Reproductive Health Leave Frequently Asked Questions

Reproductive health leave

Public sector workers have an entitlement to 10 days paid reproductive health leave (RHL) per year (non-cumulative) from 30 September 2024.

This policy initiative is a significant step the Queensland Government is taking to reduce the stigma associated with seeking support to manage impacts of reproductive health issues on workforce participation.

Reproductive health leave directive

The Reproductive Health Leave Directive 07/24 (RHL Directive) prescribes the entitlement to RHL for the employees that the directive applies to. The RHL Directive can be accessed here: https://www.forgov.qld.gov.au/pay-benefits-and-policy/directives-policies-circulars-and-guidelines

Public sector workers who are not strictly covered by the RHL Directive will have RHL entitlements available to them through other mechanisms such as workplace policy.

Reproductive health leave frequently asked questions

The purpose of this document is to provide guidance to managers and employees in relation to the entitlement to RHL in the form of frequently asked questions. While it assists managers and employees in interpreting and applying the RHL Directive, it does not in any way replace or alter the RHL Directive.

This fact sheet is arranged by the following headings:

Further information

Managers and employees can seek further guidance from their entity's human resources unit.

Public sector human resources and industrial relations professionals can seek assistance from the Office of Industrial Relations, Industrial Relations Public Sector unit.

Frequently Asked Questions (FAQs)

Taking RHL

1. What can RHL be taken for?

Clause 6.1 of the RHL Directive states RHL may be taken by an employee under the following circumstances:

(a) when chronic reproductive health conditions (such as, but not limited to, endometriosis, dysmenorrhea, adenomyosis, polycystic ovary syndrome, and menopause symptoms) require absence from the workplace;

(b) to receive fertility treatment such as, but not limited to, in vitro fertilisation (IVF);

(c) to attend preventative screening associated with reproductive health, including, but not limited to, breast and prostate screening; and

(d) for treatment associated with reproductive health including, but not limited to, hysterectomy and vasectomy.

2. Can RHL be taken for conditions or circumstances that are not specifically named above, but do fall within one of the four categories?

Yes.

For example, a pap smear test is a procedure that screens for cervical cancer. While it is not named as one of the types of preventative screenings being attended at clause 6.1(c) of the RHL Directive, it is a form of preventative screening and is associated with reproductive health.

3. How can an employee or manager know if a condition or circumstance falls within one of the four categories?

Each category at clause 6.1 of the RHL Directive provides examples of the condition, treatment or screening for context.

Each category has parts that need to be satisfied to determine if the category applies.

Example 1: At clause 6.1(a) the employee can take RHL when:

i. a reproductive health condition;
ii. that is chronic;
iii. requires absence from the workplace.

Example 2: At clause 6.1(c) the employee can take RHL:

i. to attend preventative screening;
ii. associated with reproductive health.

Employees and managers are to exercise reasonable judgement in assessing whether a condition or circumstance is covered by RHL.

This concept is expanded on in FAQs 11 to 16 that cover questions such as:

- What questions can a manager ask of an employee about a RHL application?
- When is an employee required to provide evidence?
- What is the standard of evidence?
- How does clause 7.2(d) work for evidence of ongoing conditions or circumstances?
- Does a chronic reproductive health condition require formal diagnosis?
- How does a manager determine that an employee's chronic reproductive health condition requires absence from the workplace?

Further general information about medical conditions can be accessed at the following links:

- Australian Government – Department of Health and Aged Care – About reproductive health
- Queensland Government – Assisted fertility and IVF

4. Can RHL be taken for travelling time to/from appointments for reproductive health purposes?

Yes.

RHL enables employees to take leave when their chronic reproductive health condition requires absence from the workplace, and to receive treatment and to attend screenings for reproductive health, which includes reasonable travel time.

5. Can RHL be taken for caring purposes?

No.

The leave is available to the employee when the employee is personally experiencing a condition or receiving treatment or undergoing screening. It does not extend to caring purposes. Leave for caring purposes is available in many industrial instruments and the *Industrial Relations Act 2016*.

6. Can the non-birth parent access RHL for fertility treatment?

Yes.

RHL is available for employees to receive fertility treatment at clause 6.1(b) of the RHL Directive, regardless of gender. Often both parents are involved in the fertility treatment process. However, if the purpose of a particular appointment does not relate to the employee and attendance is for support and care purposes only, RHL is not the appropriate leave type. It is suggested the employee attending for support and care purposes consider an alternate leave type for the absence from the workplace.

7. What can't RHL be taken for?

RHL is not available for circumstances or conditions outside of the four categories identified at clause 6.1 of the RHL Directive. It is designed to destigmatise seeking support for reproductive health circumstances, not health issues of a general nature such as cancer (a disease that may affect reproductive organs, however is not limited to reproductive health) or thyroid disease (that may affect fertility, but is primarily a thyroid condition).

8. Can an employee take RHL while absent on other leave types?

The RHL Directive does not provide a right or obligation to substitute other leave with RHL

9. Can an employee take RHL for less than a full working day?

Yes.

RHL can be converted to and taken on an hourly basis (clause 5.6). RHL cannot be taken for a period of less than one hour unless it is approved by the manager to be taken for a lesser period (clause 7.5).

For example, if an employee only requires 3 hours absence from work, they can apply for 3 hours of RHL and only 3 hours will be debited from their RHL balance (clause 7.3).

Notice and evidence

10. How much notice is required to take RHL?

Clause 7.1 of the RHL Directive requires employees to notify their employer of any absence as soon as is practicable. This means the notice is to be provided as soon as it is possible and practical to do so considering all relevant circumstances. An employee's ability to give notice will depend upon the reason for the absence, so what is practicable will vary on a case-by-case basis.

Generally, where the absence relates to attendance at an appointment, notice can be given to the employer at the time the appointment is made. In contrast, an employee experiencing emergent symptoms of a chronic reproductive health condition may not be able to provide notice until it becomes clear that they will be unable to attend work.

11. What questions can a manager ask of an employee about a RHL application?

Managers may ask an employee to confirm that the reason for the leave application is due to a reproductive health circumstance as described in clause 6.1 of the RHL Directive. There is no need for an employee to identify the category, a simple confirmation will suffice. The employee does not need to provide specific information about the condition.

Managers may ask the employee if there are any reasonable adjustments they can make in the workplace to assist the employee with their reproductive health circumstance, such as flexible work.

If an employee applies for more than 3 consecutive working days of RHL, managers may (but are not compelled to) request that the employee provide evidence to satisfy a reasonable person to support the application. See clause 7.2(b) of the RHL Directive.

Documentary evidence, such as a medical certificate, from a health practitioner confirming that one or more of the reproductive health circumstances, as described in clause 6.1 of the RHL Directive, applies to the employee is sufficient evidence to support an application for RHL. See clause 7.2(c) of the RHL Directive.

12. When is an employee required to provide evidence?

There is no default requirement to provide evidence to access RHL.

Evidence to support a RHL application is required only if it is requested by the manager and a request can only be made for evidence when an employee takes more than 3 consecutive working days of RHL. See clause 7.2(b) of the RHL Directive.

If a manager requests evidence, evidence is to be provided by the employee. A failure to provide the evidence may result in the application for RHL being declined.

13. What is the standard of evidence?

The evidence must be sufficient to satisfy a reasonable person that the employee is seeking to access RHL due to any of the circumstances as described in clause 6.1 of the RHL Directive.

There are no strict rules about the form of the evidence, and it may vary depending on the circumstances. The following examples may all be sufficient for the circumstances:

- an appointment booking confirmation email,
- redacted discharge summary,
- letter from a health practitioner, or
- statutory declaration.

Clause 7.2(c) of the RHL Directive makes it clear that documentary evidence from a health practitioner (for example, a medical certificate) will satisfy the evidence requirement if it confirms that any of the circumstances at clause 6.1 apply to the employee. Clause 9 of the RHL Directive defines a health practitioner as a person registered to practice a health profession, other than as a student, under the Health Practitioner Regulation National Law.

The documentary evidence from the health practitioner does not need to state which category the employee is experiencing and may merely refer to a:

- reproductive health condition or issue
- chronic reproductive health condition
- reproductive health circumstance or issue.

If the employee wishes to rely on the documentary evidence for subsequent absences as provided by clause 7.2(d) of the RHL Directive, it must state that the nature of the circumstance is ongoing. Such documentary evidence can then satisfy the evidence requirements for RHL absences for the remainder of the entitlement year.

14. How does clause 7.2(d) work for evidence of ongoing conditions or circumstances?

If an employee has already produced evidence of an ongoing circumstance or condition to support an application for RHL once in an entitlement year, the employee cannot be requested to produce evidence again within the same entitlement year.

This means that if, for example, an employee provided evidence of a relevant ongoing circumstance in December 2025, they could only be required to produce evidence again after June 2026 as this would be outside of the same entitlement year.

It is open to the employer/manger to accept the same evidence in subsequent entitlement years, noting that chronic conditions and fertility treatments can span many years.

15. Does a chronic reproductive health condition require formal diagnosis?

No.

In recognition of the length of time it can take to obtain a diagnosis for relevant health conditions, a formal positive clinical diagnosis is not required to have a RHL application approved. It is sufficient for an employee to indicate that they experience a “chronic reproductive health condition” that requires absence.

In the event that documentary evidence from a health practitioner is sought out, it will be sufficient for the document to provide the reasons stated in FAQ 13 above. This can and should be communicated to a health practitioner who is providing any documentary evidence in support of an application.

16. How does a manager determine that an employee's chronic reproductive health condition requires absence from the workplace?

It is not the manager's role to determine if the employee's experience of symptoms related to a chronic reproductive health condition justify an absence from the workplace.

If an employee indicates that they require absence from the workplace due to a reason described in clause 6.1 of the RHL Directive, this is sufficient for the purpose of accessing RHL. As with sick leave, it is not the employer's role to assess the severity of a condition or circumstance.

An employer may only require evidence that a reproductive health circumstance exists in relation to the employee's absence if the application is for more than 3 consecutive working days of RHL.

17. Can an application for RHL be denied?

An application for RHL may be denied if an employee:

- indicates the absence is for a reason not aligned to one of the four categories for taking RHL at clause 6.1 of the RHL Directive;
- is requested to provide sufficient evidence and fails to do so; or
- does not have sufficient balance of RHL to draw from.

18. Can an employee be asked to reconsider a RHL application if it does not suit operational requirements?

Employees are entitled to take RHL for the reasons provided in the RHL Directive.

Through respectful discussion, ways to minimise the impact of work on reproductive health and vice versa can be explored; however employees are not to be discouraged from accessing their RHL entitlement.

As set out under clause 8 of the RHL Directive, employees and managers are encouraged to discuss options, including flexibilities and reasonable adjustments, to assist an employee who is experiencing reproductive health concerns to manage their work demands, in conjunction with or as an alternative to taking RHL, subject to suiting the needs of all parties.

Employees may also request flexible working arrangements under the conditions set out in the *Industrial Relations Act 2016*, in the same way as other employees.

19. How is the four-hour limitation on preventative screening managed?

The four-hour reasonable limit in clause 5.2 of the RHL Directive is intended to be managed at a local level within the work unit.

It is noted that managers may only request evidence from an employee in relation to a RHL application if the employee's application is for more than 3 consecutive working days of RHL**.**

Information and confidentiality

20. How is information in support of RHL applications stored and managed?

Information received in connection with n RHL application is to be stored as confidential employee information. It should only be disclosed to the extent necessary to facilitate the employee's access to the RHL. See clause 7.2(e) of the RHL Directive.

21. Will RHL taken by an employee appear on a pay slip?

While the approach to recording RHL taken on a pay advice may vary between payroll providers, the RHL Directive does not prohibit the leave type from being displayed on a pay advice.

22. What does confidentiality mean in practice?

The practical measures needed to ensure confidentiality of information will differ across the systems established in each entity.

Managers should ensure they are adhering to all other relevant obligations such as those set out under the *Information Privacy Act 2009* (Qld) and the *Privacy Act 1988* (Cth).

23. How can managers and employees be respectful of and sensitive to cultural considerations related to discussing RHL?

Managers and employees are advised to be aware that cultural considerations may impact how forthcoming an employee is with information or how receptive an employee is to information. For example, in Aboriginal and Torres Strait Islander cultures, certain customs and practices are performed by men and women separately and are referred to as men's business and women's business. First Nations women may not feel able to talk about their women's business with a man and may prefer to speak to a woman. Similarly, women from some culturally and linguistically diverse cultures may not feel comfortable talking about certain topics that are viewed in their culture as 'taboo' or only to be discussed between women.

Approaching discussions with discretion and a respectful tone is an important first step. Reasonable adjustments to respect cultural considerations and values while facilitating access to RHL should be explored.

Cultural considerations will vary between employees. Managers are encouraged to seek out information that will assist their understanding of the cultural considerations of employees in their work units to support access to RHL applications where relevant.

24. Can information about an employee's RHL history be sought or provided during a reference check?

No.

Information about an employee's RHL takings should not be sought nor disclosed during a reference check, as it is not relevant to an employee's suitability for a role. Information received in connection with a RHL application is to be kept confidential and only to be disclosed to the extent necessary to facilitate access to the appropriate leave.

Managers should ensure they are adhering to all other relevant obligations such as those set out under the *Information Privacy Act 2009* (Qld) and the *Privacy Act 1988* (Cth).

Payroll providers may need to share information about an employee's RHL balances, that may involve information about the initial amount credited and any hours taken since the initial credit, in order to facilitate continued access to RHL for the relevant entitlement year.

25. Can a prospective employee be asked about their use of RHL during an interview?

No.

Access to RHL is an employee entitlement and is not relevant to the process of assessing a potential candidate's suitability for a role. Information in connection with RHL applications is confidential and only disclosed to the extent necessary to facilitate access to the appropriate leave.

26. How can employees who disclose personal, sensitive or medical information be supported and made to feel more comfortable?

Due to the potentially sensitive nature of reproductive health circumstances, managers should exercise discretion when engaging with employees about their requests.

Consider the following measures as options a manager can take:

- Prefacing discussions with the remark that the employee only needs to share any additional information if they feel comfortable sharing;
- Agree on how the absence or adjustment will be explained to any team or clients that need to be advised that the employee is unavailable;
- Seek out further information on the circumstance the employee has disclosed so that you are better placed to understand and engage in discussion about leave needs, flexibilities or adjustments sought; and
- Ensure discussions occur in a private setting.

Managers may also wish to access their Employee Assistance Program, that often provide Manager Assistance for additional support navigating sensitive topics.

27. If an employee is suspected of accessing RHL illegitimately, what can be done?

RHL is like personal (sick and carer's) leave entitlements in many respects, although as a non-cumulative leave type it is limited to a total of 10 working days per year.

On each occasion, employers may ask employees to confirm that the reason for their RHL application is due to a reproductive health circumstance, as described in clause 6.1 of the RHL Directive.

If the RHL application is for more than 3 consecutive working days, the employer may request evidence to support the application. The evidence is to be of a standard sufficient to satisfy a reasonable person.

If an employee provides documentary evidence from a health practitioner, the standard is considered to be met.

RHL balances and adjustments

28. What does '10 working days' RHL mean?

A 'working day' means one-fifth of the average number of ordinary hours worked in a week with reference to the employee's industrial instrument. See clause 9 of the RHL Directive.

For example:

- for an employee engaged on a nominal 38 ordinary hour week, a working day is 7.6 hours;
- for an employee engaged on a nominal 36.25 ordinary hour week, a working day is 7.25 hours.

An entitlement to 10 working days of RHL can be expressed as 76 hours of leave for a 38 hour/week employee or 72.5 hours of leave for a 36.25 hour/week employee.

29. What is an entitlement year?

The RHL Directive provides for 10 working days of RHL per 'entitlement year'. Clause 9 defines an entitlement year as 1 July in one year until 30 June the following year, inclusive (i.e. a financial year).

This means that an employee will have their 10 working day entitlement to use from and including 1 July until and including 30 June the next year.

RHL is not cumulative. This means that any RHL not used in one entitlement year is forfeited, and does not carry over to the next entitlement year. At the beginning of each entitlement year, a new 10 working day entitlement is credited to the employee.

For example:

- At 1 July 2025, an employee will have 10 working days RHL available.
- If the employee takes 6 working days RHL during the entitlement year, there are 4 working days remaining at 30 June 2026.
- On 1 July 2026, the employee's RHL balance will be reset, and the employee will be credited with their new 10 working day RHL entitlement to access until 30 June 2027.

30. What is the entitlement for a part-time employee?

A part-time employee will receive RHL on a pro-rata basis based on their contracted fraction of a full-time equivalent employee as at 1 July each year (or date of commencement if they commence after 1 July). See clause 5.5 of the RHL Directive.

For example, if a full-time employee (1 FTE) who works 38 hours per week receives 76 hours of RHL; a part-time employee contracted to work 19 hours per week (0.5 FTE) will receive 38 hours of RHL.

Another way to express this is 0.5 FTE x 10 days = 5 days at 7.6 hours per day = 38 hours of RHL.

31. What is the entitlement for a casual employee?

Casual employees are not entitled to RHL.

If a casual employee obtains temporary employment or is converted to permanent employment, they will have access to RHL.

32. What if an employee commences part way through an entitlement year?

The 10 working day RHL entitlement (pro-rata for part-time employees) is available regardless of when an employee commences during an entitlement year, or when an employee ceases employment during an entitlement year.

For example, if a full-time employee commences in November, they will have 10 working days of RHL available to draw on in the 8 months to 30 June the following year.

33. What is the entitlement for a temporary employee?

A temporary employee will receive RHL in the same way as a permanent employee. This is the case regardless of the length of the temporary contract or the number of contracts within an entitlement year.

For example, a temporary employee who commences in December, will have access to the 10 working days of RHL (pro-rata for a part-time employee) available for use until 30 June the following year. This is the case even if their contract is due to cease in April, however the employee is only able to take RHL while they are employed as a full-time or part-time employee.

If an employee has multiple temporary contracts during an entitlement year, the RHL entitlement remains limited to the 10 working days in the one entitlement year.

34. Does the leave entitlement accrue?

Unlike other common types of leave, RHL is not accrued over time.

Employees are credited with the full amount of their RHL in advance, from 1 July each year. The full entitlement can be taken at the beginning of the entitlement year period, the end of the period or anytime throughout. There is no qualifying period before the leave becomes available.

Changes to employment during a year

35. What is the effect of unpaid leave during the year on a RHL balance?

As RHL is not an accrued leave type, absences on unpaid leave during the year do not reduce the amount of leave balance available to the employee.

36. What is the effect if an employee ceases employment and is re-employed during the year?

RHL is not accrued over time and therefore is not impacted by a period of unpaid leave or breaks in employment.

Employees have access to their RHL balance over the course of the entitlement year, and a balance is re-enlivened if an employee recommences employment during an entitlement year.

An employee has access to their RHL balance across employment in any public sector entity covered by the RHL Directive (i.e. if they are re-employed during the entitlement year in a different public sector entity, the balance follows the employee).

37. What happens if an employee’s hours change during an entitlement year?

Clause 5.5 of the RHL Directive provides that if a part-time employee’s contracted hours increase, or they are working ordinary hours in excess of their contracted hours, during an entitlement year, the employee may request that their balance is reviewed and balance adjusted for the remainder of that entitlement year. The relevant process for instigating this review will vary across departments and agencies.

If a part-time employee’s contracted hours decrease during an entitlement year, no adjustment is made to the RHL balance.

If a full-time employee becomes part-time during an entitlement year, no adjustment is made to the RHL balance.

The impact of no reduction of balances will be assessed during a review of the RHL Directive at an appropriate future time.

38. Can an employee's entitlement 'double up' if they have multiple, or concurrent, engagements within the same year?

No. Part-time employees are entitled to RHL on a pro-rata basis, based on their contracted fraction of a full-time equivalent, at 1 July or their commencement date if employed after 1 July. Therefore, if an employee has multiple engagements as a part-time employee up to 1 FTE, they will be entitled to a pro-rata RHL balance separately for each of their positions up to the 10 working days for 1 FTE.

In the rare event that an employee is contracted for greater than 1 FTE over multiple part-time positions, it is possible that their RHL entitlement will exceed the 1 FTE entitlement of 10 working days, in a manner that is proportionate to their total contracted hours.

Likewise, a full-time temporary employee is not credited with 10 working days RHL per contract. The entitlement is per entitlement year, regardless of the contract. Accordingly, multiple contracts do not equate to multiple 10 working day balances.

39. What happens if an employee transfers, is seconded or moves between public sector entities?

RHL applies to all public sector entities, therefore RHL is not impacted when an employee moves between departments, agencies or public sector entities (whether permanently or on a temporary basis). This means employees will continue to be entitled to the same amount of RHL within an entitlement year regardless of a transfer between public sector entities.

It will be necessary for payroll processes to be implemented to facilitate the movement of balances.

Payment of RHL

40. At what rate does an employee receive payment for RHL taken?

RHL is paid at 'full pay' defined in the clause 9 of the RHL Directive as the employee's ordinary rate of pay and is inclusive of any fixed allowances that are part of the regular fortnightly pay, excluding shift, weekend and public holiday penalties and consolidated shift allowance payments. It does not include rostered overtime.

If an industrial instrument that applies to the employee provides for a greater rate of pay during periods of paid leave, the RHL Directive does not override the greater rate from applying.

RHL is not available to be taken at half pay (see clause 7.6 of the RHL Directive).

41. At what rate does an employee assuming higher duties receive if they take RHL during a relieving period?

For employees covered by the Directive about Higher Duties, the higher duties amount will be payable to an employee who takes RHL during a relieving period. Employees not covered by the Directive about Higher Duties should refer to their industrial instruments.

42. What happens if an employee takes RHL during a public holiday?

RHL is exclusive of public holidays (clause 7.4 of the RHL Directive). An employee will be paid for the absence without debit to their RHL balance, similar to the arrangements for sick leave.

RHL and other entitlements, obligations, and rights

43. What options are available if an employee has exhausted their RHL?

There is no entitlement to unpaid RHL.

An employee who has exhausted their RHL balance is encouraged to discuss their leave needs with their manager, considering other available leave types and any workplace flexibilities including reasonable adjustments that may assist their continued workforce participation.

44. How does the RHL Directive impact on, overlap or interact with other directives and entitlements?

The RHL Directive does not interfere with any existing entitlements that an employee has access to under other directives, industrial instruments or the *Industrial Relations Act 2016*. An employee's entitlements depend upon their industrial arrangements and individual circumstances.

Other directives that may also apply and have relevance to enable leave for health circumstances include:

- Paid Parental Leave, which provides for both maternity leave and special maternity leave (in circumstances where a pregnancy ends in other than the birth of a living child);
- Sick Leave, which provides for where any illness causes an employee to be absent from work;
- Special Leave, including bereavement leave where an employee, or an employee's spouse, is pregnant and the pregnancy ends other than by the birth of a living child;
- Recreation Leave; and
- Long Service Leave.

45. Can an employee elect to take sick leave instead of RHL?

Yes.

There is no obligation for an employee to make an application for RHL. If the employee's condition or circumstance means that they are eligible for sick leave, they may choose to apply for sick leave.

46. What other rights and obligations should managers and employees be aware of in relation to RHL?

All usual legal rights and obligations exist when applying the RHL directive. These include those contained within:

- the *Public Sector Act 2022* (Qld);
- the *Industrial Relations Act 2016* (Qld);
- the *Information Privacy Act 2009* (Qld) and the *Privacy Act 1988* (Cth);
- the *Human Rights Act 2019* (Cth);
- the *Anti-Discrimination Act 1991* (Qld); and
- any relevant industrial instruments and directives, and the contract of the employee.

Managers are reminded that public sector entities are required to act and make decisions in a way that is compatible with human rights, and properly consider human rights when making a decision.