

# Integrity Essentials

## Preventing the **misuse of leave entitlements**

Taking leave is a normal and important part of working life, whether it's for recreation leave to rest and recharge, sick leave when you're unwell, carer's leave to support a family member, or parental leave to welcome a new child.

Access to these leave provisions help employees to maintain their wellbeing and work-life balance, and contribute to their overall engagement, motivation, and productivity. Public sector employees are entitled to access various kinds of leave, each of which exists for important reasons.

In particular, sick leave and carer's leave are available when an ongoing or term employee is unfit for work due to illness or injury, or when an employee is required to care for a family member who is unwell and the employee has sufficient accrued entitlements. The right to access sick leave and carer's leave is limited to these circumstances and does not apply to casual employees.

When taking leave, employees must get approval and comply with the rules governing absence from the workplace. Most public sector employees use their leave entitlements responsibly. However, as demonstrated in case studies 1 and 2, being absent from duties without taking approved leave can amount to improper conduct, or even a criminal offence.

### Case study 1

In September 2021, a Queensland education public officer pleaded guilty to fraud after a Crime and Corruption Commission investigation

found that she had taken 'sick days', or otherwise been absent from work without taking leave from her duties.

The public officer was absent without leave on 29 occasions over four years. She used her unapproved absences to attend social functions, including three Melbourne Cup Day events.<sup>1</sup>

### Case study 2

In February 2025, the Northern Territory Independent Commission Against Corruption released an investigation report showing that a senior public officer had claimed to be unwell and unable to attend work on six occasions. On a further nine occasions, the public officer was absent from the workplace without submitting a leave application.

The public officer was aware of the requirements for applying for recreation or personal leave, and had even instructed staff on how leave was to be correctly submitted.<sup>2</sup>

He used those periods of leave for recreational activities, including fishing trips, playing golf, and travelling, including travelling to Brisbane to stay at Star Casino. The Deputy Commissioner found that the public officer had engaged in corrupt conduct.



<sup>1</sup> Crime and Corruption Commission (Queensland), Education Queensland Employee Found Guilty of Fraud (24 September 2021).

<sup>2</sup> Independent Commission Against Corruption (Northern Territory), Investigation Report: Operation Tasman (February 2025).

The South Australian Independent Commission Against Corruption (ICAC) has observed several instances of public officers taking sick leave to work for another employer (case studies 3 and 4). In each instance, it was alleged that the public officer dishonestly represented to their employer that they were unfit to work in order to gain a benefit through a second wage.

## What do the case studies show?

### Duty to act honestly

Public sector employees are required to comply with the public sector values as set out in the Code of Ethics for the South Australian public sector (Code of Ethics). These values include honesty and integrity. It is a Professional Conduct Standard in the Code of Ethics that employees will not at any time act in a manner that a reasonable person would view as bringing them, the agency in which they work, the public sector, or Government into disrepute or that is otherwise improper or disgraceful. A failure to comply with a Professional Conduct Standard in the Code of Ethics may amount to misconduct.

The *Public Sector (Honesty and Accountability) Act 1995* imposes obligations on many public officers, including public sector employees and senior officials,<sup>3</sup> to 'at all times act honestly in the performance of their duties, whether within or outside the State'.<sup>4</sup> A failure to comply with this obligation may amount to an offence punishable by imprisonment.

Dishonest conduct may include a public sector employee being absent from duty without approved leave. When applying for sick or family carer's leave, employees must be able to show that they meet the relevant criteria and they have a legitimate reason for applying for leave. If they are untruthful, the public sector employee has acted dishonestly.

In some instances, public sector employees may be asked to provide a statutory declaration to support their application for family carer's leave. It is an offence punishable by imprisonment to make a false declaration.<sup>5</sup>

<sup>3</sup> 'Senior official' includes chief executives of administrative units of the public sector and public sector agencies, and statutory office holders with the powers and functions of a chief executive of an administrative unit.

<sup>4</sup> See ss 5, 11, 16, 20, 26 and 29 of the *Public Sector (Honesty and Accountability) Act 2009*.

<sup>5</sup> Section 27(1) of the *Oaths Act 1936*.

### Case study 3

It was alleged that a public officer took sick leave and other personal leave to undertake similar employment elsewhere in the public sector.

An ICAC investigation found that the officer claimed either sick leave or recreation leave from their two public sector employers on 37 occasions so that they could work at the other workplace. This occurred over an eight-month period.

Public officers may have secondary employment, as long as it is declared and approved.

In this case, the public officer involved had not obtained approval to undertake outside employment. They took leave to undertake duties almost identical to those of their primary employment. If they were in fact unfit for work in their primary employment, it follows that they must have been unfit for work in their secondary employment.

### Case study 4

It was alleged that a public officer took sick leave to undertake secondary employment in the private sector and falsified medical certificates and statutory declarations to support their leave requests.

An ICAC investigation found that the officer had claimed approximately 50 days of sick leave over a 12-month period and established that, on 17 of those days, they had been working for a second employer.

The public officer had not obtained permission to undertake secondary employment as required.

## Leave entitlements

In case studies 3 and 4, public sector employees used accrued sick leave and carer's leave entitlements to work in a second job.

**In each case, the public sector employees 'double-dipped' by receiving both paid sick leave or family carer's leave, and the wage from their second job.**

Sick leave and family carer's leave can be taken only when an employee is unfit to work due to injury or illness, or when they are required to care for a member of their family or household who is suffering from an injury or illness.

## Secondary employment

A second issue common to case studies 3 and 4 is that the employees were engaged in secondary employment – that is, employment outside their primary public sector employment – and they had not obtained the necessary permission to undertake this employment.

The public sector employees were each bound by the Code of Ethics, which says:

“ Public sector employees must not engage in employment or other remunerative activity outside of their public sector employment where the activity conflicts with, or has the potential to conflict with, their role as a public sector employee, or if the performance of such outside employment or activity might affect their capacity to perform their public sector duties.

Public sector employees will obtain written permission from their agency head or delegate before engaging in any outside employment or remunerative activity (including any employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward)<sup>6</sup>

In each of the case studies involving public sector employees dishonestly taking leave to undertake unapproved secondary employment, the agencies involved had policies requiring employees to declare and seek approval for any secondary employment. The employees did not comply with those policies.

Obligations regarding secondary employment exist for reasons including addressing risks to both public integrity (for example, to guard against conflicts of interests) and public and employee safety (for example, to ensure employees receive sufficient rest and recovery time).

The case studies demonstrate an integrity risk relating to secondary employment; namely that public sector employees may abuse their leave entitlements to undertake outside employment and earn a second income. This risk arises whether the outside employment is in the public or private sector.

Public sector agencies must be alive to this – and other – integrity risks posed by secondary employment, and ensure that adequate secondary employment policies exist, are properly communicated, and compliance with such policies is monitored and enforced.

<sup>6</sup> Office of the Commissioner for Public Sector Employment, 'Code of Ethics for the South Australia Public Sector' (January 2022) 8.

## Role of delegates and public authorities

Public authorities should ensure that their employees are aware that they cannot be absent from their duties without approved leave. They should be alert to employees' absences, and check that any absences align with leave applications. Line managers should also ensure that employees who are absent at short notice apply for leave as soon as possible upon their return.

In respect of categories of leave which can only be taken in particular circumstances – such as sick leave and family carer's leave – delegates approving leave must be satisfied that the relevant criteria have been met before approving the application for leave. This includes being satisfied that any evidence that must be provided (for example, a medical certificate) has not only both been provided, but also that it establishes the relevant criteria (for example, that an employee was unfit for work during a particular period).

It is not suggested that delegates must undertake detailed or exhaustive enquiries in respect of every application for sick leave or family carer's leave. Clearly, there must be a level of trust that exists between public authorities and public officers, and in many instances the employee's assurance that they were unfit for work, or were required to care for a family member, will be enough.

However, it is imperative that line managers or other leave delegates are aware of the rules and ensure as best they can that those rules are followed, to promote integrity and honesty in the public sector.

## Conclusion

ICAC's role does not extend to policing public officers' absences from duty or their use of leave entitlements. However, public officers being absent from the workplace or taking leave entitlements under false pretences is clearly an integrity issue.<sup>7</sup>

Further, and more fundamentally, the lack of integrity inherent in conduct of this kind can lead to behaviours that are similarly or more problematic. Organisational culture is critical in the prevention and detection of corrupt conduct. A workplace with a culture which promotes honesty and integrity is both more resilient to corruption, and more likely to result in employees calling out such behaviour if it does occur.

<sup>7</sup> Office of the Commissioner for Public Sector Employment, 'Code of Ethics for the South Australia Public Sector' (January 2022) 8.