

Long Service Leave for casuals

Frequently asked questions – November 2023

1. Why are casuals only getting an entitlement to LSL now?

The long-standing position was casuals in the WA public sector were not entitled to accrue Long Service Leave (LSL) under the *Long Service Leave Act 1958 (WA)*.

On 16 September 2019, Government Sector Labour Relations (GSLR) advised that casual employees will be afforded long service leave pursuant to the *Long Service Leave Act 1958 (WA)*. GSLR is currently providing guidance on how this should be implemented across the WA Public Sector, including WA Health.

2. Why has there been a delay in providing my entitlement?

The establishment of accrual rules requires finalisation and the approval of government. These business rules are the subject of ongoing discussions between WA Health, GSLR, and unions. It was originally anticipated the business rules would be determined by the end of 2022 however they have been delayed.

Once the business rules have been agreed on and approved by government Health Support Services (HSS) will have the necessary information required to make the needed reconfigurations to Payroll systems to progress implementation of LSL entitlements.

HSS is aware of a recent decision issued by the WA Industrial Relations Commission (WAIRC), which may impact upon LSL accruals for casual employees in the WA health system.

Given the decision has potential impacts across the entire WA public sector, HSS is currently awaiting further information from the Department of Health (DoH), who is seeking guidance from central government regarding the impact of the decision on processes, timelines, and business rules for implementation in the payroll system.

Once HSS has received the necessary information from DoH, it will take some time for the system to be configured and every impacted person to be reviewed. This is due to a large volume of current and former impacted WA Health employees.

3. Who will be eligible for a historical leave balance?

Current employees:

All current casual, or permanent and fixed term employees with current or historical casual employment, may be eligible for an entitlement or accrual. To avoid individuals having to make a claim, HSS will contact eligible employees in due course.

The entitlement due will be informed by the advice to be received from DoH.

Terminated employees:

In accordance with the *Limitations Act 2005 (WA)*, employees who are no longer employed have the right to be paid their entitlement up until six years after the date on which their employment ceased.

Approval is being sought to pay an LSL entitlement to any casual employee who terminated their employment with WA Health on or after 16 September 2013; this is six years prior to the date the changed advice was received (as per question 1).

To avoid individuals having to make a claim, HSS will arrange payment for employees who have met the criteria and left the WA health system.

4. How far back will accruals go?

Subject to question 3, service since January 1996 will count towards an employee's accrual. This is because at that date, changes were made to the LSL Act which expanded the scope of the legislation to apply to public sector employees.

5. How do I know if I am entitled to a historical LSL balance?

Subject to question 2, all current casual employees are potentially impacted by this change. You will be contacted by HSS if you have an entitlement or balance.

Entitlements will be subject to meeting certain criteria, including whether an employee has continuous service or continuous employment throughout the accrual period.

6. How can I work out what my historical balance is? How do I know what my balance as a casual is/was?

HSS is awaiting information from DoH to be able to conduct an audit of historic payroll data to establish employee hours worked as a casual. This means that any historical casual LSL balances cannot be finalised yet.

7. When will I receive my historical balance?

Once the payroll systems are reconfigured following the establishment of accrual rules, historical data can be used to determine your balance. HSS will provide an update once the accrual rules have been established and the project timelines have been finalised.

8. How can I apply for, and take, LSL as a casual (once the required entitlement period has been reached)?

For a current casual to apply to take LSL, HSS will need to reconfigure payroll systems following the establishment of accrual rules.

Once we have received confirmation from government on the establishment of the accrual rules, we will apply these to your LSL balance and contact you. This will include information on how leave can be accessed.

9. If I take or cash out my leave, at what rate will I be paid?

You will be paid your base rate current at the time of taking or cashing out the leave, if you are a casual employee at the time the leave is taken you will also receive casual loading.

10. As a casual employee when will be my LSL show on my payslip?

Once the payroll systems are reconfigured following the establishment of accrual rules, HSS will be in touch to advise when your LSL accrual has commenced.

Please note that for those employees paid by the Lattice Payroll system, an LSL balance will only display on your payslip once you have been granted your first 10-year entitlement. Any pro-rata LSL accruals will not be displayed.

11. I am a fixed term/permanent employee transferring to a casual contract, will my leave automatically be transferred?

As the payroll systems are awaiting configuration following the establishment of accrual rules, it is not yet possible for casual employees to have an LSL accrual or entitlement in the system. This means that LSL cannot be transferred to or from a casual position.

Anyone who terminates their current fixed term or permanent position and is eligible for a pro-rata payout, will receive this in line with current payroll policies & procedures. Once the payroll configuration is complete, eligible employees will have their historical balances added.

However, recognition of that prior fixed term or permanent service will be subject to meeting any break in service rules when transferring between modes. HSS is awaiting further advice on how to treat service where an employee switches between modes of employment.

12. Will my LSL entitlements be carried over if I change my mode of employment or change employer, e.g. one hospital to another within WA Health?

Under relevant public sector industrial agreements and government circulars, LSL is generally portable if you move across the WA health system. However, it is unclear how those rules apply in the context of casual service as agreements and circulars do not contemplate casual service.

The specific accrual rules for portability require finalisation and are the subject of ongoing discussions between WA Health, central government, and unions. Once these rules are finalised, you will be notified if you have an accrued entitlement.

13. If I leave WA Health before being contacted by HSS regarding my casual LSL entitlement, will I be paid out my casual LSL entitlement on termination?

If you leave WA Health before your casual entitlement has been reviewed by HSS it will not be included with your termination payment. Once entitlements have been reviewed by HSS, we will contact eligible terminated employees who have met the criteria in due course.

14. Does my industrial agreement effect my entitlement to LSL?

The following industrial agreements provide an entitlement to long service leave for casual employees:

- WA Health System – Medical Practitioners - AMA Industrial Agreement 2022
- WA Health System – Australian Nursing Federation – Registered Nurses, Midwives, Enrolled (Mental Health) and Enrolled (Mothercraft) Nurses – Industrial Agreement 2020
- WA Health System Engineering and Building Services Industrial Agreement 2023
- Government Services (Miscellaneous) General Agreement 2023
- Dental Health Services – Dental Officers – CSA Industrial Agreement 2022
- Dental Health Services – Dental Technicians – CSA Industrial Agreement 2022
- WA Health System – United Workers Union (WA) – Enrolled Nurses, Assistants in Nursing, Aboriginal Health Workers, Ethnic Health Workers and Aboriginal Health Practitioners Industrial Agreement 2020
- WA Health System – HSUWA – PACTS Industrial Agreement 2022
- WA Health System – United Workers Union (WA) – Hospital Support Workers Industrial Agreement 2022
- Public Sector CSA Agreement 2022

The interaction between the LSL Act and industrial agreement entitlements are the subject of ongoing discussion between WA Health, central government, and unions.

HSS will subsequently apply the business rules required to make the necessary configurations to payroll systems to progress implementation of LSL entitlements.

15. Who should I contact if I would like to discuss my query further?

Any queries regarding LSL for casual employees can be emailed to LSL.Casuals@health.wa.gov.au.