



PURPOSE

This policy provides a clear set of guidelines and procedures for Gembrook Preschool to:

- ensure smooth operations by managing and covering staff absences effectively
- promote fairness by providing consistent guidelines for leave entitlements and approvals
- support employee wellbeing by encouraging necessary time off for rest, health, or personal matters
- ensure compliance with legal requirements related to employment laws and leave entitlements
- clarify procedures for requesting, approving, and documenting leave



POLICY STATEMENT

VALUES

Gembrook Preschool is committed to:

- ensuring that the health, safety and wellbeing of children at the service is always protected while also promoting their learning and development
- fulfilling a duty of care to all children attending the service
- providing accountable and effective staffing and management practices
- employing educators with a range of relevant qualifications and experience to provide a quality educational program that meets the needs of the children and families in the community
- employing educators according to legislation and funding requirements
- complying with relevant industrial agreement and current legislation in relation to the employment of staff, including the [Equal Opportunity Act 2010](#), [Fair Work Act 2009](#) and the [Worker Screening Act 2020](#)
- continuity of educators at the service
- the further development of staff

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students and volunteers of Gembrook Preschool.

Employees should review this information in conjunction with their relevant award agreement (as some conditions and entitlements may differ) to ensure a comprehensive understanding of their rights and obligations.

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Contractors, volunteers and students
R indicates legislation requirement, and should not be deleted				
The Approved Provider must follow the <i>Fair Work Act 2009</i> , which outlines <i>National Employment Standards (NES)</i> , including leave entitlements such as annual leave, personal leave, and parental leave (<i>refer to Definitions</i>).	R			
The Approved Provider must keep detailed records of employee leave balances, leave taken, and leave requests, as required by the <i>Fair Work Act 2009</i> .	R			
The Approved Provider must follow the minimum employment entitlements under the <i>NES</i> , which include annual leave, personal/carer's leave, compassionate leave and family and domestic violence leave, as well as long service leave governed by state legislation.	R			
The Approved Provider should ensure all employees understand their specific obligations under the <i>Fair Work Act 2009</i> and any applicable award agreements.	√			
Full-time and part-time employees are entitled to a minimum of 4 weeks of paid annual leave each year, pro-rata for part-time employees. See individual contract/award for details regarding staff agreements i.e. 52/52, 46/52, or other.	R			
The Approved Provider must provide a minimum of 10 days of paid personal/carer's leave per year for full-time employees, pro-rata for part-time employees which covers sick leave or caring responsibilities.	R			
The Approved Provider must calculate and allow employees to accrue leave entitlements based on their work hours.	R			
Employees should inform the nominated supervisor at the earliest convenience (via the agreed communication channel) about their need for personal leave, preferably before the start of the workday.		√	√	√
Employees must request extended personal leave/leave of absence (LOA) (<i>refer to Definitions</i>) via the leave request form (<i>refer to attachment 1</i>) where applicable and at their earliest convenience.	√	√	√	√
Employees are entitled to paid time off on public holidays, provided the holiday falls on a day they would normally be scheduled to work, unless they are reasonably required to work on that day.	R			
The Approved Provider must provide employees with up to 2 days of paid compassionate leave (<i>refer to Definitions</i>) per occasion under the <i>Fair Work Act 2009</i> for the serious illness, injury, or death of a family member.	R			

Leave



Eligible employees have the right to 12 months of unpaid parental leave, with the possibility of requesting an additional 12 months, subject to Committee of Management agreement as per the <i>NES</i> . Employees should apply via the leave request form (<i>refer to attachment 1</i>). A notice period of 10 weeks is required for parental leave, unless it is not possible to do so.	R	√	√	
Employees applying for parental leave must provide a medical certificate or letter of confinement with their leave application.		√	√	√
If an employee is scheduled to commence parental leave (<i>Refer to Sources</i>) but wishes to continue working during the six weeks prior to the expected birth, the Committee of Management may request a medical certificate, to be provided within seven days, confirming that the employee is fit for work, in accordance with the <i>Fair Work Act 2009</i> .	R	√	√	
Under the <i>Victorian Long Service Leave Act 2018</i> , employees are entitled to long service leave after 7 years of continuous employment.	R	√	√	
The Approved Provider must provide employees with 10 days of paid family and domestic violence leave each year under the <i>Fair Work Act 2009</i> .	R			
The Committee of Management must assess leave requests in a fair and reasonable manner, considering the needs of the business and the employee's personal circumstances. Leave requests cannot be unreasonably refused.	√			
If the Committee of Management intends to make changes to leave policies, they must consult with employees in accordance with the requirements outlined in workplace agreements or relevant industrial instruments.	R			
The Committee of Management must provide timely responses to leave requests, not exceeding two weeks, particularly for planned leave such as leave of absence, unpaid leave, or long service leave. Sufficient notice should be given to allow employees to make necessary personal arrangements.	√			
The Committee of Management may offer/approve unpaid leave or flexible arrangements for employees to observe religious or cultural practices, fostering a more inclusive workplace at their discretion.	√			
For absences longer than two consecutive (rostered) days, evidence should be supplied by the employee to substantiate the reason for leave. Evidence may include a medical certificate or a statutory declaration.	√	√	√	
Employees are required to produce a medical certificate or a statutory declaration if personal leave is taken on either the working day before or the working day after a public holiday or term break.	√	√	√	
Employees are required to submit unpaid leave requests (via the leave request form <i>refer to attachment 1</i>) 2 months in advance, clearly communicating the reason for the leave.	√	√	√	√
Employees are required to submit long service leave requests (via the leave request form <i>refer to attachment 1</i>) 3 months in advance to allow for planning and human resourcing provisions.	√	√	√	
Once leave has been formally approved, the Committee of Management must not cancel it, except in extreme, unforeseeable situations where all	R			

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other alternatives have been exhausted, and only after fully consulting with the employee.				
Time in lieu (<i>refer to Definitions</i>) leave may be granted when an employee works additional hours beyond their regular schedule, in accordance with a prior agreement with the employer to compensate for this extra time off instead of receiving overtime pay.	√	√	√	
In the event of service closure during a declared fire danger period or severe weather events (<i>refer to Sources</i>), all travel and work activities in bushfire-prone areas (BPA) (<i>refer to Definitions</i>) must cease immediately. Rostered staff will continue to receive their usual remuneration in accordance with their employment contracts.	√	√	√	√
An employee taking community service leave (<i>refer to Definitions</i>) must notify the Committee of Management of their absence as soon as possible, which may be after the leave has commenced. They should specify the duration or expected duration of the absence using the leave request form (<i>refer to attachment 1</i>).	√	√	√	√
The Committee of Management may ask the employee for evidence to confirm their entitlement to community service leave.		√	√	√



BACKGROUND AND LEGISLATION

BACKGROUND

High-quality early childhood organisations are committed to fostering a positive and supportive work environment by adhering to legislative frameworks that prioritise staff leave entitlements and overall well-being. In Australia, these organisations operate under the *Fair Work Act 2009* and the National Employment Standards (NES), which establish clear guidelines for leave entitlements such as annual leave, personal/carer's leave, parental leave, and long service leave. Additionally, compliance with the Early Childhood Education and Care National Law ensures that services maintain educator-to-child ratios and continuity of care during staff absences, safeguarding both staff well-being and the quality of education and care. By promoting a healthy work-life balance and supporting staff during personal or family-related matters, these organisations help maintain a motivated, resilient, and dedicated workforce.

LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Education and Care Services National Law Act 2010: Sections 169,
- Education and Care Services National Regulations 2011: Regulations 119-135, 136
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009
- Fair Work Regulations 2009
- National Quality Standard, Quality Area 4: Staffing Arrangement
- Occupational Health and Safety Act 2004
- Occupational Health and Safety Regulations 2007
- Victorian Long Service Leave Act 2018

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au

Leave

Gembrook Preschool Association Inc
 Registration No: A0010029N
 ABN: 36 754 804 648



DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file.

Annual Leave: Annual leave is the paid time off work that employees earn for leisure or vacation purposes, usually calculated based on their length of service. Annual leave must be taken during term breaks, as stipulated in the employment contract and relevant award agreements. This ensures that employees have the opportunity to rest and recharge while aligning with the operational needs of the organisation during scheduled breaks.

Bush Fire Prone Area (BPA): In Victoria, a Bushfire Prone Area (BPA) is an area designated by the government as having a high risk of bushfires. These areas are determined based on factors such as vegetation type, topography, historical fire data, and weather conditions.

Carer's Leave: Carer's leave enables employees to take time off to provide care or support to a family member or household member who is unwell or injured. Under the Fair Work Act, employees can access this leave as part of their personal leave entitlements, which can be used when caring for someone in need. All employees, including casual employees, are entitled to 2 days unpaid carer's leave.

Compassionate Leave: Compassionate leave allows employees to take time off work in the event of a family member's serious illness, injury, or death. Employees are entitled to up to two days of paid compassionate leave per occasion under the Fair Work Act, with additional unpaid leave available if needed.

Community Service Leave: Employees, including casual employees, can take community service leave for activities such as voluntary emergency management activities or jury duty. With the exception of jury duty, community service leave is unpaid.

- **Voluntary Emergency Management Activities:** The employee must be a member of, or has a member-like association with, a recognised emergency management body (SES, CFA, RSPCA). An employee is entitled to take community service leave while they are engaged in the activity and for reasonable travel and rest time. There is no limit on the amount of community service leave an employee can take.
- **Jury Duty:** The employee must be paid 'make-up pay' for the first 10 days of jury selection and jury duty. Make-up pay is the difference between any jury duty payment the employee receives (excluding any expense-related allowances) from the court and the employee's base pay rate for the ordinary hours they would have worked. Before paying make-up pay, the Committee of Management may request evidence from the employee to show that the employee has taken all necessary steps to obtain jury duty pay, the total amount of jury duty pay that has been paid or will be payable to the employee for the period. If the employee can't provide evidence, they won't be entitled to make-up pay.

Leave of Absence (LOA): A leave of absence (LOA) is an extended period of authorised time away from work granted to employees due to circumstances beyond their control. Unlike annual leave, it covers situations like, serious illness/injury, surgery, rehabilitation periods, family care responsibilities or bereavement.

Leave Without Pay (LWOP): Leave without pay (LWOP) is a type of leave where an employee takes time off work without receiving any salary or wages. This leave is typically granted for personal reasons, such as travel, study, or extended family commitments, and is subject to the employer's approval and company policies.

Parental Leave: Parental leave, also known as maternity leave, refers to the unpaid time off work that employees can take to care for their newborn or newly adopted child. It also extends to parents who face a stillbirth or the loss of an infant within the first 24 months of life, allowing them to take unpaid

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parental leave. According to the Fair Work Act, eligible employees are entitled to a maximum of 12 months of unpaid parental leave, with the possibility of requesting an additional 12 months from their employer.

Personal Leave: Personal leave, also known as sick leave, allows employees to take time off work when they are ill or unable to perform their duties due to health reasons. Employees may be entitled to a certain number of paid personal leave days per year, as outlined in their employment contract or the *Fair Work Act 2009*. Under certain circumstances, a medical certificate may be required to confirm the need for personal leave.

Severe Weather Event: In Victoria, a severe weather event refers to any significant atmospheric condition that poses a risk to life, property, or the environment. This includes phenomena such as heavy rainfall, thunderstorms, hail, strong winds, bushfires, extreme heat, and flooding, which can disrupt normal activities, cause damage, or result in emergency situations requiring public safety responses.

Time in Lieu: Time in lieu refers to an arrangement where employees can take time off work in exchange for extra hours worked beyond their normal schedule. Instead of receiving overtime pay, employees can accrue additional leave hours, which they can later use as time off, according to the agreement made with their employer.

SOURCES AND RELATED POLICIES



SOURCES

- Cardinia Shire Council: Operations during the declared fire danger period and severe weather events policy.
- ELAA www.elaa.org.au
- National Employment Standards (NES) <https://www.fairwork.gov.au/employment-conditions/national-employment-standards>
- Parental Leave and Related Entitlements <https://www.fairwork.gov.au/sites/default/files/migration/723/parental-leave-and-related-entitlements.pdf>
- Victorian Long Service Leave Act 2018 <https://www.legislation.vic.gov.au/in-force/acts/long-service-leave-act-2018/004>
- The constitution of Gembrook Preschool

RELATED POLICIES

- Determining Responsible Person
- Emergence and Evacuation
- Governance and Management of a Service
- Staff Grievance and Dispute Resolution
- Staff Health and Wellbeing
- Staffing

EVALUATION



In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness, particularly in relation to identifying and responding to child safety concerns
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required

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- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk ([Regulation 172 \(2\)](#)).



ATTACHMENTS

- Attachment 1: Leave Request Form



AUTHORISATION

This policy was adopted by the approved provider of Gembrook Preschool on 16th October 2024

REVIEW DATE: 23rd October 2024

PASSED AT COMMITTEE MEETING: 7th November 2024

REVIEW FREQUENCY: 1 Year

NEXT REVIEW DUE: Annually as per policy review calendar

ATTACHMENT 1. LEAVE REQUEST FORM



LEAVE REQUEST APPLICATION FORM

This form is for employees to use to apply to take extended personal leave, long service leave, leave without pay, parental leave and community service leave.

For more information about leave entitlements and obligations, visit www.fairwork.gov.au/leave.

EMPLOYEE'S DETAILS

First name:

Surname:

Position:

Contact phone number:

LEAVE TYPE

Please tick the appropriate box(es). If you are applying for more than one type of leave, please specify the details in the comments section provided.

- Leave of Absence (LOA)
- Long Service Leave (LSL)
- Leave Without Pay (LWOP)
- Parental Leave
- Community Service Leave

Note: Upon termination of employment, leave taken that has not been accrued can be withheld from wages.

Comments:

PERIOD OF LEAVE

Last day of work:

Return to work date:

Total number of working days off:

Note: Do not include any RDOs, public holidays, or substituted days in the total.

Comments:

ATTACHMENTS (if applicable)

- Medical Certificate
- Letter of Confinement (Parental Leave)
- Statutory Declaration
- Proof of membership within an emergency management body (Community Service Leave)
- Proof of Jury Duty notice (Community Service Leave)

Signature of employee: _____ Date: ____/____/____

APPROVAL OF LEAVE *(TO BE COMPLETED BY APPROVED PROVIDER OR EXECUTIVE COMMITTEE)*

- Approved Not approved

Reason for refusal *(if applicable)*:

Name of manager/supervisor:

Signature of manager/supervisor: _____ Date: ____/____/____

Keep a copy of this form as a record and ensure you advise your employees if you approve or do not approve their proposed leave. You cannot unreasonably refuse an employee's request to take paid annual leave.