

LEAVE LIABILITY MANAGEMENT

POLICY OBJECTIVE

- ***To provide guidance that assists Public Sector agencies in managing leave liability.***

POLICY PRINCIPLES

- Public Sector agencies are to develop and implement strategies to manage leave liability effectively.

APPLICATION

- This policy applies to all Public Sector agencies.

GUIDELINES

- Leave management plans should seek to balance operational requirements with the needs of employees and the requirement to provide a recreation break from work.

LEAVE MANAGEMENT POLICY

1. Within a leave management policy, and taking into consideration the terms of relevant industrial agreements, contracts of employment, awards and the *Minimum Conditions of Employment Act 1993*, Public Sector agencies should consider:
 - a) utilising available flexibility within existing industrial agreements and awards to assist in managing leave entitlements. Some examples are outlined in paragraph 7;
 - b) closely monitoring the utilisation of leave entitlements to ensure employees clear leave within a reasonable time of it falling due;
 - c) directing employees to reduce accumulated leave where it has not been cleared within a reasonable time; and
 - d) allowing accumulation of leave in 'special circumstances' only.
2. Directing employees to take leave is a legitimate strategy to reduce leave liability. This management prerogative is especially applicable where employees have a large bank of accumulated leave.
3. Where disagreement occurs as to the taking of leave, Public Sector agencies will need to comply with the terms of the relevant industrial agreement, contract of employment, award and section 25 of the *Minimum Conditions of Employment Act 1993*.

LEGISLATIVE PROVISIONS

4. Public Sector agencies should be mindful of reference to section 25 of the *Minimum Conditions of Employment Act 1993* in a leave management policy. The Act provides that:

Annual leave, when may be taken

- (1) *Where an employer and an employee have not agreed when the employee is to take his or her annual leave, subject to subsection (2), the employer is not to refuse the employee taking, at any time suitable to the employee, any period of annual leave the entitlement to which accrued more than 12 months before that time.*
- (2) *The employee is to give the employer at least 2 weeks' notice of the period during which the employee intends to take his or her leave.*

This provision:

- a) applies to leave that has been accrued more than 12 months prior to the time an employee wishes to take leave;
- b) applies to the situation where an employee wishes to take leave at a particular time and there is a disagreement about the timing of the leave;
- c) does not prohibit an employer directing an employee to take annual leave, subject to this provision; and
- d) is automatically implied into any industrial agreement, award or contract of employment.

LEAVE MANAGEMENT STRATEGIES

7. One of the strategies which has proved successful is the introduction of leave rostering. Other strategies adopted by Public Sector agencies include allowing employees to:
- a) access leave in smaller amounts;
- b) clear accrued leave within specified periods;
- c) nominate leave periods in advance as a part of a leave roster; and/or
- d) compact leave.
8. The strategies a Public Sector agency applies will depend on agreement and award provisions, the extent of ongoing leave liability, funding arrangements and operational requirements.

REVIEW DATE

- October 2014

RELATED INFORMATION

- The *Minimum Conditions of Employment Act 1993* is available at www.slp.wa.gov.au

