

Directive: compliance is mandatory

Cultural Leave Policy Directive – Special Leave with Pay for Aboriginal and Torres Strait Islander Employees

Policy developed by: Workforce Division

Approved at Portfolio Executive on: 28 September 2011

Next review due: 28 September 2014

Summary

The purpose of the Cultural Leave Policy Directive is to specifically address the cultural needs of Aboriginal and Torres Strait Islander employees by facilitating access to provisions designed to assist these employees to attend to cultural obligations and activities outside the workplace.

Accordingly, SA Health has implemented a separately defined (supplementary) Special Leave with Pay category (Cultural Leave) to enable Aboriginal and Torres Strait Islander employees to meet their cultural obligations and to participate in national cultural activities without, as far as practicable, incurring a loss of remuneration in the short term.

Subject to approval, a maximum of 15 days per service year may be accessed by Aboriginal and Torres Strait Islander employees for the purposes of Cultural Leave. The entitlement to Cultural Leave, Special Leave with Pay is incorporated within (and is not in addition to) existing Special Leave with Pay provisions for SA Health employees.

Keywords

Aboriginal, Torres Strait Islander, Cultural Leave, Special Leave with Pay, cultural obligations, Family – extended Family, NAIDOC, NAIDOC week, National Sorry Day, Directive

Policy history

Is this a new policy? **Yes**

Does this policy amend or update an existing policy? **No**

Does this policy replace an existing policy? **No**

Applies to

All SA Health Portfolio

Staff impact

SA Health Aboriginal and Torres Strait Islander employees

PDS reference

D0246

Version control and change history

Version	Date from	Date to	Amendment
1.0	28/09/2011	Current	Original version

SA Health

Cultural Leave Policy:

Special Leave with Pay for Aboriginal and Torres Strait Islander Employees

Version 1.0 - 28 September 2011

Cultural Leave Policy – Special Leave with Pay for Aboriginal and Torres Strait Islander Employees - Workforce Division, SA Health



Government
of South Australia

SA Health

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SA Health Cultural Leave Policy – Special Leave with Pay for Aboriginal and Torres Strait Islander Employees

1. Policy Commitment

SA Health recognises and values the cultural diversity of its workforce and acknowledges the importance of cultural obligations and the ability to participate in cultural activities to Aboriginal and Torres Strait Islander employees. SA Health is committed to enabling Aboriginal and Torres Strait Islander employees to participate in cultural activities and to meet their cultural obligations in instances where individual needs and obligations need to be met and conducted within working hours.

SA Health's commitment extends to providing specific and defined special leave provisions to Aboriginal and Torres Strait Islander employees, including the ability to access existing special leave with pay entitlements for recognised cultural purposes. SA Health has developed this Policy document to direct the implementation and application of special leave with pay entitlements for Aboriginal and Torres Strait Islander employees across SA Health.

The Policy aligns with and supports SA Health's commitment to increasing the employment of Aboriginal and Torres Strait Islanders peoples at all levels within SA Health's workforce, including improving the attraction and retention of current and future Aboriginal and Torres Strait Islander employees across the Portfolio.

2. Scope

The Policy covers all Aboriginal and Torres Strait Islander persons employed by SA Health.

3. Context

Special Leave with Pay is designed to enable employees to meet individual needs and responsibilities that cannot be attended to outside of normal working hours and in instances where other leave entitlements are not available or appropriate.

Subject to approval, existing Special Leave with Pay provisions allow employee access to paid entitlements of up to a maximum of 15 days per service year.

The Policy is to be considered within the context of, and having regard to existing paid leave entitlements and provisions available to SA Health employees, including those specified within the SA Health Care Act Human Resources Manual and the Commissioner for Public Employment's Commissioner's Standards/Determinations as appropriate. Cultural Leave Special Leave with Pay entitlements are to be used in conjunction with existing Special Leave with Pay entitlements and are not cumulative beyond service years. The maximum entitlement of 15 days Special Leave with Pay (per service year) to attend to individual needs and responsibilities is now inclusive of and not additional to Cultural Leave provisions.

4. Policy Detail

The categories defining acceptable and/or valid reasons for employees to request Special Leave with Pay have been extended to encompass and address the specific and unique cultural requirements and obligations of the Aboriginal and Torres Strait Islander workforce. As a consequence, a separate/defined category of Special Leave with Pay (Cultural Leave) has been incorporated into the existing Special Leave with Pay provisions for SA Health employees.

The provisions and entitlements associated with this category of Special Leave with Pay are specific to Aboriginal and Torres Strait Islander employees and provide access to paid leave entitlements for the purpose of meeting traditional law, customary law and family obligations, and/or participating in national cultural activities.

Accordingly, the SA Health Chief Executive (or delegate) may grant up to the equivalent of 15 days special leave with pay each service year to Aboriginal and Torres Strait Island employees to enable them to meet individual needs and responsibilities associated with cultural obligations and requirements, including activities associated with:

- Meeting traditional law, customary law and *family* obligations; and/or
- Participating in national cultural activities.

The cultural obligations and activities (associated with Aboriginal and Torres Strait Islander cultures) that would meet the criteria for Cultural Special Leave with Pay can be defined as (but are not limited to):

- Traditional and customary law requirements which may include the requirement to participate in or attend an initiation ceremony, or a ceremony relating to men's business or women's business.

- *Family* and community obligations which may include (but are not limited to):
 - Attending to or making arrangements for the care of a sick *family* member; *or*
 - organising a funeral and affairs for a deceased *family* member; *or*
 - attending the funeral of a *family* member; *or*
 - fulfilling community obligations including required attendance at community meetings.
- Cultural activities include (but are not limited to):
 - NAIDOC week (which occurs in the first full week of July each year)
 - National Sorry Day (held on 26th May each year)

Cultural Leave – Maximum Paid Leave Entitlement

The maximum entitlement for Special Leave with Pay under this category is the equivalent of 15 working days* per service year for Aboriginal and Torres Strait Islander employees. Part Time employees are entitled to Special Leave with Pay on a pro rata basis.

*The entitlement to Cultural Leave, Special Leave with Pay is included within (and is not in addition to) the existing Special Leave with Pay provisions for SA Health employees. Entitlements accessed under this category will proportionally reduce an employee's overall entitlement to Special Leave with Pay accordingly.

Applications for (Paid) Cultural Leave

Special leave with Pay for the purpose of Cultural Leave may only be granted where an employee makes a formal application. Where possible, requests/applications for Cultural Leave should be submitted in a timely manner to enable alternative workforce arrangements to be implemented (where necessary) as soon as possible.

Timely submission of applications will assist SA Health Divisions, Departments and Health Networks/Services to accommodate requests.

It is acknowledged however, that in certain instances (eg cultural matters requiring the employee's urgent attention due to unforeseen circumstances), a period of notice may not be possible.

Consideration and Granting of Requests

In assessing and granting requests for Special Leave with Pay for the purpose of Cultural Leave for Aboriginal and Torres Strait Islander employees, the delegate may:

- Request reasonable evidence of the legitimate need for the employee to be granted time off.
- Request further information from the employee or seek advice from the relevant Health Network/Service (or SA Health) Aboriginal Health Division/Directorate to determine the nature of the cultural obligation and/or the essential requirement of an applicant to participate in a cultural activity.

Whilst it is at the discretion of the Chief Executive (or delegate) to determine whether time off with pay is to be granted to an employee or otherwise, all applications for Special Leave with Pay under this category need to be given fair and proper consideration and treated in a culturally sensitive manner; demonstrating respect for the specific cultural obligations associated with Aboriginal and Torres Strait Islander cultures.

Non approved Special Leave with Pay requests under this category need to be supported by clear and justifiable reasons which should be communicated to the applicant as soon as possible.

If appropriate, other leave (Special Leave without Pay, flexi-time or other accrued leave entitlements) may be offered in lieu to enable the employee to attend to cultural obligations and activities during working hours. For example, in instances where an application for Special Leave with Pay has not been approved on the basis that the applicant has exceeded the maximum entitlement to Special Leave with Pay for the current service year, alternative leave arrangements may be negotiated.

Note: Before approving any request for paid Cultural Leave, the delegate needs to ascertain what, if any Special Leave with Pay entitlements the employee has already accessed within the current service year. This action is necessary to ensure that the maximum entitlement to Special Leave with Pay (15 working days per service year) has not been exceeded (or will not be exceeded) if a request is approved. Any entitlements accessed under Cultural Leave or any other category of Special Leave with Pay (within the same service year) will proportionally reduce the availability of entitlements to Cultural Leave for that service year.

5. Definitions

Aboriginal employee	A person employed by SA Health who is of Aboriginal descent; who identifies as an Aboriginal person; and, who is accepted by the Aboriginal community in which they live.*
Torres Strait Islander employee	A person employed by SA Health who identifies as, or is a descendant of a Torres Strait Islander person.*
Special Leave with Pay	<p>A specific category of employment entitlements available to employees for which there is a maximum paid entitlement and prescribed conditions.</p> <p>Special Leave with Pay provisions enable employees to apply for and access paid leave to assist them to meet short term individual needs and responsibilities that cannot be attended to outside of working hours. NB: Special Leave with Pay is subject to approval following determination of availability of service year entitlements and the legitimate need for access.</p>
Cultural Leave, Special Leave with Pay	A supplementary Special Leave with Pay Category designed specifically for Aboriginal and Torres Strait Islander employees to enable them to meet their cultural obligations and to participate in cultural activities which can legitimately only be conducted or attended to within working hours.
Family – extended family relationships	<p>For the purpose of this Policy, family represents and covers the extended families that exist within Aboriginal and Torres Strait Islander cultures and the obligations that may exist in addition to, and irrespective of bloodline relationships.</p> <p><i>Family</i> extends to cover relationships where there is a close association.</p>
NAIDOC	<p>National Aborigines and Islanders Day Observance Committee (NAIDOC).</p> <p>NAIDOC week is a week of celebrations which occurs annually in the first full week of July each year; and is a national cultural event which celebrates Aboriginal and Torres Strait Islander cultures, and provides an opportunity to recognise the contribution of Indigenous Australians.</p>
National Sorry Day	A national day of cultural significance and importance to Aboriginal people which is held on the 26 th of May each year. National Sorry Day honours the ‘Stolen Generations’ specifically those Aboriginal peoples who were forcibly removed from their families as a result of past government assimilation policies and actions.

*It is acknowledged that SA Health employees can identify to be of Aboriginal and/or Torres Strait Islander descent

6. Related and Referred to Documents

- SA Health (Health Care Act) Human Resources Manual, in particular Section 7.7 Special Leave With Pay
- Commissioner's Standard 3 – Responsive and Safe Employment Conditions, in particular Section 3.4 Leave, Attachment D – Special Leave With and Without Pay
- SA Health Care Act 2008
- SA Public Sector Act 2009
- SA Health Aboriginal Employment Policy