



Employees' Rights to Leave and Pay (COVID-19)

This document is a response to frequently asked questions regarding COVID-19 and employees' rights to leave and pay.

The information currently available is at times conflicting and we will update the policy as more information comes to light. General government advice regarding coronavirus can be located [here](#).

We encourage businesses to continue to support their employees by:

- Providing remote and flexible working arrangements if possible
- Paying employees even if no leave type is applicable if possible
- Sharing the following resource from [Headspace](#) or provide your employees with an EAP
- Communicating regularly

PERSONAL & CARERS' LEAVE

Employers can offer annual, unpaid or long service leave (if available) to an employee if they do not have enough personal/carers' Leave accrued.

Under the following circumstances, an employee would be entitled to Personal and Carers' Leave:

- Employee is positive to COVID-19
- Employee is unwell (as a result of COVID-19 or not)
- Employee is unwell while in self-isolation (enforced or otherwise)
- Employee has to care for or support a member of their immediate family or household who is sick, injured or has an unexpected emergency including (but not limited to):
 - Any illness
 - COVID-19
 - School closure due to COVID-19
 - Enforced isolation of an immediate family or household member (employee must be **acting as a carer** for this person during their isolation)



NO ENTITLEMENT

Employers can offer annual, unpaid or long service leave (if available) to an employee if they choose to, but are not obligated to do so.

Under the following circumstances, an employee is not currently entitled to paid leave:

- Employee is well, but is in enforced self-isolation after overseas travel.*
- Employee is well, but is in self-isolation after coming in contact with a known OR suspected COVID-19 case.
- Employee is unable to return to Australia due to travel restrictions.

ORDINARY PAY

Under the following circumstances, an employee would be entitled to ordinary pay:

- Employee is working from home with the approval of their employer.
- Employee is currently under assessment for fitness for work under the direction of their employer (after the assessment is completed, refer back to these guidelines)
- Employee has been asked not to return to work by their employer, who is not requesting the employee to do so under government direction
- Employer temporarily closes the business, but not under government direction

STAND DOWN

If the government has directed you to close your business, you may be able to initiate a stand down. The government will likely provide more guidance around this. If they fail to do so, contact Fair Work directly.

REDUNDANCY

If your business has been significantly affected by COVID-19, discuss this openly with your staff and leadership. Can this be avoided with reduced hours or unpaid leave? If not, consult an employment lawyer regarding redundancies.

*If employees are directed by state, territory or federal governments to remain home, [current legislation](#) states they are not entitled to ordinary pay. However, the Fair Work Ombudsman has



recently contradicted this:

"Where an employer directs a full-time or part-time employee to stay home in line with advice, for example in line with the Australian Government's health and quarantine advice, and the employee is not sick with coronavirus, the employee should ordinarily be paid while the direction applies"

We are awaiting further clarification from Fair Work and will update this guide when further information becomes available. This guide is general advice only.