

Title:	Community and Defence Services Leave
Type:	Organisational
Adopted:	7 May 2020
File No:	SF/104
Attachments:	NA

1. Purpose

To provide guidance for Council employees participating as volunteers with recognised emergency services and Australian defence force reserves during working hours.

2. Rationale

Murrindindi Shire Council recognises the importance of volunteers to the success of emergency services such as the CFA, SES and other recognised voluntary emergency service organisations. Council also supports the participation of employees in Australian defence force reserves.

3. Scope

This Policy applies to all employees of Murrindindi Shire Council who are registered members of a voluntary emergency service organisation or an Australian defence reserve.

4. Definitions

Reference Term	Definition
Voluntary emergency management activity	<p>As defined by the <i>Fairwork Act 2009</i>:</p> <ul style="list-style-type: none"> the activity involves dealing with an emergency or natural disaster the employee engages in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity) the employee was either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted the employee is a member of, or has a member-like association with a recognised emergency management body.
Recognised emergency management body	<p>As defined by the Fairwork Ombudsman:</p> <ul style="list-style-type: none"> a body that has a role or function under a plan that is for coping with emergencies / natural disasters (prepared by the Commonwealth or a state or territory) a fire-fighting, civil defence or rescue body any other body or part of a body, a substantial purpose of which involves securing the safety of persons or animals, protecting properties or otherwise responding in an emergency or natural disaster <p>This includes bodies such as the State Emergency Service (SES), Country Fire Authority (CFA), and the RSPCA (in respect of animal rescue during emergencies or natural disasters).</p>

Defence Reserve Service (Protection) Act 2001	The Act provides Reservists with additional workplace protections over those under the Fair Work Act 2009, which are designed to protect Reservists in their civilian roles from discrimination, disadvantage or dismissal for reasons associated with their Defence service. Employers are prohibited from preventing or hindering a Reservist from taking Defence Service leave.
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5. Policy

Section 108 of the *Fairwork Act 2009* entitles employee who engage in an eligible community service activity to be absent from his or her employment for a period to be able to engage in that volunteer service.

The Fairwork Ombudsman describes Community Service Leave as being leave to conduct activities such as:

1. Voluntary emergency management
2. Jury duty

This Policy also incorporates the entitlement to Defence Reserve leave.

5.1. Voluntary Emergency Management Leave

5.1.1. Voluntary Emergency Management Leave may be approved in the following circumstances:

- the employee is a registered member of an emergency service organisation
- there has been an official request for the employee to assist in an emergency
- the employee gives notice of the absence as soon as practicable and advises of the period or expected period of the absence
- the employee's manager can reasonably release the staff member from duty without adverse impact on Council operations.

5.1.2. Leave will be granted without loss of ordinary pay, for the duration of the absence, during normal working hours.

5.1.3. Periods of emergency services leave exceeding, or expected to exceed one week, must be authorised by the relevant director and, in the case of leave requested by a director by the CEO. Subject to operational requirements, this leave should not be unreasonably withheld.

5.1.4. The above provisions also apply in situations where emergencies occur out of normal working hours and involvement of the employee continues into working hours and it is unreasonable to expect an employee seek permission to be absent from work.

5.1.5. In such circumstances it is expected that the employee will make every reasonable effort to notify his/her manager about the extended absence, its cause and the likely duration of the absence from work.

5.1.6. Wherever reasonably practicable, the period of leave should include a minimum rest break of eight hours between cessation of emergency activity and resumption of normal Council duties.

5.1.7. This Policy does not apply where a local volunteer organisation has been placed on alert or stand-by, as would occur for a CFA brigade on a day of total fire ban.

5.1.8. Should the emergency occur when the staff member is already on a period of other approved leave or public holiday, the staff member will not be eligible to convert such leave to Voluntary Emergency Management leave.

- 5.1.9. A staff member on sick leave or with an active worker's compensation claim will not be eligible for Voluntary Emergency Management leave.
- 5.1.10. Evidence that would satisfy a reasonable person is required to be given by the staff member if requested by their manager.

5.2. Jury Service Leave

- 5.2.1. As per the *Fairwork Act 2009* and Council's Enterprise Bargaining Agreement Jury Service is considered as Community Services Leave.
- 5.2.2. Casual employees are ineligible for Jury Service Leave entitlement.
- 5.2.3. Staff members must notify their manager of the absence as soon as practicable and where applicable update their manager on extended periods of absence.
- 5.2.4. Staff members must provide their manager with proof of attendance and the duration of attendance.
- 5.2.5. Staff members must take all necessary steps to obtain any amount of jury service pay to which they are entitled.
- 5.2.6. Staff must provide evidence of the total amount (even if it is a nil amount) of jury service pay which has been paid to them.
- 5.2.7. Council will reimburse the staff member for any shortfall in payment between ordinary time wages and the jury service pay amount.
- 5.2.8. Should staff be required to take more than 10 days of Jury Service Leave then Council can require them to take leave without pay or annual leave.

5.3. Defence Reserve Leave

- 5.3.1. Council will comply with its obligations under the *Defence Reserve Service (Protection) Act 2001*.
- 5.3.2. Should an Australian Defence Force Reservist be required to undertake Protected Voluntary continuous full time service or call out, leave without pay will be granted for this period of time upon verification of service.
- 5.3.3. Council may grant leave to an employee who is required to attend camps, courses, or schools of the Australian Armed Services, to a maximum of two (2) weeks per year, subject to the following conditions.

The employee must seek approval for leave from their manager or supervisor, who will consider the application in the light of organisational requirements. The employee will

- where possible provide documentary evidence that shows they are required to fulfil military commitments;
- provide a minimum of one (1) month's notice of the intention to take such leave, whether or not supporting documentation is available at that time.

- 5.3.4. If defence leave is approved the organisation will make-up the difference between the employee's normal pay and the amount that the employee is paid for undertaking Australian Armed Services activities. In such cases the employee is required to submit verification of payments from the Australian Armed Services, for the period of attendance at the activity.

6. Related Policies, Strategies and Legislation

Commonwealth Fair Work Act 2009 S8 – Community Services

Defence Reserve Service (Protection) Act 2001

Defence Reserve Leave Policies and Guidelines at www.defencereservessupport.gov.au

Murrindindi Shire Council Enterprise Bargaining Agreement.

7. Council Plan

This Policy supports the Council Plan 2017-2021 Our Promise Strategic Objective to “Support a skilled, engaged and flexible workforce that can respond to changing needs”

8. Management and Review

Managers and directors are to oversee implementation for their respective area of responsibility.

The Coordinator Human Resources will monitor and provide advice on implementation of this policy.

9. Consultation

No external consultation was required in the review of this Policy

10. Human Rights Charter

This Policy has been developed with consideration of the requirements under the Charter of Human Rights and Responsibilities.

POLICY COVER SHEET

Policy Development and Management

Type:	Organisational
Adopted:	2008
Last Review Date:	7 May 2020
Approved By:	EMT
Next Review Date:	7 May 2023
Responsible Officer:	Manager Governance and Risk
Department:	Governance and Risk
File No:	
Attachments:	NA

Step	Approved By	Date of Approval / Completion
Reviewed relevant legislation	Responsible Officer	April 2020
Consultation with relevant officers / departments	Responsible Officer	April 2020
Draft completed	Responsible Officer	April 2020
Draft reviewed by Coordinator Governance	Coordinator Governance	April 2020
Draft approved by Department Manager	Department Manager	April 2020
Draft circulated to staff via Murri for feedback	Responsible Officer	
Changes made	Responsible Officer	
Draft to Leadership Team	Manager	30 April 2020
Changes made	Responsible Officer	
EMT approval	CEO	7 May
Briefing Note approved (if applicable)	General Manager	
Agenda Item approved (if applicable)	General Manager	
Council adoption (if applicable)	Council	

Conflicts of Interest

Not applicable