

OIA Response to Request for information about leave entitlements at the Ministry for Culture and Heritage

10 September 2019

Date: 20 August 2019

Title: Response to OIA request for information about leave entitlements at the
Ministry for Culture and Heritage

Author: Ministry for Culture and Heritage

This document has been proactively released.

Some parts of this briefing would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Section 9(2)(a) Information has been withheld to protect the privacy of natural persons.

20 August 2019

Dear **s9(2)(a)**

I refer to your request received on 24 July 2019, which has been considered under the Official Information Act 1982 (OIA), for information about leave entitlements at the Ministry for Culture and Heritage.

You have requested:

- Leave entitlement by leave type ideally for the last year or the latest year available.
- How many days of each leave type do you provide to your employees? (annual leave, sick leave, any special leave etc.)
- Can staff purchase additional leave? If yes, how many days?
- Do you offer extra days (council days etc) as a compensation for Christmas shutdown period? If yes, how many days?

Enclosed is an extract from the Ministry's current Collective Employment Agreement. This extract includes leave entitlements and covers the first, second and fourth parts of your request above.

In response to the third part of your request, staff may purchase up to an additional two weeks of leave by forgoing a portion of their salary.

Please note that we intend to publish this letter (with your personal details removed) and enclosed document on the Ministry's website.

Yours sincerely

John Rapley
Principal Adviser Employment Relations, People and Culture

Extract from the Ministry for Culture and Heritage Collective Employment Agreement 2018- 2020 - 7 December 2018 to 7 December 2020

2.5 The Ministry Holidays

2.5.1 The Ministry provides members with 3 paid days' holiday each year to be taken between Christmas and New Year.

2.6 Annual Leave

2.6.1 In accordance with the Holidays Act 2003 you are entitled to 20 days' annual leave per annum.

2.6.2 Upon the completion of five years' service, employees covered by this collective agreement will be entitled to accrue a total of 22 days annual leave per annum.

2.6.3 You are encouraged to use your annual leave in a timely way. Leave will be taken at times agreed, wherever possible.

2.6.4 If leave owed to you exceeds your annual leave entitlement at any point, you and your manager will agree a plan to manage the leave owing.

2.6.5 You may anticipate up to half the annual leave entitlement due, subject to refund on resignation if necessary.

2.6.6 Unless you otherwise request, salary covering your annual leave will be paid on the normal fortnightly paydays.

2.7 Parental Leave

2.7.1 Definition

2.7.1.2 Parental leave provided by the Ministry is leave without pay, except where specified otherwise.

2.7.2 Eligibility

2.7.2.1 Parental leave is available in respect of each child born to you or your partner, or where you assume the care of a child under five years old with a view to adoption. (including Whāngai adoption)

2.7.2.2 You may take up to six months' parental leave, once you have a minimum of six months' service. You may take up to 12 months' parental leave, once you have a minimum 12 months' service.

2.7.2.3 The maximum period of parental leave may be taken exclusively or may be shared between you and your partner.

2.7.3 Applying for Parental Leave

2.7.3.1 You must provide at least 3 months' notice in writing to your manager of your intention to take parental leave and not less than 21 days' notice of your intention to return to work following a period of parental leave.

2.7.4 Maternity Leave

2.7.4.1 Maternity leave may commence up to six weeks prior to the expected date of delivery or date of assuming care.

2.7.4.2 If you are pregnant, you may commence maternity leave earlier on the advice of your medical practitioner. Any leave taken before the six-week period prior to the expected date of delivery is in addition to your parental leave entitlement.

2.7.4.3 You may also take an additional ten days' special leave without pay.

2.7.5 Partner's/Paternity Leave

2.7.5.1 Leave of up to 10 working days may be taken at any time between the period three weeks prior to and three weeks following the expected date of delivery or date of assuming care. This leave is in addition to your entitlement under clause 2.7.2.2. You will receive your normal pay during this leave.

2.7.6 Job Protection

2.7.6.1 You will be entitled to resume work in the same or similar position to the one you held prior to commencing parental leave. A similar position means:

- At the equivalent salary and job sizing; and
- Involving responsibilities broadly comparable to the previous position.

2.7.6.2 When you take parental leave, the Ministry will as a preference keep your position open with a fixed term replacement.

2.7.6.3 In the event that your position becomes affected during a period of parental leave, you will be notified and consulted in terms of the Change Management provisions of this agreement.

2.7.7 Annual Leave after Return to Work

2.7.7.1 Employees continue to accrue annual leave during a period of parental leave. To help employees take a break and spend time with their family after they come back to work from parental leave, the Ministry will pay all annual leave that the employee takes during the 12 months following return from parental leave at the greater of their ordinary weekly pay or their average weekly earnings for the 12-month period immediately prior to taking the annual leave.

2.7.8 Parental Leave Payment on Return to Work

2.7.8.1 Following your return to work after parental leave, you will be eligible for the payment of six weeks' salary, i.e. 30 working days (pro-rated for part time).

2.7.8.2 The payment will be made on the completion of six months' service after returning to work.

2.7.8.3 The payment will be made as follows:

- The amount will be calculated at the normal rate of salary applicable to the 30-day period prior to the commencement of the leave;
- Only one payment will be made where both partners are engaged in the State sector and both meet the eligibility criteria; and
- The amount will be prorated where you take parental leave of less than six weeks.

2.7.8.4 Where you work reduced hours prior to taking parental leave as a result of a medical condition arising from your pregnancy, the return to work payment will be calculated at the normal rate of salary for the 30-day period prior to the reduction of hours.

2.7.8.5 If you elect to work reduced hours prior to taking parental leave for reasons other than a medical condition arising from your pregnancy, the return to work payment will be calculated at the normal rate of salary for the 30-day period prior to the commencement of the leave.

2.7.9 Re-Engagement after Childcare

2.7.9.1 If you resign to care for your dependant pre-school children, you will have preference for re-employment if you reapply for a position within one year from the date of resignation or two years from the date of taking parental leave.

2.7.9.2 The preference will apply where you apply for a vacancy which is substantially the same position as previously held and where you have the necessary skills to competently fill the vacant position. Where these criteria are met, you will be offered the position in preference to any other person.

2.7.9.3 The period of absence will be treated as unbroken service but will not count for the purpose of any service related leave entitlements.

2.7.9.4 The preference will lapse where the applicant has not been appointed to a position within six months of reapplying.

2.8 Long Service Leave

2.8.1 Members who are permanent employees will be entitled to long service leave as follows:

- 2 weeks holiday on completion of 10 years continuous service, plus

- one week's holiday on completion of 15 years continuous service, plus
- one week's holiday on completion of 20 years continuous service

2.8.2 Each long service holiday will be taken in one period and within 5 years of qualification.

2.9 Previous Service

2.9.1 For the purposes of annual and long service leave, previous continuous service within the core public service and/or membership of the PSA will be recognised for members who are permanent employees. Service in the wider state sector where deemed to be relevant will also be recognised.

2.10 Responsibilities regarding use of Flexible Leave

2.10.1 Essentially the availability of flexible conditions requires you to take responsibility for your particular circumstances to try to minimise the impact on your colleagues and on the Ministry. It also requires managers to ensure that any suspected abuse of the provisions are dealt with appropriately.

2.10.2 The Ministry is confident that you will take only the amount of sick leave that you require to regain health. Sick leave is to be administered fairly by managers and utilised responsibly by members. Abuse of flexible sick leave is misconduct and will be subject to disciplinary procedures.

2.11 Personal Sick Leave

2.11.1 Flexible sick leave is available to all members from your start date and is provided to protect you when you are prevented from attending work by reason of illness or accident.

2.11.2 To assist with the smooth running of the Ministry, you will provide advice of your absence to your manager preferably within an hour of the usual start time.

2.11.3 A medical certificate is required for an absence of more than 4 days for the same illness/event, whether it be for personal sickness or for care of dependants. A medical certificate may also be required for shorter periods, at the Ministry's cost, if the amount of leave taken rises significantly or if the manager has reason to believe that the leave provision is being abused.

2.11.4 The Ministry's guidelines for the use of flexible sick leave are available on the intranet. Normal sick leave usage (including leave for care of sick dependants) should not exceed an annual average of 10 days from the commencement of employment at the Ministry, or over the last five years (whichever period is shorter).

2.11.5 Long Term Illness

2.11.5.1 If your absence is for a period of over five days (which in all cases a medical certificate must be supplied) the following steps will be taken:

- After five working days if there is no indication of when you will return to work you will be contacted by the Ministry and the situation will be discussed. Appropriate options will be discussed with you including possible flexible working arrangements;
- If this period extends up to 20 working days and there is still no indication of when you will return to work the situation will again be reviewed and if necessary alternative flexible working arrangements will be discussed; and
- If the period continues up to 45 working days and there is uncertainty as to whether you will be able to return to work then medical retirement will be looked at as an option. An assessment will be made on if and how flexible working arrangements may be being managed. Your manager will assess, in consultation with yourself (together with your representative, if you wish to have one present), whether the Ministry is able to hold your position open.

2.11.6 **Medical Retirement**

- 2.11.6.1 If it becomes apparent that you are unable to fulfil the duties of your position due to medical reasons, you may be required to retire on medical grounds. A final decision on medical retirement will be confirmed by a medical assessment by two independent medical practitioners, one nominated by your manager and one nominated by yourself. In the event you are medically retired, you will receive a minimum of 65 working days pay.
- 2.11.6.2 If you have more than 25 years' service, an extra 5 working days pay will accrue for each year's service over 25 years, up to a maximum of 130 working days pay.

2.12 **Domestic Leave**

- 2.12.1 Domestic leave is paid leave to cover situations where you are required to care for a person in your household or family who becomes dependant on you as a result of illness, incapacity, accident or other injury. The dependant person does not necessarily have to be living in the same house as you.
- 2.12.2 Domestic leave covers the situation where the dependant is unexpectedly sick and is not intended for long term care. If this situation becomes protracted or recurring, then other options will be discussed between you and your manager. These may include using your annual leave, leave without pay, and/or flexible working arrangements. Additional support may be provided from the Ministry's Employee Assistance Programme.
- 2.12.3 The Ministry's guidelines for the use of flexible sick leave arrangements (including domestic leave) are available on the intranet.

2.13 **Bereavement/Tangihanga Leave**

- 2.13.1 You will be granted special bereavement leave on full pay to discharge your obligations and/or to pay your respects to a deceased person with whom

you have had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at part or all of a Tangihanga (or its equivalent). This may include attendance at unveiling ceremonies.

2.13.2 If bereavement occurs while you are absent on some other form of paid leave, then the paid leave will be interrupted, and bereavement leave granted.

2.14 **Special Purpose Leave With or Without Pay**

2.14.1 From time to time at the Ministry's discretion, you may be granted special purpose leave with or without pay. Requests will be granted on a case-by-case basis. Examples might be compassionate leave, leave to take up study fellowships etc.

2.14.2 Unless agreed in writing between you and your manager prior to going on leave, placement on return from leave without pay of more than one month cannot be guaranteed. If you cannot be placed in employment on return, you will be given one month's notice in writing that the employment is terminated.

2.14.3 In the event of a genuine unplanned short-term personal emergency that requires your attendance, the Ministry may also approve leave on a case by case basis.

2.15 **Leave for Judicial Process or Community Service**

2.15.1 Where you are required for jury service or obliged to attend as a witness, paid leave will be provided to attend. Any jurors' or witness fees are to be repaid to the Ministry.

2.15.2 If you are appointed by Ministerial appointment to a Board, Council or Committee, you will be allowed paid time off to meet those commitments. If you have been given approval to undertake a commitment in community activities such as civil defence (including conferences and courses), voluntary firefighting and search and rescue, unpaid leave will be provided for these activities.

2.15.3 Leave will be determined in each case by agreement with your manager, subject to addressing any difficulties in releasing you from work.

2.15.4 Any remuneration earned from these activities during paid time off is to be repaid to the Ministry.