

# PERSONAL/CARER'S LEAVE

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## Authority and Application

Clause 56 of the *Victorian Public Service Enterprise Agreement 2024* (the Agreement) applies to Victorian Public Service (VPS) Departments and Agencies (Employers) and their Employees covered by the Agreement.

## Overview

Clause 56 of the Agreement sets out an Employee's entitlement to be absent from the workplace because of:

- a personal illness or injury; or
- personal illness or injury of an Employee's immediate family, household member or Assistance Animal who requires the Employee's care or support; or
- an unexpected emergency affecting an Employee's immediate family, household member, or Assistance Animal, or
- attendance at a medical appointment with a Registered Practitioner subject to requirements in clause 56.6 of the Agreement.

and the notice and evidence requirements an Employee must comply with to access their accrued Personal/Carer's Leave entitlements.

## Relevant provisions of the Agreement

**Clause 56** - Personal/Carer's Leave

## Specific arrangements for Employees of the Department of Families, Fairness and Housing (Appendix 4-Part 1-7) and Employees of the Department of Health (Appendix 4- Part 8)

**Appendix 4 – Clause 4-** Leave at half pay

## Supplementary Guidance Information

### 1. Amount of leave

#### 1.1. Full-time Employees

**1.1.1.** A full-time Employee whose ordinary hours of work are 76 hours per fortnight is entitled to 114 hours of paid Personal/Carer's Leave on the anniversary date of the Employee's employment.

**1.1.2.** A full-time Employee whose ordinary hours of work are 80 hours per fortnight is entitled to 120 hours of paid Personal/Carer's Leave on the anniversary date of the Employee's employment.

#### 1.2. Part-time Employees

A part-time Employee is entitled to a pro-rata amount of paid Personal/Carer's Leave based on the part-time Employee's ordinary hours of work.

#### 1.3. Fixed term Employees

For fixed term Employees, Personal/Carer's Leave is calculated on a pro-rata basis according to the length of their service.

## **2. Crediting of leave**

- 2.1.** Personal/Carer's Leave will be credited on commencement of employment and subsequently on the anniversary date of the Employee's employment.
- 2.2.** By agreement with the Employer, if an Employee has exhausted their Personal/Carer's Leave credits then the Employee may apply to access other accrued leave entitlements in lieu of Personal/Carer's Leave or Other Leave (see clause 77 of the Agreement), provided that the Employee meets the evidence requirements set out in the Agreement (see section 9 of this policy for further information).

## **3. Effect of changing time fraction or unpaid leave during a year of service**

- 3.1.** Clause 56.3(d) of the Agreement makes it clear that leave will be credited on commencement of employment and subsequently on the anniversary date of the Employee's employment. This arrangement, whilst more beneficial for Employees, can create a situation where an Employee is credited with a greater or lesser amount of Personal / Carers Leave hours than they are entitled to under the Agreement when, during any year of service, they:
  - 3.1.1.** make substantive changes to their time fraction, and/or
  - 3.1.2.** take periods of leave without pay.
- 3.2.** Where an Employee increases their substantive time fraction during the year of service, resulting in the Employee having been credited with less leave than would have been entitled to under clause 56.3(a) of the Agreement, the Employer should take reasonable steps to credit any additional leave owing as soon as possible and take reasonable steps to notify the Employee of the effect of the increase to their time fraction on leave accruals.
- 3.3.** Where an Employee takes unpaid leave or makes a substantive reduction to their time fraction where the Employee has been credited with more leave than they would have been entitled to under clause 56.3(a) of the Agreement, the Employer should take reasonable steps to notify the Employee of the effect of the reduction to their time fraction on leave accruals and will adjust the Employee's accrued leave balance to reflect their new time fraction as soon as reasonably possible.
- 3.4.** Where reducing the Employees balance to account for a reduced time fraction or period of unpaid leave results in the Employee having already taken more leave than their adjusted entitlement, the Employer may:
  - 3.4.1.** allow the Employee to convert the leave taken in advance to another form of leave, for example, Annual Leave (Clause 50 of the Agreement) or Other Leave (Clause 77 of the Agreement),
  - 3.4.2.** treat the additional leave as leave taken in advance and adjust future accruals until such time as parity is restored, or
  - 3.4.3.** treat the leave as an overpayment and manage the overpayment in accordance with clause 37.5 to 37.7 of the Agreement.
- 3.5.** Before deciding what action is reasonable in the circumstances, the Employer should consider the views of the Employee.

#### **4. Payment for Personal/Carer's Leave**

- 4.1. The Employer will pay an Employee for the hours of Personal/Carers Leave they take at the ordinary hourly rate of pay they would have received had they been at work.
- 4.2. A full-time or part-time Employee who works a 7.6 hour day and takes one full day of Personal/Carer's Leave on that day will be paid 7.6 hours.
- 4.3. A full-time or part-time Employee who works more than a 7.6 hour day and takes one full day of Personal/Carer's Leave on that day will be paid for the hours they would have been paid had they been at work.
- 4.4. A part-time Employee working less than the equivalent of a full-time day will be paid for the hours they would have been paid had they been at work.

#### **5. Deductions from Personal/Carer's leave balance**

- 5.1. It is the intent of the parties in the Agreement to provide full-time equivalent Employees 15 days' paid Personal/Carer's Leave per annum irrespective of the length of their ordinary hours of work or shift. To give effect to this, clause 56.5 of the Agreement describes how leave is to be deducted from an Employee's accrued Personal Carers' Leave balance.
- 5.2. Full-time Employees and part-time Employees who work the equivalent of a full-time day shall have their leave balance deducted at a nominal value of 7.6 hours (or 8 hours for Employees whose ordinary hours of duty average 80 hours per fortnight) for each day of Personal/Carer's Leave taken, irrespective of the actual ordinary hours worked on that day.
- 5.3. In some cases, for example, where an Employee works ordinary hours greater than 7.6 hours (or 8 hours for Employees whose ordinary hours of duty average 80 hours per fortnight), this will mean that the number of hours deducted from an Employee's balance will differ from the number of hours that is required to be paid to the Employee for the same absence.
- 5.4. Part-time Employees who work part-days which are less than the relevant full-time day will have their leave deducted by the number of hours they would have worked on that day had they been at work.
- 5.5. The tables below provide examples of different working arrangements and absence durations to illustrate how the provisions operate. The duration of the absence, hours to be deducted from the accrued balance and the hours to be paid to the Employee are shown.

#### **5.6. Employees working standard 7.6 or 8-hour days – full day absences**

Example 1 shows the effect of these provisions for a full-time or part-time Employee who ordinarily works 7.6 hours per day (or 8 hours) (i.e. the equivalent of a full-time shift) and who is absent for a full day on Personal/Carer's Leave.

*Example 1: Full-time or Part-time Employee working 7.6 hours or 8 hours per day – full day absence*

<b>Amount of Leave Taken (Number of Hours)</b>	<b>Ordinary hours rostered to work</b>	<b>Equivalent hours to 7.6- or 8-hour day</b>	<b>Number of hours to be paid to Employee</b>	<b>Number of hours to be deducted from balance</b>
7.6 hours	7.6 hours	7.6 hours	7.6 hours	7.6 hours
8 hours	8 hours	8 hours	8 hours	8 hours

#### **5.7. Employees working standard 7.6 or 8 hour days – part day absences**

Where a Full-time and Part-time Employee who ordinarily works 7.6 hours (or 8 hours) per day and is absent on paid Personal/Carer's Leave for part of a day, the number of hours to be deducted from the Employee's leave balance for that absence is calculated according to the formula in clause 56.5(b) of the Agreement.

$$\frac{\text{Number of hours of Personal/Carers Leave taken}}{\text{Employee's ordinary hours of work on the day}} \times 7.6 \text{ (or 8 hours)}$$

The formula equates the part-day absence taken as a proportion of a nominal 7.6 (or 8) hour day.

*Example 2a: Full-time or Part-time Employee, working 7.6 hours per day who takes a part day on personal leave – part day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from balance
3.8 hours	7.6 hours	3.8 hours	3.8 hours	3.8 hours

*Example 3b: Full-time or Part-time Employee, working 8 hours per day who takes a part day on personal leave – part day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to an 8 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
4 hours	8 hours	4 hours	4 hours	4 hours

## 5.8. Employees rostered to work longer than 7.6 or 8 hour days – full day absence

Example 3 details the treatment of Personal/Carer's Leave absences for Employees whose ordinary hours on the day of their absence are longer than a nominal 7.6 or 8-hour day. In these examples, the Employee is rostered to work a 9 hour shift and is absent for the entire day on Personal/Carer's Leave.

*Example 4a: Full-time or Part-time Employee ordinarily working longer than a nominal 7.6 hour (or 8 hour) day – full day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
9 hours	9 hours	7.6 hours	9 hours	7.6 hours

*Example 5b: Full-time or Part-time Employee ordinarily working longer than a nominal 8-hour day – full day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to an 8 - hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
9 hours	9 hours	8 hours	9 hours	8 hours

## 5.9. Employees rostered to work longer than 7.6 or 8 hour days – part day absence

Where a full-time and part-time Employee whose ordinary hours on the day of their absence are longer than a nominal 7.6 (or 8) hour day but the Employee only takes a part-day absence on Personal/Carer's Leave, the formula in clause 56.5(b) of the Agreement (replicated in section 4.7 of this policy) is used to determine what portion of a nominal 7.6 (or 8) hour day

has been taken for the purposes of determining how many hours to deduct from the accrued balance.

*Example 6a: Full-time or Part-time Employee ordinarily working longer than a nominal 7.6-hour day – part day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
4.5 hours	9 hours	3.8 hours	4.5 hours	3.8 hours

$$\frac{\text{Number of hours of Personal/Carers Leave taken}}{\text{Employee's ordinary hours of work on the day}} \times 7.6 \text{ (or 8 hours)}$$

$$\text{e.g. } (4.5 \text{ Hrs} / 9.0 \text{ Hrs}) \times 7.6 \text{ Hour Day} = 3.8 \text{ Hrs}$$

*Example 7b: Full-time or Part-time Employee ordinarily working longer than a nominal 8-hour day – part day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to an 8 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
4.5 hours	9 hours	4 hours	4.5 hours	4 hours

#### 5.10. Full-time Employees rostered to work less than 7.6 or 8 hour days – full day absence

Where a full-time Employee is rostered to work less than a 7.6 hour day (or has a flexible work arrangement for short days), but that short day reflects a full-time day for that roster or workplace or individual, clause 56.5(b) of the Agreement remains the relevant provision from which to determine the deduction to be made from the Employee's balance. Consistent with the intent that full-time Employees are entitled to one day of Personal/Carer's Leave, irrespective of the actual ordinary hours worked on that day, the treatment of short shifts is the same as longer shifts – see examples 5a and 5b below:

*Example 5a: Full-time Employee rostered to work a shift less than a nominal 7.6 hours per day – full day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
6 hours	6 hours	7.6 hours	6 hours	7.6 hours

$$\frac{\text{Number of hours of Personal/Carers Leave taken}}{\text{Employee's ordinary hours of work on the day}} \times 7.6 \text{ (or 8 hours)}$$

$$\text{e.g. } (6.0 \text{ Hrs} / 6.0 \text{ Hrs}) \times 7.6 \text{ Hour Day} = 7.6 \text{ Hrs}$$

*Example 5b: Full-time Employee rostered to work a shift less than a nominal 8 hours per day – full day absence*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to an 8 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
6 hours	6 hours	8 hours	6 hours	8 hours

#### 5.11. Full-time Employees rostered to work less than 7.6 or 8 hour days – part day absence

Where a full-time Employee takes a part-day absence during shifts shorter than the equivalent full-day, the formula at clause 56.5(b) of the Agreement (replicated at section 4.7 of this policy) is used to determine the proportion of a nominal day which has been taken. In Example 6, the full-time Employee was rostered on to work six hours but took a half day absence on Personal/Carer's Leave.

*Example 6: Full-time rostered to work 6 hours per day who takes a part-day absence on Personal/Carer's Leave*

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
3 hours	6 hours	3.8 hours	3 hours	3.8 hours

#### 5.12. Part-time Employees rostered to work less than 7.6 or 8 hour days – full or part day absence

Where a part-time Employee's ordinary hours of work are less than the equivalent of a full-time day, the deduction from the Employee's balance reflects the number of hours they would have worked on that day had they been at work. This means regardless of whether the Employee is absent for a part or full day, the number of hours to be deducted from the Employee's accrual and the number of hours paid to the Employee will always be the same – see example 7 below.

*Example 7: Part-time Employee working less than the equivalent of a full - time day – full or part day absence*

Amount of Leave Taken	Ordinary hours rostered to work	Number of hours to be paid to Employee	Number of hours to be deducted from leave balance
<b>Full Day Absence</b>			
5 hours	5 hours	5 hours	5 hours
<b>Part Day Absence</b>			
2.5 hours	5 hours	2.5 hours	2.5 hours

#### 5.13. Full-time or part-time Employees on compressed working hours – rostered to work more than 7.6 or 8 hour days

Employees who work a formal compressed hours arrangement will have absences on Personal/Carer's Leave treated the same as any other Employees working longer than a standard 7.6 hour (or 8 hour) day. Examples 3 and 4 above demonstrate the application for full or part day absences in these circumstances.

#### 5.14. Full-time Employees on compressed working hours – rostered to work less than 7.6 or 8 hour days

Where the Employee's formal compressed hours arrangement involves the Employee working a combination of days some of which are longer than the equivalent of a full-time day and others which are shorter, then similarly to Examples 5a and 5b above, the short day is treated as a full day for the purposes of calculating what hours to deduct from an Employee's balance, consistent with the principle that a full-time Employee is entitled to a day of Personal Carer's Leave irrespective of the actual ordinary hours worked on that day.

#### 5.15. Example 8 below, shows the treatment for a full-time Employee whose formal compressed hours arrangement involves working a combination of days longer than the equivalent of a full-time day and others which are shorter.



Example 8: Compressed hours long and short days – full day and part-day absences

Amount of Leave Taken (Number of Hours)	Ordinary hours rostered to work	Equivalent proportion of leave taken to a 7.6 hour day	Number of hours to be paid to Employee	Number of hours to be deducted from balance
9 hours	9 hours	7.6 hours	9 hours	7.6 hours
2 hours	2 hours	7.6 hours	2 hours	7.6 hours
1 hours	2 hours	3.8 hours	2 hours	3.8 hours

- 5.16.** Employers must ensure that in all circumstances Employees receive no less than what is provided under the National Employment Standards (NES). It may be possible that where Employees exclusively or very regularly take short days as Personal/Carer's Leave under examples 6 and 8 above, their accrued personal/carers leave may diminish at a rate which would mean they do not receive a minimum 10 days leave per annum as required by the NES. This risk is diminished where the pattern of an Employee's Personal/ Carer's Leave includes absences on both the short and long days.
- 5.17.** Clause 56.3(c) of the Agreement confirms that the Employer must not apply the Agreement in a manner which is inconsistent with the NES. Employers should be mindful of this obligation with respect to the treatment of Personal/Carer's Leave under the Agreement, particularly for Employees whose ordinary working hours include days which are very short. To ensure compliance with the NES all Employees regardless of how their hours are arranged must receive a minimum of 10 days Personal Carer's Leave in any given year.
- 5.18.** Generally, it will be without question that Employees have received a more beneficial entitlement under the Agreement. Where there is a question of whether an individual Employee has received a minimum of 10 days Personal Carer's Leave in any given year due to the treatment of their regular absences on Personal Carer's Leave, the Employer should conduct an audit of the leave taken by the Employee under the Agreement, against the accrual and deductions arrangements in the NES to confirm that the minimum entitlements have been met.

## **6. Personal/Carer's Leave for medical appointments**

- 6.1.** An Employee may access their accrued Personal/Carer's Leave to attend a medical appointment with a Registered Practitioner when the appointment cannot be reasonably scheduled outside the Employee's working hours.
- 6.2.** The Employee must provide notice of attendance of a medical appointment and comply with the evidence requirements set out in the Agreement.
- 6.3.** Attendance at routine medical appointments may, by agreement with the Employer, also be facilitated through a flexible working arrangement (such as agreement to make up the time taken to attend medical appointments) as an alternative to using Personal/Carer's leave.

## **7. Personal/Carer's Leave and other forms of leave**

- 7.1.** Where an Employee is on a period of paid annual or long service leave and an entitlement to Personal/Carer's Leave under the Agreement arises, the Employee may request that they be granted that time as Personal/Carer's Leave and re-credited their annual or long service leave.
- 7.2.** An application to substitute leave must include documentary evidence as required by the Agreement (see section 9 of this policy for further information).



- 7.3. Where the application is granted, the applicable annual or long service leave amount will be re-credited, and the Employee will have the leave deducted from their Personal/Carer's Leave.
- 7.4. Where the Employee has already received an annual leave allowance for the period of annual leave to be re-credited, the recovery of the overpayment will be managed in accordance with clause 37.5 through 37.7 of the Agreement (and any Employer procedure consistent with this provision).
- 7.5. An Employee requesting to use their Personal/Carer's Leave to support a person experiencing family violence should familiarise themselves with the Family Violence Leave Policy.
- 7.6. An Employee can request that a period or a portion of a period of Personal/Carer's leave be converted to Reproductive Health and Wellbeing Leave (clause 58 of the Agreement) where the leave was taken for reasons that meet clause 58.1 of the Agreement and the Employee's Personal / Carer's Leave balance meets the criteria in clause 58.2 of the Agreement for that period or portion of the period of absence.
- 8. Personal/Carer's Leave taken on behalf of an Assistance Animal**
- 8.1. Employees may request a period of Personal/Carers Leave because of illness, injury or an unexpected emergency affecting an Assistance Animal.
- 8.2. Assistance Animal is defined as an animal which is formally trained to assist a person with a disability to alleviate the effect of their disability. Assistance Animals can include:
- 8.2.1. a guide dog for people with vision impairment, or
  - 8.2.2. hearing dogs for people with hearing impairment, or
  - 8.2.3. assistance dogs for people with a physical disability, or
  - 8.2.4. medical alert animals that help people before and during a medical emergency, or
  - 8.2.5. psychiatric service animals that help people with a mental illness, or
  - 8.2.6. any other animal agreed by the Employer or to which an Assistance Animal Pass granted by the Department of Transport applies.
- 8.3. The above examples are reflective of the types of Assistance Animals who may ordinarily be granted an Assistance Animal Pass by the Victorian Department of Transport or are recognised as formally trained to the requisite standard to assist a person in alleviating the effects of their disability.
- 8.4. Where the Employer considers a request from an Employee for an animal to be deemed an assistance animal by the Employer, Employers are encouraged to use the evidence requirements from the Assistance Animal Pass application as issued by the Department of Transport. These requirements are:

- 8.4.1.** The role in which the animal has in assisting the Employee.
  - 8.4.2.** Details of the Assistance Animal (i.e. type of animal, breed, size).
  - 8.4.3.** Training of the Assistance Animal and details of the Trainer and training provided.
  - 8.4.4.** Declaration of a health professional deeming that the Assistance Animal is required to assist with the Employee's disability.
- 8.5.** Pet, companion, or therapy animals are expressly excluded from the definition of an Assistance Animal for the purposes of this provision. The fact an animal is house trained or has obedience training and/or is involved in providing therapeutic benefit or patient visits in a medical, rehabilitation or aged care setting (or similar) is not sufficient to qualify as an Assistance Animal for the purposes of clause 56 of the Agreement.
- 9. Evidence requirements**
  - 9.1.** Employees must provide appropriate documentary evidence to support their claim for Personal/Carer's Leave as required in clause 56.9 of the Agreement or as required by the Employer. Appropriate documentary evidence is evidence that would satisfy a reasonable person that the absence from work is for one of the reasons outlined in clause 56.2 of the Agreement.
  - 9.2.** In the case of Personal Leave, examples of evidence may include a medical certificate, statutory declaration or evidence of attendance at a medical appointment from a Registered Practitioner.
  - 9.3.** In the case of Carer's Leave either a medical certificate from a Registered Practitioner, a statutory declaration or other relevant documentary evidence depending on the circumstances may be appropriate.
  - 9.4.** Where an Employee wishes to take leave to provide care for an Assistance Animal, they must provide evidence from a Registered Veterinary Practitioner or a statutory declaration or other relevant documentary evidence that would satisfy a reasonable person in the circumstances.
  - 9.5.** An Employee may take Personal/Carer's leave without providing the relevant documentation for:
    - 9.5.1.** up to an aggregate of five days or equivalent pro-rata amount accrued Personal/Carer's Leave in each year of employment; and
    - 9.5.2.** any absence which is for a continuous period not exceeding three days.
  - 9.6.** Where the consecutive period of Personal/Carer's Leave exceeds three days, the Employee must provide the relevant documentation as prescribed by clause 56.9 of the Agreement to support their application for Personal/Carer's Leave.
  - 9.7.** The Employer may require the Employee to provide appropriate documentary evidence despite the exceptions at clause 56.10(a) of the Agreement, where they have a reasonable belief, the absence was not reasonable or legitimate (in accordance with 56.10(b) of the Agreement).
  - 9.8.** Where the Employee seeks to rely on a statutory declaration in support of their request for Personal/Carer's Leave, the statutory declaration must include the reason from clause 56.2 of the Agreement that they were unable to attend work.

- 9.9.** The Employer must not place restrictions on whether they will accept a medical certificate, based on the length of time covered by a medical certificate. This does not prevent Employers seeking further documentary evidence where an Employee has been on personal leave for at least six weeks, in accordance with clause 56.11 of the agreement.

*Custodial Officers – Evidence Requirements*

- 9.10.** Clause 2.7 in Appendix 1 of the Agreement provides for full time custodial officers, working an 80-hour fortnight of 9 shifts or less over the fortnight, to take up to an aggregate of 44 hours of time rostered in each year without having to provide the required documentary evidence for personal leave. However custodial staff on these rosters will be provided with the overall more generous entitlement of five days without medical certificate for Personal/Carer's Leave. Should the circumstance arise where clause 2.7 in Appendix 1 of the Agreement is more generous, that provision will apply to eligible custodial officers.

**10. Evidence Requirements – Chronic Health Conditions**

- 10.1.** Where an Employee is experiencing a chronic health condition or is caring for someone with a chronic health condition it is not necessary for the Employee to provide the Employer with new or additional evidence in support of each absence related to the chronic health condition. An Employee may provide the Employer with evidence of the chronic health condition and rely on that evidence for a reasonable period of time. For example, a medical certificate may note that the Employee (or the person they are caring for) has a chronic health condition that may require intermittent absences from work to manage symptoms either permanently or over an anticipated period of time.
- 10.2.** If an Employee has provided evidence of a chronic health condition, the Employer may request periodic reviews or supplementary evidence where reasonable.
- 10.3.** An Employee may also rely on evidence provided in accordance with clause 56.9 of the Agreement in support of a request to access Reproductive Health and Wellbeing Leave (see Reproductive Health and Wellbeing Leave policy for further details).
- 10.4.** For the purposes of clause 56.10(c) of the Agreement, a chronic health conditions are ones which are long lasting conditions with persistent effects on an Employee's quality of life which has been assessed by the Employee's treating Registered Practitioner as requiring regular review or assessment. Chronic health conditions may not respond well to treatment and may have periods of remission and relapse. The table below some illustrative examples:

Scenario	Treatment
<p>An Employee who has a disability notifies their manager that their treating medical practitioner has recommended they attend physiotherapy appointments once a week for three months to help alleviate complications managing a medical condition associated with the Employee's disability. The Employee generally attends appointments at the same time each week. The Employee provides evidence from the treating practitioner.</p>	<p>The Employee has a medical condition requiring regular attendance at a physiotherapist. In this scenario, the manager accepts the initial evidence from the Employee's treating practitioner that the Employee is required to attend physiotherapy once a week for three months to manage symptoms associated with a medical condition in connection with the Employee's disability.</p> <p>The manager and Employee agree that evidence of attendance from the physiotherapist for each and every appointment is not required for the duration of the three-month treatment plan recommended by the Employee's treating practitioner and Personal Leave for these absences is approved on the basis of the initial evidence from the treating practitioner.</p>
<p>Employee B has been diagnosed with endometriosis by their treating practitioner. While the Employee has been provided medication to alleviate some of the symptoms, their treating practitioner recommends once weekly appointments with a specialist practitioner for the first month of treatment to monitor and assess the Employee's progress and the effects of the medication of their health. The Employee provides evidence from the treating practitioner.</p>	<p>The Employee has provided evidence that Employee B has a chronic health condition which requires regular medical intervention. Employee B and their manager agree that evidence of attendance each appointment with the specialist doctor in the first month of the Employee's treatment is not required for each and every appointment and Personal Leave for these absences is approved on the basis of the initial evidence from the treating practitioner.</p>
<p>Employee C has been diagnosed with a mental illness. To support the Employee's mental health, the treating Registered Practitioner, refers Employee C to a Psychologist. The Psychologist sets up a mental health plan for the Employer which includes recommending monthly appointments with the Psychologist. The Employee provides evidence from her treating practitioner.</p>	<p>The Employee has provided evidence that Employee C has a chronic health condition which requires regular medical intervention. Employee C and their manager agree that evidence of attendance each appointment with the Psychologist is not required for each and every appointment and Personal Leave for these absences is approved on the basis of the initial evidence from the treating practitioner. The manager and Employee agree to review this arrangement every three months.</p>
<p>Employee D has been diagnosed with a nerve issue which causes intermittent episodes of severe pain that vary in the duration of the incapacitation. Treatment and management of this condition has stagnated – it will not get better but Employee D's management of the condition according to medical advice prevents it from getting worse and minimises the number and severity of the episodes as best as it can be done. Employee D must live with their condition and deal with the episodes when they emerge, which includes treatment that may affect their</p>	<p>The Employee has provided evidence that Employee D has a chronic health condition which results in periodic episodes of reduced capacity or no capacity.</p> <p>Employee D and their manager agree that there is no need for evidence of each individual episode as it comes from the same chronic health condition, and Personal Leave will be approved for Employee D to manage the occasional episodes or flare ups associated with their condition.</p>

Scenario	Treatment
fitness for work or their work output. The Employee provides evidence from their treating practitioner that advises that Employee D may experiences occasional episodes or flare ups that makes them unfit for work or require reasonable adjustment but these episodes or flare ups do not necessitate re-assessment of Employee D's condition.	Employee D provides updated evidence from their treating practitioner on a regular basis (for example, after their six-monthly review of their condition by their treating practitioner). At this time the manager and Employee D and agree to extend the arrangement until the Employee's next regular review with their treating practitioner.

**10.5.** The examples in the table above are not intended to be exhaustive and seek to provide high level guidance on the intended application of this provision.

## **11. Evidence to facilitate return to work**

**11.1.** In accordance with clause 56.12 of the Agreement, the Employer may request an Employee who has been on personal leave for at least six weeks obtain from the Employee's treating Registered Practitioner documentary evidence to assist the Employer in determining a potential return date for the Employee and any reasonable adjustments that may be necessary to facilitate their safe return to work.

**11.2.** To prevent unnecessary delays to an Employee's return to work where they are otherwise ready, willing and able to return to work, the Employer should make reasonable efforts to advise an Employee who is about to pass, or has passed, the six-week mark of personal leave absence whether the Employer will require documentary evidence under clause 56.12 of the Agreement prior to the Employer allowing the Employee to return to work, to enable the Employee to plan to obtain this information at their upcoming medical appointments.

## **12. Failure to provide documentary evidence**

**12.1.** Employees are required to provide the relevant documentary evidence within a reasonable period of time. If an Employee fails to comply with a direction to provide the relevant documentary evidence within a reasonable timeframe, the absence may be regarded as leave without pay. Employers should seek further guidance from their People and Culture Team (or equivalent) about what other steps might be appropriate in the circumstances where leave is taken without approval and without reasonable cause.

## **13. Unpaid Personal/Carer's Leave**

**13.1.** An Employee who has exhausted all paid personal/carers leave entitlements may apply for unpaid personal/carers leave, request to use other accrued paid leave, or elect to work make-up time, under clauses 56.15 and 56.16 of the Agreement. The Employer should not unreasonably refuse.

**13.2.** An Employee may also request Other Leave under clause 77 of the Agreement where Personal/Carer's Leave has been exhausted.

**13.3.** The Employer should make reasonable efforts to notify Employee's they will or have exhausted their paid Personal/Carer's Leave entitlements and refer them to clauses 56.15 and 56.16 of the Agreement, which outlines the available options to the Employee.

## **14. Cessation of employment**

**14.1.** Personal/Carer's Leave is not paid out on termination of employment.

**15. Movement between Employers covered by the Agreement**

- 15.1.** Personal/Carer's Leave entitlements will be transferred between departments and agencies covered by the Agreement where there is no break in service. In determining whether there has been no break in service the Employer must have regard to clause 49.3(d) of the Agreement.
- 15.2.** An Employee who is transferring to another Department or Agency covered by the Agreement, will have their accrued Personal/Carer's Leave entitlements transferred to their new Department or Agency through the Transfer of Personnel (TOP) process unless there is a break in service. An Employee appointed to a role with a new Department or Agency covered by the Agreement must advise the Employer prior to ceasing with their current Department or Agency so appropriate arrangements can be made to transfer the Employee's service and accrued leave entitlement to their new Department or Agency.

**16. Personal/Carer's Leave during periods where an Employee is in receipt of workers' compensation payments**

- 16.1.** Consistent with clause 49.4(a)(i) of the Agreement, an Employee who is absent from work and in receipt of workers' compensation payments is entitled to take and accrue Personal/Carer's Leave.

**17. Other significant family or personal connections**

- 17.1.** Clause 2 of the Agreement defines Immediate Family to include spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee, or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee. This definition is consistent with the definition provided in the *Fair Work Act 2009*.
- 17.2.** Despite this, the Employer recognises that the list does not encompass many important significant family and personal connections. Given this, Employers have the discretion to grant Personal/Carers Leave with or without pay where a person with a significant family or personal connection to the Employee, but who is not a member of the Employee's immediate family or household, where the person:
- 17.2.1.** suffers from a personal illness or injury which requires the Employee's care or support, or
- 17.2.2.** is affected by an unexpected emergency.
- 17.3.** In exercising discretion under clause 56 of the Agreement, Employers should be satisfied that a significant family or personal connection exist, which goes beyond normal personal connections or acquaintances. Examples of significant family or personal connections may include an extended family member (for example, aunt, uncle or the partner of the Employee's siblings) or former foster carer of the Employee.
- 17.4.** Approval of leave under this section will not be unreasonably withheld. However, Employees must support their application with appropriate evidence in line with clause 56.9 of the Agreement in order to be granted the leave in relation to significant family or personal connections.
- 17.5.** Depending on the circumstances, as an alternative to providing discretionary Personal/Carer's leave it may also be appropriate to facilitate an Employee providing care or support to a person who is a significant family or personal connection, through a flexible working arrangement (such as agreement to make up the time taken to attend medical appointments) with the agreement of the Employer.

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

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

### **Dispute resolution**

An Employee who is directly affected by a decision made or action taken pursuant to clause 56 of the Agreement may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

## **Further Information**

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

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

## **Related policies or documents**

### **Common Policies**

- Other Leave
- Annual Leave
- Family Violence Leave
- Management of Misconduct
- Review of Actions
- Parental Leave
- Reproductive Health and Wellbeing Leave
- Inherent Requirements

All policies can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>.

Authorised by Industrial Relations Victoria:

#### **Key Details**

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