



STATE SERVICE  
MANAGEMENT  
OFFICE

## INFORMATION GUIDE

### EMPLOYMENT ARRANGEMENTS, WORKFORCE MANAGEMENT, AND LEAVE (INCLUDING SPECIAL LEAVE – COVID-19) DURING THE CORONAVIRUS (COVID-19) RESPONSE

The Department of Health is preparing for further cases of coronavirus (COVID-19) in Tasmania, and healthcare workers are on high alert for potential cases. Travel and Health advice, including advice regarding isolation requirements, is changing rapidly and should be monitored regularly for up-to-date communications - visit <https://www.coronavirus.tas.gov.au/> for the latest information.

*If an employee thinks they might have COVID-19 because of recent travel or contact with a confirmed case, or if they have they travelled overseas within the last 14 days they are to be discouraged from going to their GP and should instead refer to the [Self-Assessment Tool](#) for advice about what you should do. (even if they are not displaying symptoms).*

#### About this document:

The COVID-19 response is an evolving situation with change occurring on a daily basis. This document will be revised regularly to adapt and respond appropriately. As circumstances change during the outbreak, and subject to the advice of the Director of Public Health, not all information contained within may remain applicable and this advice may be supplemented as required.

Visit the State Service Management Office website for the latest version:

[http://www.dpac.tas.gov.au/divisions/ssmo/coronavirus/work\\_arrangements\\_regarding\\_coronavirus\\_covid-19](http://www.dpac.tas.gov.au/divisions/ssmo/coronavirus/work_arrangements_regarding_coronavirus_covid-19)

Version: 6.0

Date: 9 September 2020

# Table of Contents

1. GENERAL ADVICE .....	3
2. PRINCIPLES .....	4
3. LEAVE ENTITLEMENTS AND SCENARIOS .....	5
4. WORKFORCE MANAGEMENT .....	9
5. WORK HEALTH, SAFETY & WELLBEING - OVERALL DUTY OF CARE.....	11
Attachment 1 – Flow Chart of Arrangements .....	14

## 1. GENERAL ADVICE

This employment advice applies to all Tasmanian State Service employees and officers employed in accordance with the *State Service Act 2000*. Where applicable this advice also applies to volunteers and contractors.

As circumstances change and subject to the advice of the Director of Public Health, this advice may be supplemented. The Head of the State Service may also communicate the general direction as to managing workforce issues due to illness and isolation requirements at regular intervals as appropriate and as the situation changes.

Travel and Health advice, including advice regarding isolation requirements, is changing rapidly and should be monitored regularly for up-to-date communications - visit <https://www.coronavirus.tas.gov.au/> for the latest information.

It is essential that agencies and employees be as informed as they can be regarding COVID-19. Agencies should make available and encourage employees to read the information and advice available about COVID-19 on the website provided above. This site provides up-to-date information for a range of audiences as well as fact sheets and posters that can be used to help in making information available more broadly.

Employees that have a confirmed case of COVID-19 or are required to isolate should contact their supervisor directly at the earliest opportunity.

Your Agency's Employee Assistance Program is available to provide confidential counselling and support to employees and managers.

**Note:** Travel advice has also been issued for employees. Employees should refer to the InfoSheet titled "Novel Coronavirus: What are the travel restrictions & how do they affect me?" for guidance.

## 2. PRINCIPLES

- 2.1 The health and wellbeing of our employees is our highest priority.
- 2.2 Wherever practical, the normal management practices and State Service conditions of employment apply in relation to absences during a pandemic.
- 2.3 Employees are required to attend work wherever practicable and possible during the pandemic unless the employee has approval to work from home, is on approved leave, or is otherwise approved not to attend the workplace.
- 2.4 Working from home is strongly encouraged to enable business continuity, to support employees, and to manage social distancing requirements.
- 2.5 All employees are considered “essential”. Essential work does not mean that work cannot be undertaken from home. All positions should be assessed to determine whether the duties can be performed from home, and work from home arrangements will be supported where possible and where agreed by the employee, individual manager and agency.
- 2.6 It is acknowledged that not all employees will be able or want to work from home, and that some roles represent critical frontline positions that may be more difficult, or not possible to do remotely. Managers will work with these employees to identify ways in which work may be structured differently to enable them to better meet their individual needs if and as required. To this end, employees and Agencies should consider flexible working arrangements and implement these where agreed.
- 2.7 Employees are able to access their existing leave entitlements (including special leave on account of COVID-19), as prescribed by the regulation/award/agreement provisions.
- 2.8 Employees that are directed not to attend the workplace by the Employer, as opposed to or notwithstanding an emergency management or public health direction, where they are also unable to work from home, will continue to be paid their normal salary (including regular allowances plus penalties) without the need to apply for leave of any type.

### 3. LEAVE ENTITLEMENTS AND SCENARIOS

Entitlements may vary between awards, agreements and legislation but generally include the same forms of leave. There may be slight differences in specific awards and agreements relating to certain occupational groups. As such, Agencies should be aware of the entitlements available to their specific work groups as provided for by relevant awards/agreements and provide advice accordingly.

Practically, an employee who is absent due to illness or caring purposes can still access their personal leave entitlement. Specifically, where an employee is unwell, personal (sick) leave provisions apply as per the relevant award and agreements. Where an employee is required to provide care for a member of their family or household who is sick or requires care or support, or due to an unexpected emergency personal (carers) leave provisions apply as per the relevant award and agreements. Such requests relating to an unexpected emergency will be considered on a case by case basis.

#### Special Leave on account of COVID-19 (State Service Regulation 25A)

In addition to existing leave entitlements, special leave (on account of COVID-19) is an extension of the existing special leave regulation and applies in the following circumstances:

- (a) the relevant employee has exhausted his or her personal leave entitlements and –
  - (i) has contracted COVID-19; or
  - (ii) is required to provide care or support to a member of the relevant employee's immediate family or household who has contracted COVID-19; or
- (b) the relevant employee –
  - (i) is required to enter isolation in accordance with a direction made in relation to an authorisation of emergency powers made under [section 40 of the Emergency Management Act 2006](#) or a direction made under [section 16 of the Public Health Act 1997](#); or
  - (ii) is responsible for providing care or support to a member of the relevant employee's immediate family or household who is unable to attend school or other care arrangements, due to the school or care arrangements being unavailable due to COVID-19; or
  - (iii) is –
    - (A) unable to work for any other reason relating to COVID-19; and
    - (B) unable to work from home.

The entitlement to Special Leave on account of COVID-19, pursuant to regulation 25A under the *State Service Regulations 2011*, allows for a period of 20 days (applied on a pro rata basis). If considered necessary, a further period may be granted as determined by the Head of Agency. The entitlement to this leave under the regulation may be accessed by employees as defined by the regulation and includes officers, casual, relief, seasonal and sessional employees.

**Note:** A document outlining the various scenarios with regard to workplace absences and suitable leave arrangements is [available here](#). A flowchart of arrangements is also provided at Attachment I.

### 3.1. Fixed-term Casual, Seasonal, Sessional and Relief Employees

It is intended that all casual, seasonal, sessional and relief employees will continue to be employed during the pandemic period.

Casual, relief, seasonal and sessional employees that have an Instrument of Appointment (IoA) that expires and would have, but for the COVID-19 pandemic, received a further IoA with the agency or organisation, the employee will be provided with a further IoA for that period.

In addition to this, the following applies:

- Any ongoing payments for casual employees are to be based on regular hours (for casuals who work regular and systematic hours), or based on an average of the last two pay periods, or based on the two pay periods that occurred prior to the declaration of the pandemic (particularly relevant for those employees whose workplace may have closed as an outcome of the pandemic, or whose work has significantly reduced directly because of the pandemic), for those casuals who do not work regular and systematic hours but who nevertheless will see an impact in salary due to pandemic related workplace closures or reductions in the need for workers;
- Payments to casual employees are to include any shift penalties and allowances where they were being undertaken as part of a regular pattern and regular payment. This is only to apply where a casual employee has not secured other or new casual employment;
- Where a casual employee is deployed to other duties, is successful in gaining different employment either within the Tasmanian State Service (TSS) or leaves the TSS, payment made in accordance with their current IoA or above will cease.
- Agencies will also explore options, where available, for casual employees to work from home or undertake meaningful duties within their normal work area or agency.

As noted, special leave on account of COVID-19 is available to these employees.

More information about the application of this is provided in the scenarios [document](#).

### 3.2. Vulnerable Employees

In response to [Australian Health Protection Principal Committee recommendations for managing vulnerable workers](#), and [existing health advice](#) (as amended from time to time) regarding vulnerable groups, Tasmanian State Service employees that fall into one of the defined groups may work from home during the period that this advice is in effect\* (specific information regarding health care workers is provided [here](#)).

The following people are defined as vulnerable due to the higher level of risk of serious illness if they are infected with COVID-19:

- Aboriginal and Torres Strait Islander people 50 years and older with one or more chronic medical conditions
- People 65 years and older with chronic medical conditions. Conditions included in the definition of 'chronic medical conditions' will be refined as more evidence emerges. The most current list can be accessed on the Department of Health [website](#)
- People 70 years and older
- People with compromised immune systems (see Department of Health [website](#))

#### Evidence Requirements

Where an employee meets the definition of vulnerable employee, they do not need to present evidence unless there are specific concerns. If required, agencies can request that employees supply reasonable evidence to confirm their condition.

#### Working Arrangements

For vulnerable employees, the following applies\*:

- In the first instance, the ability for the employee to work from home on either current or alternate duties will be genuinely explored and pursued
- Where the employee can be supported to work from home, the employee can continue to work during the pandemic from home
- Where working from home is not possible or preferred, the agency and employee may conduct a risk assessment regarding the individual employee, their role, and their workplace, and implement control measures as may be required (more information is contained in the Transition to the New Normal Framework).

Where an employee does not fall into one of these groups themselves, but has a household member that does, they can discuss their situation with their manager if they wish, and look to establish a working from home arrangement or take accrued leave. Managers should support all working from home arrangements where operationally possible in these circumstances and during the pandemic period.

\***Note:** specific information regarding health care workers is provided [here](#).

### **3.3. Employee Evidence and Notification**

Employees are being discouraged from going to their General Practitioner and will be encouraged to attend a clinic or be advised by the Tasmanian Public Health Hotline. If it is not reasonably practicable (noting that this will likely be the case where isolation periods are to be observed) to provide a medical certificate an employee can provide a statutory declaration in lieu of a medical certificate in line with the award and agreement requirements. Other reasonable evidence may also be satisfactory in certain circumstances, such as a notification or direction from Public Health to isolate.

A common sense approach should be adopted regarding evidence requirements for absences relating to possible exposure with priority given to minimising any possible additional exposure to the wider workforce.

Employees are to advise their Agency as soon as practicable of an inability to attend duty as per the award/agreement provisions in a normal way. Employees that have a confirmed case of COVID-19 or are required to isolate should contact their supervisor directly at the earliest opportunity.

## **4. WORKFORCE MANAGEMENT**

### **4.1. Assigning and Managing Work**

Consistent with Agency business continuity planning, managers will give consideration to critical Agency functions and determine reasonable directions based on the circumstances. In the event of an outbreak and where there is a higher level of absence from the workplace it may be necessary to redirect resources to undertake critical and prioritised functions.

Employees will not be disadvantaged where their duties are varied due to the outbreak and they will continue to receive their normal salary (including regular allowances).

Standard fixed term voluntary transfer agreements can be utilised to facilitate the movement of internal state service employees across agencies, where this process is occurring outside the regular interoperability arrangements.

### **4.2. Flexible Working Arrangements**

Flexible work arrangements can be utilised to enable business continuity and to support employees. For example, they may be considered where social distancing has been encouraged, schools/childcare centres are closed, there is a lack of transport, or where there is any other major disruption to the workplace or the employee's work hours. Flexible working arrangements can include a change of hours of work/work pattern, part-time work, working from home or an alternate location, or a combination of working from home and at the workplace.

In some instances, a formal Workplace Flexibility Agreement (WFA) may be required in order to accommodate arrangements that fall outside existing award provisions (regarding ordinary hours of work and associated overtime and penalty rates). A template has been developed to enable this.

### **4.3. Dealing with Requests to Work from Home**

Information regarding working from home can be found in the [Working from Home during COVID-19 InfoSheet here](#) and within the toolkit [located here](#).

### **4.4. Directing sick employees to leave the workplace**

The Employer has a duty to do all that is reasonably practicable to provide a safe workplace which includes reducing the risk of infection and implementing preventative measures to ensure the spread of illness is reduced or contained.

The Employer may be required, in meeting its duty of care, to direct sick employees to leave the workplace. In these circumstances, the normal rules apply with regard to giving lawful directions to employees. An employee who attends work showing symptoms of illness will normally agree to leave the workplace if requested and take personal leave for their own well-being and the well-being of those around them. Where an employee refuses to leave the workplace they may be directed to leave the workplace and expected then to take personal leave.

It is noted that employees also have a duty of care under health and safety legislation and are required to take reasonable care of their own health and safety at work, and to take reasonable care that their own acts and omissions do not adversely affect the health and safety of other people at work.

#### **4.5. Where the workplace is safe but the employee chooses not to attend**

Employees are required to attend work during the pandemic unless the employee is on approved leave, has approval to work from home or is otherwise approved not to attend the workplace. Employees are to advise their Agency as soon as practicable of an inability to attend duty as per the award/agreement provisions in a normal way. Where the workplace is considered safe but an employee chooses not to attend work, and is not on any form of approved leave or absence, the employee is expected to apply for leave without pay and/or directed to attend work. Any concerns an employee has about the risks in the workplace must be discussed with the Agency and any approval to not attend work must be given by the Agency prior to the absence. An employee who does not discuss their concerns and does not attend work is to be cautioned about possible disciplinary action.

When dealing with these scenarios, it is important to understand that some employees will hold genuine fears for their own health and safety and these fears must be responded to. Responses may include providing information, counselling, alternative work arrangements, flexible working arrangements and access to leave. Employees should be made aware of the Employee Assistance Program.

#### **4.6. Managing Employees absent from the Workplace**

The usual practice for managing mid to long term absence applies. Remain in contact with the employee during their absence and ensure they are fit to return to work prior to them doing so. This includes obtaining evidence that the employee is no longer infected with COVID-19 where relevant.

## **5. WORK HEALTH, SAFETY & WELLBEING - OVERALL DUTY OF CARE**

### **5.1. Risks Regarding COVID-19**

Our safety message remains the same as with other risks to our workplace and our people – please take a risk management approach, think about the work your people are involved with and the risks, and put in controls to manage this.

The overriding principle is that the employer has a duty to do all that is reasonably practicable to provide a safe workplace which includes reducing the risk of infection and implementing preventative measures to ensure the spread of illness is reduced or contained.

Employees also have a duty of care under health and safety legislation and are required to:

- Take reasonable care for their own health and safety;
- Take reasonable care that their acts or omissions do not adversely affect the health and safety of others;
- Comply with lawful instructions given by their Employer requiring their compliance with safety management systems and relevant legislation, as far as reasonably practicable; and
- Cooperate with any reasonable policy or procedure that the worker has been informed about relating to health and safety in the workplace.

Agencies should remind employees and others entering their workplaces of the importance of high personal hygiene standards which are vital to protect against the spread of infection. We recommend the following:

- Display signage reminding people to wash their hands regularly and thoroughly and practice cough etiquette.
- Ensure there are hand sanitiser dispensers in meeting rooms and high pedestrian traffic areas such as reception areas.
- Remind employees that they should not present at work if they are unwell, and they should sneeze or cough into their elbows and not their hands.
- Employees who share equipment such as phones or laptops should wipe down this equipment with a sanitising wipe after use.

Further information is also provided in the social distancing section at 5.5 below.

## **5.2. Employee Wellbeing**

As the response work and impact on our staff is escalating, please be mindful of people in your teams that may be distressed or anxious about the situation. Your Agency's EAP is available to help you or your team members.

It is important during this challenging time that we try and keep a healthy balance between content and information about this situation and balancing other areas of your life. Take a break and limit your news and social media intake if you need to.

Feeling vulnerable and overwhelmed as we receive news and information is understandable, and it's important we acknowledge these feelings and remind each other to look after our physical and mental health. Do things that make you feel physically and emotionally safe, and be kind and compassionate to yourself.

When we feel distressed or anxious, connection is important. Staying connected and receiving support and care from others has a powerful effect on us and helps us to cope with challenges. Talk with colleagues, friends and family and reach out to other sources like the employee assistance program, counselling or helplines if you need to. Check in with someone who is living alone or more vulnerable if possible.

## **5.3. Minimising Unlawful Discrimination and Vilification**

Agencies have a responsibility to ensure that employees are not unlawfully discriminated against, knowingly or unknowingly, by their managers, their colleagues and the organisation. Agencies should remain aware of the potential for heightened unlawful discrimination in the workplace during a time of heightened public health concerns and possible pandemic.

Agencies should be aware that if an infectious disease originates from a geographical region, employees from that region (or perceived to be from or connected to that region) may be at an increased risk of experiencing unlawful discrimination from others. Agencies should monitor this and intervene where necessary to remind employees and clients of their obligations to behave respectfully towards others at work. Any inappropriate workplace behaviour by employees may be subject to disciplinary action.

Managers should liaise with employees regarding any discussion around health status or travel history. Where employees have concerns about colleagues with respect to these matters it is recommended they are raised with the appropriate manager rather than directly with the colleague by the employee.

Further, it is likely that contracting COVID-19 would be characterised as a 'disability' for the purposes of anti-discrimination laws.

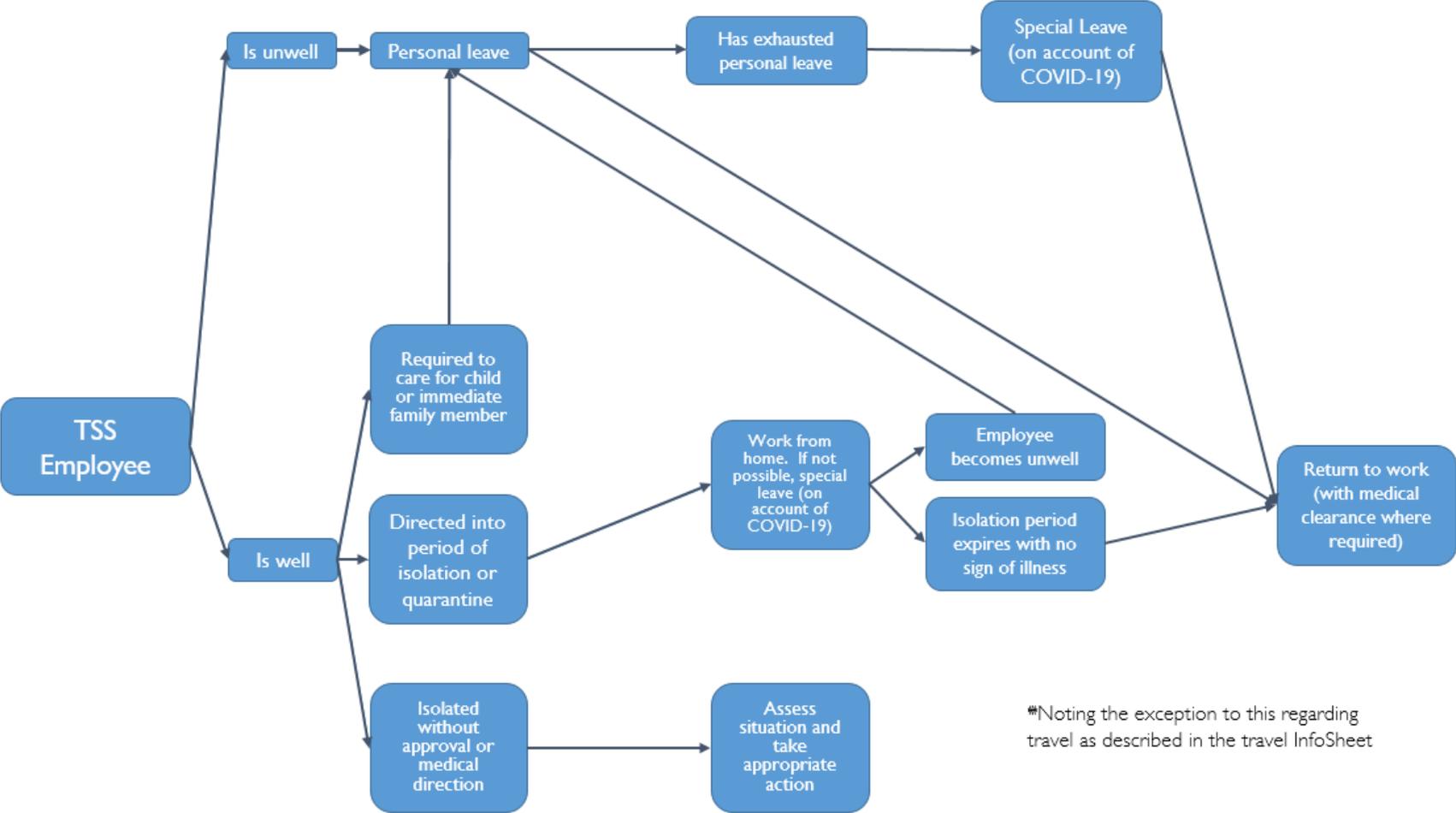
#### **5.4. COVID-19 at work**

While the Employer and Employees will work together to ensure the health and wellbeing of employees, employees who may be concerned that they may have contracted the COVID-19 during the course of employment may make an application for workers' compensation and each case will be considered on its merits.

#### **5.5. Social Distancing for Employees**

Social distancing includes ways to stop or slow the spread of infectious diseases. It means less contact between you and other people. Social distancing is important because COVID-19 is most likely to spread by close contact with an infected person, or by contact with droplets from an infected person's cough or sneeze. So, the more space between you and others, the harder it is for the virus to spread. More information regarding social distancing is available on the [coronavirus website](#).

**Attachment 1 – Flow Chart of Arrangements**



\*Noting the exception to this regarding travel as described in the travel InfoSheet

