

Leave without pay

CMS receives many enquiries regarding what to do with employee requests for leave without pay which are for reasons other than those permitted by legislation, such as carer's and parental leave and community service leave.

Some of the reasons provided for wanting non-statutory leave without pay are:

- Extended travel;
- Visiting family overseas;
- To recuperate from a non-work related illness or injury.

There is no statutory obligation for an employer to approve this sort of leave leave. CMS recommends that each request be decided on the individual merits, taking into consideration the following:

- Impact on the business operations;
- Benefit to the business; and
- Any special considerations e.g. length of employment, previous leave

It is rare for non-statutory leave without pay to be prescribed by an award or enterprise agreement and is not generally mentioned in the terms of a contract of employment.

Non-statutory leave without pay is an unpaid leave of absence from employment authorised or consented to by the employer and is usually granted at the complete discretion of the employer. Employers should remember that if they grant such leave, the employee continues to be employed, and is entitled to return to their position when the leave comes to an end, regardless of the length of the unpaid leave.

An employer has no right to send an employee on leave without pay unless otherwise provided by the applicable award, enterprise agreement or the terms of the contract of employment.

Should you be in doubt of your responsibilities regarding such a request please do not hesitate to contact CMS on 07 3852 5177.