employees may also access [The Work Health and Safety Portal](#) on SharePoint which provides information and resources to support health, safety and wellbeing in ACTPS workplaces, and while working from home.
- 69. Managers should also refer to their directorate's home-based work policies as relevant.
- 70. Where the period of time worked from home is extended, managers should ensure employees remain connected to the workplace and provided adequate support.

Payment arrangements for COVID—19 leave

71. When an employee accesses COVID-19 leave in accordance with this policy, payment of penalties and allowances should be treated the same as if the employee was on a period of annual leave.
72. Where an employee is working from home due to a workplace closure, quarantine or self-isolation and does not undertake/perform duties that would attract an allowance including higher duties allowance, the allowance is not required to be paid. However, delegates may approve the payment of an allowance in special circumstances where it is warranted.
73. Shift penalty payments will continue to be payable where an employee is working from home due to a workplace closure, quarantine or self-isolation, unless a variation to the roster has been agreed in accordance with B15 of the Enterprise Agreement that no longer attracts the relevant shift penalties.

Applying for COVID-19 Leave

74. The employee and manager should discuss the need for COVID-19 leave as soon as possible.
75. A leave application will need to be submitted for processing. The application for leave should be submitted as soon as practicable, noting the employee may already be isolated.
76. The employee can submit an application for leave and pick the relevant manager/supervisor as the approving delegate on the leave form. Alternatively, the manager/supervisor can complete the leave form on behalf of the employee if the employee requires assistance or cannot access the form from home.
77. When the manager/supervisor receives notification of the application, they should satisfy themselves that it meets the requirements of this policy.
78. Shared Services has created a form specifically for applying for COVID-19 related leave. It is available [here](#).

Please note: If you are unable to access the form via the above link please search for “Apply for Leave (Corona Virus COVID-19)” at the following Shared Services website:

www.act.gov.au/sharedservices.

Guide to managing ACTPS employees directed to work remotely or isolate due to COVID-19

L. Employee cannot be provided with sufficient duties to be performed remotely

79. Where at all possible, employees should be productively tasked. If an employee is unable to attend their workplace and is not already working from home on their normal duties, managers should look for innovative ways to productively task employees from home. This may include allowing the employee to work outside their normal bandwidth, or averaging their hours across more working days, or longer periods.
80. Where there is no work for an employee and the employee subsequently accesses COVID-19 leave, managers should stay in touch with the employee and ensure they feel connected. Where an employee is directed to work from home due to COVID-19 but does not have enough work or flexibility to complete their standard hours, they will not be required to take leave.

81. Managers should discuss with their employees whether the accrual of flex time and/or ADOs should be paused in such circumstances.
82. If an employee is well and on COVID-19 leave because there was no ability for them to work from home, they can subsequently be required to return to work if work becomes available. The employee can also be flexibly redeployed to other duties provided that the employee can reasonably be expected to perform the work.
83. Managers should make reasonable adjustments to the requirements of the employee's position, having regard to operational requirements and the suitability of the work. For example, undertake online learning or other tasks assigned by the directorate.

M. Employee is willing and ready to work if safe and appropriate work is available to them

84. The most important element of COVID-19 leave is that if well enough the employee is ready and willing to work if safe and appropriate work is available for them to perform. All employees accessing COVID-19 leave who are not ill should stand ready to return to work if suitable work is provided.
85. Managers should look for innovative and flexible ways they can support their employees to provide productive outputs where they are unable to return to their workplace.
86. An employee who refuses to perform reasonable work that is tasked to them is not entitled to continued COVID-19 leave. If an employee refuses to perform reasonable work tasked, then it is appropriate that the employee take personal leave or annual leave to cover their absence from the workplace. The key consideration here is that the work tasked must be reasonable in terms of the employee's skills and abilities and health and safety considerations have been taken into account.

Regular review of COVID-19 leave

87. Arrangements where employees are accessing COVID-19 leave should be reviewed regularly by managers to ensure employees are meeting the conditions for COVID-19 leave. Managers should review employee's circumstances, which may have changed since first applying for COVID-19 leave and reassess whether there is any ability to provide employees with appropriate work from home or explore the possibility of employees returning to the workplace.

Other leave arrangements available

88. Where personal leave credit under the relevant enterprise agreement is exhausted the delegate may approve:
 - a. the anticipation of personal leave for eligible employees;
 - b. additional paid personal leave; or
 - c. personal leave without pay.
89. Delegates should assess such need on a case-by-case basis and consistent with the terms of the relevant enterprise agreements. In addition, advice should be sought from the relevant directorate HR areas.

Consultation

90. The contents of this policy have been consulted in previous consultative processes with People Forum and the unions. This policy consolidates all policy positions in the Emergency Response COVID policies and guidance.

References, Guidance and Resources

91. Employees are reminded that the ACT Government Employment Portal provides links to mental health and well-being supports for ACTPS employees and their families, including access to the Employee Assistance Program.
92. For further advice on flexible work arrangements and facilitating these arrangements employees should review ACTPS Flexible Working Arrangements Policy on the [ACT Government Employment Portal](#). Employees should be encouraged to talk to their supervisor or HR area about supports that may be available during these times, such as flexible work arrangements where this is appropriate, and personal leave to manage well-being.
93. For the most up to date advice and guidance on COVID-19, please visit ACT Health's information on [COVID-19 in the ACT](#).

Further Information

If you have further questions about the application of this advice, please contact the Whole of Government Industrial Relations and Public Sector Employment team, Office of Industrial Relations and Workforce Strategy, Chief Ministers Treasury and Economic Development Directorate at EBA@act.gov.au.

Review

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

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