

Staff - Leave Without Pay (LWOP) Procedures

INTRODUCTION

The University is committed to creating an environment and culture that fosters excellence, innovation and teamwork. The University is also committed to providing targeted, continuing, professional development opportunities for its staff members thereby producing a pool of high-calibre professionals capable of leading the University into the future.

To support and facilitate this commitment, the University provides staff members with the ability to apply for Leave without Pay (LWOP). Additionally Leave without Pay is a provision that may be used by staff members to access unpaid leave for a variety of reasons in order to balance their operational commitment to the University and family and/or personal responsibilities.

COMPLIANCE

This is a compliance requirement under the [Charles Darwin University Act 2003](#) part 3, section 15.

INTENT

This document describes the procedures for staff requesting Leave without Pay (LWOP) - how to apply and the circumstances under which it may be granted.

RELEVANT DEFINITIONS

In the context of this document

FTC means Fixed-Term Contract;

Leave includes paid personal leave (sick and carer's), paid compassionate leave, paid annual recreation leave, long service leave, paid parental leave, paid community service leave, paid Aboriginal and Torres Strait Islander cultural leave;

Senior Executive means a staff member of the University holding the position of Vice-Chancellor, Provost, Deputy Vice-Chancellor, Pro Vice-Chancellor or Chief Financial Officer or equivalent;

Senior Manager means a staff member of the University holding the position of Director or Head of School or equivalent; and

Supervisor means the immediate day-to-day manager of an individual or group of staff.

PROCEDURES

Overview

Leave without Pay (LWOP) is a period of leave staff members may request when **all** other paid leave has been exhausted including all paid annual recreation leave and long service leave entitlements. Leave without Pay is not remunerated by the University. The granting of Leave without Pay is not guaranteed and is at the discretion of the staff member's Senior Manager.

Teaching-focused Academic Staff (TFAS) previously employed in industry and wanting to return to their industry to up-skill or retain currency of their skills may apply for [Return to Industry Leave](#).

Leave without Pay is not an accrued entitlement.

An approved period of Leave without Pay will not normally exceed one (1) year however, requests for longer periods of Leave without Pay (up to two (2) years) may be considered. All Leave without Pay requests must be approved prior to commencement. Any extensions to the period of Leave without Pay must also be applied for and approved prior to the commencement of any extension. The staff member must attempt to provide as much notice as possible when making an application for Leave without Pay. In normal circumstances this means two (2) months' notice.

Leave without Pay will not normally be granted to enable an employee to undertake employment with other organisations other than in accordance with cl. 67 of the [Charles Darwin University and Union Enterprise Agreement](#) - (Return to Industry Leave). A staff member who intends to undertake work during the requested Leave without Pay period must notify their supervisor in advance and gain approval from his/her Senior Manager through his/her Supervisor to do so, prior to commencing the work. Any work undertaken during a period of Leave without Pay must not conflict with the interests of the University. For further information refer to the University [External Work Policy](#).

Depending on the circumstances of the Leave without Pay request and the operational requirements of the University at the time, Leave without Pay may be subject to the University offering the staff member a same-level position upon the staff member's return to work (but not exact position), only where the pre-Leave without Pay position will not be able to be held for an extended period of time.

NOTE: Unauthorised absences from duty due to industrial action are treated as Leave without Pay for the purposes of salary and other entitlements.

Granting Leave without Pay

Leave without Pay may be granted only when a staff member has exhausted all other forms of leave available to them and:

- There is a clear, potential benefit to the University's core business operations;
- The Leave without Pay is contiguous to parental leave beyond a statutory period;
- The Leave without Pay is for unusual or extenuating circumstances;
- The Leave without Pay is for cultural ceremony;
- The Leave without Pay is for personal development, career development, skill enhancement, exchange and/or study; or
- The Leave without Pay is for personal circumstances including compassionate grounds (this may include working in a family owned/run business to cover unforeseen circumstances).

In evaluating the potential benefit to the University, consideration will be given to the extent to which the activities undertaken during the period of Leave without Pay will enhance the staff member's future contribution to the University, for example research or study purposes. The Senior Manager may also take into account that the proposed absence will provide an opportunity for cost savings.

Applying and Approving

A statement of the circumstances supporting the application must be in writing and accompany applications for such leave utilising the Application for Leave Without Pay form available from the Office of People and Capability. Applications must be submitted and approved in sufficient time to ensure that the approved application is received at the Office of Human Resource Services at least three (3) weeks before the commencement of leave.

In cases where exceptional circumstances mean that it is not possible for the application to be submitted and approved within this timeframe, the Director, Office of People and Capability, will give consideration to accepting the application within a shorter timeframe.

Approval for Leave without Pay applications **of between two (2) weeks and four (4) weeks** may be given by:

- Academic and General Staff – relevant Senior Manager;
- Senior Managers – relevant Senior Executive; and
- Senior Executives – Vice-Chancellor.

NOTE: Approval for Leave without Pay of fourteen (14) days or less may be approved by the staff member's immediate supervisor

Consideration of Leave without Pay applications longer than four (4) weeks will be based on the following principles:

- The applicant must have served a minimum of two (2) years with the University;
- The immediate supervisor recommends the application;
- Approval for Leave without Pay will depend on balancing the University and area's operational requirements with the applicant's needs; and
- The activities to be conducted during the Leave without Pay period do not conflict with the University's interests or policies. Applications for Leave without Pay in excess of **four (4) weeks up to a maximum of twelve (12) months** must be submitted with a supporting letter from the staff member's immediate supervisor to:
 - Academic Staff – Senior Manager and Senior Executive;
 - General Staff – Senior Manager and Senior Executive; and
 - Senior Executive – Vice-Chancellor.

All approved applications must be forwarded to Office of Human Resource Services and accompanied by a statement from the relevant Senior Manager or Senior Executive and must include a precise statement regarding arrangements to cover the applicant's administrative, teaching or research commitments during the period of leave.

Approval for all Leave without Pay applications **in excess of twelve (12) months** will be referred to the Vice-Chancellor through the relevant Senior Executive.

Senior Manager Role

When evaluating an application for an extended period of Leave without Pay, the Senior Manager should take into consideration:

- Whether the operations of the workplace would be adversely affected by the applicant's absence, e.g. loss of specific skills, cost of recruitment and training of replacement staff;
- To what extent these disadvantages would be offset by advantages to the applicant or the University; and
- The likelihood of the applicant returning to duty at the end of the leave period.

Applicant role

All applicants must make their own arrangements in relation to salary deductions normally paid through Payroll e.g. housing loan repayments, hospital benefits, salary packaged vehicles etc.

It is the responsibility of the applicant to remain informed of University activities in which they may have an interest e.g. position vacancies, calling for applications for promotion, professional development or study leave.

Conditions

The following conditions apply to Leave without Pay (except where LWOP is for the purposes of unpaid parental leave and unpaid personal leave) applications:

- All accrued, paid annual leave and long service leave entitlements must be exhausted prior to commencing Leave without Pay;
- Leave without Pay in excess of one (1) month will not normally be approved during a permanent staff member's probationary employment period. However, where leave is approved, the probationary employment period will be extended accordingly;
- Leave without Pay may be available to fixed-term or contract staff but will not result in the contract being extended beyond the expiry date of the contract;
- Timing of leave should be discussed and agreed upon with the staff member's supervisor, taking into account the operational requirements of the workplace;
- Weekends and public holidays which fall during the period of Leave without Pay will form part of the leave;
- For academic staff members, where possible the proposed period of Leave without Pay is to encompass complete teaching periods;
- Leave without Pay will not be granted in broken periods separated by public holidays, long service leave, or paid annual recreation leave and will only be available after all long service leave and paid annual recreation leave has been exhausted;
- Leave without Pay will not count for incremental progression or leave accrual purposes;
- A staff member is not covered by the University's Workers' Compensation provisions during any absence on Leave without Pay;
- The staff member applying for Leave without Pay must supply the Office of People and Capability with updated contact information with the application for Leave without Pay. The University may need to contact the staff member during the period of Leave without Pay for such reasons as pending organisational changes or other University requirements; and
- During a period of Leave without Pay of more than four (4) weeks, the staff member must return any University supplied equipment (i.e. laptop/mobile phone).

Return to Duty

Leave without Pay is granted with the expectation that the staff member will resume duty on the first working day after the expiration of the leave period.

Any extensions of the Leave without Pay period must be applied for in writing in advance and submitted to the appropriate approval authority.

Failure to return to work on the scheduled return date without notification and approval by the Senior Manager/Senior Executive prior to that scheduled return date may constitute abandonment of employment.

The staff member may not return to work prior to the scheduled Leave without Pay return date except by prior agreement of the relevant Senior Manager/Senior Executive.

Arrangements for returning to work must be made at least four (4) weeks prior (for Leave without Pay periods in excess of six (6) months).

A staff member who does not intend to resume duty at the end of their Leave without Pay must provide written notification of their intentions and give the same amount of notice as specified for resignations in the [Charles Darwin University and Union Enterprise Agreement](#). Failure to give the required period of notice may render the staff member liable to forfeiture of pay equivalent to the period of notice required.

The University will endeavour to provide a staff member who has been on LWOP for six (6) months or more, their pre-Leave without Pay substantive position or, if that position no longer exists, a suitable alternative position (at the same level) to the position held before commencing Leave without Pay. This will be subject to the [Charles Darwin University and Union Enterprise Agreement](#).

Continuity of Service

Absence on approved Leave without Pay will not affect a staff member's continuity of service but will not be counted as service for the purposes of accrual of credit towards any entitlements including all leave.

Right of Appeal

If an application for Leave without Pay is denied and the applicant believes the denial is on **unreasonable grounds**, they may make a written appeal to the Director, Office of People and Capability to review the application within five (5) working days of notification of the denial

NOTE: Simply denying an application for Leave without Pay is not grounds for appeal.

The Director, Office of People and Capability will review the application and the reasons for denial of the application and respond to the applicant's appeal within ten (10) working days of receiving the appeal.

The decision of the Director, Office of People and Capability will be final.

ESSENTIAL SUPPORTING INFORMATION

Internal

[Application for Leave Without Pay form](#)

Document History and Version Control

Last amendment:	15 Dec 2017	Next Review:	Feb 2014
Sponsor:	Deputy Vice-Chancellor, Operations		
Contact Officer:	Director, People and Capability		

Version	Date Approved	Approved by	Brief Description
1.00	10 May 2007	Vice-Chancellor	Creation of original document and upload to CDU website.
1.01	13 Jun 2011	Governance	<ul style="list-style-type: none">• Convert original process to current procedural document.• Change PMD to OHRS to reflect current title• Add relevant definitions and essential supporting criteria.• Minor changes to spelling grammar and formatting.• CDU Union Collective Agreement changes to Enterprise Bargaining Agreement to reflect title change.• Dean changed to Pro Vice-Chancellor to reflect title change.• Addition of essential supporting information.
2.00	8 Feb 2012	Vice-Chancellor	Major review of document after implementation of new EA.
2.01	25 Jul 2012	Governance	<ul style="list-style-type: none">• Convert document to new procedure template• Update links and delegations
2.02	25 Jul 2013	Governance	<ul style="list-style-type: none">• Assigned document number• Converted to current template• Updated and add hyperlinks• Minor changes to wording, grammar and formatting
2.03	6 Oct 2015	Governance	<ul style="list-style-type: none">• Updated hyperlinks and references to the Charles Darwin University and Union Enterprise Agreement 2013• Updated definition of Senior Executive to reflect title changes – removed Executive Director of the University and added Chief Operating Officer, Deputy Chief Operating Officers and Chief Financial Officer• Minor changes to wording, grammar and formatting
2.04	15 Dec 2017	Governance	<ul style="list-style-type: none">• Converted document into new template

			<ul style="list-style-type: none"> • Updated definitions for senior executive and senior manager • Updated hyperlinks • Amended reference to 'the Agreement' to Charles Darwin University and Union Enterprise Agreement. • Amended references to OHRS to Office of People and Capability • Sponsor added, Deputy Vice-Chancellor, Operations • Amended Contact Officer from Manager, Employee Relations, Office of Human Resource Services to Director, People and Capability
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