

Management of Staff Leave in the Australian Public Service

Across Entities

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ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-761-2 (Print)

ISBN 978-1-76033-762-9 (Online)

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Canberra ACT
30 June 2022

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit across entities titled *Management of Staff Leave in the Australian Public Service*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink that reads 'Grant Hehir'.

Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Audit snapshot

Auditor-General Report No.46 2021–22

Management of Staff Leave in the Australian Public Service



Why did we do this audit?

- ▶ As of 30 June 2021, leave and other entitlements represented \$3.0 billion (5.5 per cent) of Australian Government employee benefit expenses (\$54.8 billion) and \$11.1 billion (2.5 per cent) of Australian Government employee benefit liabilities (\$447.5 billion).
- ▶ This audit seeks to assess compliance in the management of staff leave at 10 entities that collectively employ 37 per cent of the Australian Public Service workforce and represent a cross-section of agencies of different sizes and functions.



What did we find?

- ▶ All 10 entities were compliant or largely compliant with annual, long service, parental/maternity, personal, and flexible leave obligations and entitlements.
- ▶ All entities except Aboriginal Hostels Ltd have established policies for the administration of leave that align with relevant legislative, award and enterprise agreement requirements.



What did we recommend?

- ▶ There were four recommendations covering human resource management information systems, controls and policy development and alignment.
- ▶ One recommendation was to Aboriginal Hostels Ltd, one recommendation was to four entities, and two recommendations were to all 10 entities.
- ▶ All entities agreed to relevant recommendations.



Key facts

- ▶ 56,588 personnel (average staffing level) were employed by the 10 entities in the 2020–21 financial year.
- ▶ \$751 million employee leave benefit expenses reported by the 10 entities in the 2020–21 financial year.
- ▶ \$2.073 billion employee leave provision liabilities reported by the 10 entities in the 2020–21 financial year.

5,822 (8%)

Employees across all 10 entities exceeding annual leave balance thresholds in enterprise agreements.

11%–53%

Rate of schedulable leave (annual, purchased, long-service, maternity and parental) approved after the commencement of leave.

3%–15%

Rate of flexible leave maximum credit/debit balances exceeding requirements.

Summary and recommendations

Background

1. Leave entitlements and obligations for Australian Government employees and employers are established in workplace relations legislation including the: *Fair Work Act 2009* (Fair Work Act); *Long Service Leave (Commonwealth Employees) Act 1976*; *Maternity Leave (Commonwealth Employees) Act 1973*; *Paid Parental Leave Act 2010*; and related regulations.
2. Employee benefits (including wages and salaries, superannuation, leave, separation and redundancies) represent the highest value departmental expenditure for most Australian Government entities, and the inputs and estimates that contribute to the measurement of the associated liability are subject to management judgement. In 2020–21, leave and other entitlements represented \$3.0 billion (5.5 per cent) of Australian Government employee benefits expenses (\$54.8 billion), and \$11.1 billion (2.5 per cent) of Australian Government employee benefits liabilities (\$447.5 billion) as at 30 June 2021.

Rationale for undertaking the audit

3. In response to an increase in findings relating to human resource management and administration across Australian Government entities during the period from 2015–16 to 2018–19, the ANAO undertook procedures relating to the management of staff leave as part of the 2019–20 financial statement audits of the Department of Home Affairs, the Department of the Prime Minister and Cabinet and the Department of the Treasury.
4. The analysis identified weaknesses in processes relating to staff leave and associated monitoring controls. It was also identified that entities did not have appropriate and fit for purpose human resources management information systems (HRMIS) and processes to facilitate the identification of rates of non-compliance with entity policies, patterns of attendance and leave that, if identified and addressed, may have resulted in higher levels of attendance.
5. This audit seeks to further assess compliance in the management of staff leave at 10 entities with combined average staffing levels of 56,588 or more than a third of the Australian Public Service (APS) workforce in 2020–21. This audit will provide assurance to the Parliament about the extent to which entities are complying with legislative, award, enterprise agreement, and policy requirements relating to staff leave.

Audit objective and criteria

6. The objective of the audit was to assess the compliance by selected Australian Public Service entities with legislation and other relevant requirements relating to staff leave.
7. To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:
 - Have the entities established policies for the administration of leave types that align with the relevant legislation, award and enterprise agreement provisions?
 - Did the entities comply with the legislative, award, enterprise agreement, and policy requirements in the administration of leave types?

Conclusion

8. All 10 entities largely complied with requirements for the management of staff leave. Aboriginal Hostels Ltd (AHL) has not developed policies to support the management of staff leave.

Supporting findings

9. Supporting findings for each of the 10 entities have been summarised in Table S.1.

Annual and purchased leave

10. All entities except Aboriginal Hostels Ltd (AHL) have established policies for the administration of annual and purchased leave that align with relevant legislation, award and enterprise agreement provisions.

11. All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of annual and purchased leave, except for the following instances of material non-compliance:

- annual leave commencing prior to approval — non-compliance for all six entities with a requirement, Australian Taxation Office (ATO), Clean Energy Regulator (CER), Department of Finance (Finance), Murray Darling Basin Authority (MDBA), National Disability Insurance Agency (NDIA) and National Indigenous Australians Agency (NIAA) ranging from 19.5 per cent at the ATO to 27.8 per cent at NIAA;
- annual leave balances exceeding thresholds — non-compliance for all four entities with a requirement (AHL, Finance, MDBA and NIAA) ranging from 15 per cent at AHL to 21 per cent at Finance; and
- approval of purchased leave inconsistent with enterprise agreement requirements — non-compliance at Finance (eight per cent) and Department of Industry, Science, Energy and Resources (DISER) (24 per cent).

Long service leave

12. All entities except AHL have established policies for the administration of long service leave that align with relevant legislation and enterprise agreement provisions.

13. All 10 entities complied with legislative, enterprise agreement and policy requirements in the administration of long service leave, except for the following instances of material non-compliance:

- long service leave approved without delegation — non-compliance of 8 per cent at NDIA;
- long service leave commencing prior to approval — non-compliance for all six entities with a requirement at ATO, CER, Finance, MDBA, NDIA and NIAA ranging from 11 per cent at Finance to 36.6 per cent at NIAA;
- long service leave broken by leave type not permitted — non-compliance at ACIC, ATO, CER, DISER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 1.5 per cent at Services Australia to 11 per cent at DISER; and
- long service leave granted without qualifying service — non-compliance at Services Australia (one employee).

Personal (and carer's) leave

14. All entities except AHL have developed appropriate policies for administering personal (and carer's) leave that align with relevant legislation, award and enterprise agreement provisions.

15. All 10 entities complied with legislative, award, enterprise agreement and policy requirements in the administration of personal (and carer's) leave, except for the following instances of material non-compliance:

- personal leave without evidence exceeding consecutive day limit — non-compliance at AHL, CER, DISER, Finance, NDIA and NIAA ranging from 1.9 per cent at DISER to 11.3 per cent at NIAA;
- personal leave without evidence exceeding annual limit — non-compliance at ACIC, CER, DISER, Finance, MDBA, NDIA and Services Australia ranging from less than one per cent at NDIA and Services Australia to 25.4 per cent at MDBA; and
- leave not supported by documentary evidence — 12 per cent non-compliance at Finance.

Maternity and parental leave

16. All entities except AHL have developed appropriate policies for administering maternity and parental leave that align with relevant legislation, award and enterprise agreement provisions.

17. All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of maternity and parental leave, except for the following instances of material non-compliance:

- paid maternity leave granted above entitlement — non-compliance at ATO, DISER, MDBA and NIAA ranging from less than one per cent at ATO and DISER to 12.5 per cent (one instance) at MDBA;
- maternity leave granted above entitlement — non-compliance at ATO and DISER ranging from two per cent at ATO to nine per cent at DISER;
- documentation supporting fitness to work not on file — non-compliance at ATO and Finance ranging from eight per cent at ATO to 14 per cent at Finance;
- maternity leave counting as service exceeding entitlement — non-compliance at AHL, ATO, DISER, MDBA, NIAA and Services Australia ranging from less than one per cent at Services Australia and DISER to 12.5 per cent at MDBA;
- documentary evidence supporting maternity leave — non-compliance at Services Australia (12 per cent) and Finance (20 per cent); and
- documentary evidence supporting parental leave not on file — non-compliance at DISER, Finance, NIAA and Services Australia ranging from eight per cent at Services Australia to 100 per cent at NIAA.

Flexible leave and time off in lieu

18. All entities except AHL have developed appropriate policies for administering flexible leave and time off in lieu leave that align with award and enterprise agreement provisions.

19. No entity was compliant with award, enterprise agreement and policy requirements in the administration of APS level flexible leave. Two entities, ACIC and AHL have not established flexible leave functionality in existing human resource management information systems. The ANAO identified the following among the remaining entities:

- flexible leave credit or debit balances exceeding maximum threshold — ATO, CER, DISER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 3.4 per cent of APS level employees at Services Australia to 15.4 per cent at MDBA; and
- settlement clause requirements — non-compliance at ATO, CER, Finance, MDBA, NDIA and Services Australia ranging from 2.6 per cent of flexible leave records at Services Australia to 13.8 per cent at MDBA.

20. Five entities (ATO, Finance, NDIA, NIAA and Services Australia) advised that leave days taken using Executive Level time off in lieu (TOIL) are administered using existing human resource management information systems.

21. Finance is the only entity that has established systems to record additional hours worked by Executive Level employees to support its administration of accrual and use of TOIL.

Table S.1: Summary of findings — policy alignment and compliance with legislative, award, enterprise agreement, and policy requirements.

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Annual and purchased leave										
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐
Long service leave										
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	●	◐	◐	◐	◐	◐	◐	◐	◐
Personal (and carer's) leave										
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐
Maternity and parental leave										
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	●	◐	◐	◐	◐	◐	◐	●	◐	◐

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Flexible leave and time off in lieu										
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐

- Key:
- Entity has not established policies (Policy Alignment) / Widespread non-compliance was identified with legislative, award, enterprise agreement, and policy requirements for the leave type (Compliance).
 - ◐ Entity policies have been developed but are not aligned with legislative, award, and enterprise agreement provisions (Policy Alignment) / Multiple instances of non-compliance were identified with legislative, award, enterprise agreement, and policy requirements for the leave type (Compliance).
 - ◑ Entity policies are largely aligned with some immaterial exceptions (Policy Alignment) / Small number of instances of non-compliance were identified with legislative, award, enterprise agreement, and policy requirements for the leave type (Compliance).
 - Entity has policies aligned with requirements (Policy Alignment) / No instances of non-compliance were identified with legislative, award, enterprise agreement, and policy requirements for the leave type (Compliance).

Source: ANAO analysis.

Recommendations

Recommendation no. 1 Aboriginal Hostels Limited develop and implement policies for the administration of all leave types that align with legislative, award and enterprise agreement provisions.
Paragraph 2.8

Aboriginal Hostels Limited response: *Agreed*

Recommendation no. 2 All entities establish appropriate controls to ensure the use of long service leave complies with legislative, award, enterprise agreement and policy requirements, including controls that ensure long service leave is only broken by permitted types of leave.
Paragraph 3.24

Aboriginal Hostels Limited response: *Agreed*

Australian Criminal Intelligence Commission response: *Agreed*

Australian Taxation Office response: *Agreed*

Clean Energy Regulator response: *Agreed*

Department of Finance response: *Agreed*

Department of Industry, Science, Energy and Resources response: *Agreed*

Murray Darling Basin Authority response: *Agreed*

National Disability Insurance Agency response: *Agreed*

National Indigenous Australians Agency response: *Agreed*

Services Australia response: *Agreed*

Recommendation no. 3
Paragraph 5.22

Department of Finance; Department of Industry, Science, Energy and Resources; National Indigenous Australians Agency; and Services Australia establish appropriate controls to ensure the use of maternity and parental leave complies with legislative, award, enterprise agreement and policy requirements, including controls that ensure documentary evidence has been sighted by the approver or recorded in the system.

Department of Finance response: *Agreed*

Department of Industry, Science, Energy and Resources response: *Agreed*

National Indigenous Australians Agency response: *Agreed*

Services Australia response: *Agreed*

Recommendation no. 4
Paragraph 6.19

All entities establish or refine information systems and/or other procedural controls to support the consistent management of flexible leave provisions established in enterprise agreements and determinations.

Aboriginal Hostels Limited response: *Agreed*

Australian Criminal Intelligence Commission response: *Agreed*

Australian Taxation Office response: *Agreed*

Clean Energy Regulator response: *Agreed*

Department of Finance response: *Agreed*

Department of Industry, Science, Energy and Resources response: *Agreed*

Murray Darling Basin Authority response: *Agreed*

National Disability Insurance Agency response: *Agreed*

National Indigenous Australians Agency response: *Agreed*

Services Australia response: *Agreed*

Summary of entity responses

Aboriginal Hostels Limited

Aboriginal Hostels Limited (AHL) welcomes any constructive review and external scrutiny of its processes and procedures and acknowledges the findings and recommendations as set out in the s19 report. AHL welcomes the findings and agrees to the implementation of the recommendations as detailed in our responses.

AHL has recently developed a business case, which recommends the implementation of a new HRMIS with enhanced functionality, including the automation of a range of existing manual

processes. Once implemented, it is expected that the new HRMIS would also support the strengthening of leave management and associated governance processes.

We would like to acknowledge the efforts of the ANAO team and the collaborative approach in undertaking this audit. AHL looks forward to a continuing positive working relationship with the ANAO.

Australian Criminal Intelligence Commission

The ACIC welcomes the audit into the management of staff leave in the Australian Public Service, and is committed to continually improving how it manages and administers staff leave across the agency. It was particularly pleasing that the audit recognised the sound governance the agency has in place, though the ACIC acknowledges there is still room for improvement.

Recognising the importance of a fit-for-purpose human resource information management system, the ACIC had already begun implementing a number of enhancements to its systems at the commencement of the audit, in accordance with the Government Enterprise Resource Planning (GovERP) project. This includes upgrades to user experience, and additional automated controls to ensure leave is taken in accordance with employee entitlements.

The audit has highlighted the shared responsibility that employees and managers have in ensuring leave is taken appropriately and in accordance with entitlements. To support this, the ACIC has reviewed the education and guidance provided to employees and managers, with a new training package under development and leave policies under review. Once finalised, these resources will better support staff across the agency to effectively manage leave.

Australian Taxation Office

The ATO welcomes this review and the report finding that the ATO is largely compliant with requirements for the management of staff leave. The review has also found the ATO to have appropriate policies for administering leave that align with relevant legislation, award and enterprise agreement provisions.

We recognise the audit findings identified some opportunities to further enhance our management of staff leave. We also note the period within which the audit was conducted was one that saw the ATO operating in an environment that required the rapid implementation of Government stimulus measures arising from the COVID-19 pandemic. This required unprecedented workloads to support the community in a time of great uncertainty and impacted on the usual operation of and access to leave.

The ATO does have concerns with the data presented in scatterplots visuals in figures 2.2 and 4.1. We believe they do not appropriately represent the performance of ATO managers in approving the tens-of-thousands of leave events that occurred in the audit period, nor accurately represent the distribution of elapsed time taken to approve leave.

Noting the above, the ATO agrees with the two recommendations relevant to it and will continue to refine and improve processes in the management of staff leave.

ANAO comment on Australian Taxation Office summary response

22. The ANAO observed 29,497 instances of annual leave being approved following the commencement of that leave and 149,074 instances of personal leave (which are ordinarily approved upon return to work). Figure 2.2 and Figure 4.1 are intended to demonstrate the distribution of days taken to approve annual and personal leave following either the commencement of annual leave or return to work for personal leave. The ANAO has included

footnotes to these figures to Appendix 8 where the number of instances, mean and median for each entity are provided to ensure appropriate context is available to readers. The ANAO has also acknowledged that there may be some instances where it may be appropriate for scheduled leave to be approved following commencement of leave (see paragraphs 2.23 and 2.24).

Clean Energy Regulator

CER accepts the audit findings and overall, the agency is compliant with the policy and legislation. The CER will continue to focus efforts on employee and management behaviour to improve compliance with leave approval in the HR information system prior to commencing leave and for unscheduled leave to be approved as soon as the employee returns from leave. Monthly management leave reports sent to section managers and senior management will be used as a direct monitoring report and followed up with email communication to employees and managers to address excess leave balances or debits.

Department of Finance

The Department of Finance (Department) welcomes the findings of the Australian National Audit Office (ANAO) report titled *Management of Staff Leave in the Australian Public Service*.

The Department agrees with the audit recommendations and will implement actions to address areas identified for improvement, including system and process enhancements and providing enhanced guidance for managers and staff.

The COVID-19 pandemic required the Department to support the Australian Government to deliver on measures, leading to a sustained high workload, including during the period that the audit took place. This sustained workload had an impact on the management of staff leave balances within the limits of our Enterprise Agreement and relevant policies.

The Department will continue to monitor key workforce indicators and is implementing strategies to actively manage staff leave where it exceeds Enterprise Agreement provisions.

Department of Industry, Science, Energy and Resources

The Department of Industry, Science, Energy and Resources (the department) acknowledges the Australian National Audit Office's (ANAO) proposed audit report on Management of Staff Leave in the Australian Public Service.

The department accepts the recommendations, as they relate to the department and will work collaboratively to investigate and implement these recommendations.

The department notes the ANAO's conclusion that all departmental policies were found to align with requirements and our overall results were broadly the same as other entities included in the audit.

The department thanks the ANAO for its proposed audit report and commits to working collaboratively to explore options for addressing the recommendations made in the report.

Murray Darling Basin Authority

The Murray-Darling Basin Authority (MDBA) is committed to appropriate and timely implementation of agreed recommendations from the Management of Staff Leave in the Australian Public Service.

Of the four recommendations in this report, two are applicable to the MDBA.

The MDBA acknowledges that whilst largely compliant, there is some work to be done to strengthen the controls around the management of long service leave and to refine information systems and/or other procedural controls to support the consistent management of flexible leave provisions. The MDBA supports strengthening controls as identified by the ANAO.

National Disability Insurance Agency

The NDIA acknowledges the findings of the report and supports the recommendations and opportunities for improvement they provide in managing staff leave entitlements. The NDIA appreciates the ANAO's conclusion that the NDIA has established policies for the administration of leave types that align with the relevant legislation and enterprise agreement provision, and the NDIA is largely compliant with legislation and other relevant requirements relating to staff leave.

The NDIA agrees to implement recommendations 2 and 4 and is committed to the improvement of application of leave requirements including minimum and maximum entitlements, and timeliness of submission and approval of leave requests. We will seek to expand our data analytics to support compliance with related leave conditions. This will complement existing communication and education activities and is in addition to Human Resource (HR) management reporting which informs management action.

As recognised by the ANAO in this audit report, the NDIA is the recipient of a shared service arrangement from Services Australia, including provision of a human resource management information system (HRMIS). The NDIA will continue to explore enhancements to these systems and processes, where required, in partnership with Services Australia. It is important to recognise that the current COVID pandemic including Government restrictions on movement, has impacted staff leave plans and led to an accumulation of leave holdings. The NDIA has initiated various strategies to address maximum leave entitlements, as part of our employee wellbeing focus. These activities will form part of the broader action plan to address findings from this audit.

National Indigenous Australians Agency

The National Indigenous Australians Agency (NIAA) is committed to best practice human resource management and administration. The NIAA is currently reviewing its Leave Policy to ensure it aligns with the new Enterprise Agreement 2021-24. Following extensive staff consultation, the Leave Policy is anticipated to be published in August 2022.

The NIAA is working closely with the Department of Prime Minister and Cabinet (PM&C) as the NIAA's shared service provider for its human resource information management systems (Aurion) and payroll processing, to implement a number of changes in relation to the management of leave entitlements. These changes will support employees and managers to better understand leave requirements and approval responsibilities.

The NIAA will supplement the system changes with a full review of intranet content relating to leave procedures to ensure the content aligns with the new leave policy and all information is clear and easy to access. This will support employees to better understand their rights and responsibilities in relation to leave entitlements.

The NIAA agrees with all recommendations relevant to the NIAA and notes actions undertaken and underway.

Services Australia

Services Australia welcomes this report, and is pleased with the high compliance results across the various staff leave examined, particularly in the context of the agency having the highest average staffing level from the ten entities examined. Health and wellbeing are important to maintaining the endurance and resilience of the workforce. Leave supports employees to balance their individual circumstances and life events, and to be well at work. Managers and staff seek to balance leave needs and preferences with business requirements, sometimes during periods of unprecedented demand for assistance. Considering the work that is underway to deliver the Government Enterprise Resource Planning (GovERP) system, the agency will undertake education and communication campaigns, and continue to train staff and monitor compliance, to further strengthen the compliance rate with the management of employee leave.

Key messages from this audit for all Australian Government entities

23. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Policy implementation

- Human resource policies and guidance should be developed and implemented in a manner that is consistent with legislative, workplace award and enterprise agreement entitlements and obligations. Policies and guidance should also be regularly reviewed and where required updated to reflect legislative changes or changes to enterprise agreements including changes resulting from determinations made under subsection 24(1) of the *Public Service Act 1999*.
- Policies for schedulable leave types such as annual, purchased, long service, maternity and parental leave should include explicit provisions that require delegate approvals for leave to be provided prior to the commencement of leave and the circumstances where there may be exceptions to this.
- Services Australia's personal leave policy requires documentary evidence supporting personal leave applications to be submitted within five working days of returning to work following absence. Entities should, where appropriate develop policies for unscheduled leave such as personal (and carer's) leave that include specific requirements for unscheduled leave applications and supporting documentary evidence to be submitted within an appropriate and measurable timeframe.

Governance and risk management

- To demonstrate compliance with legislative, workplace award and enterprise agreement entitlements and obligations, and identify risks of non-compliance, entities should ensure appropriate assurance processes over human resources systems and data. The outcomes of compliance activities should support a data driven approach to workforce management.
- To ensure the accountable authority and executive management are sufficiently informed of compliance and leave use trends, regular monitoring and reporting of compliance with employee conditions and leave use trends should be implemented.

Records management

- Entity human resource management information systems (HRMIS) should be configured to demonstrate compliance with legislative, award, enterprise agreement and policy

requirements that documentary evidence has been sighted by the approver or recorded in the system.

- ATO has implemented automated HRMIS controls to prevent employees using personal (and carer's) leave without evidence in excess of annual entitlements. Entity human resource management information systems should optimise preventative controls in applying employee conditions, and management monitoring and reporting of compliance with employee conditions.

Audit findings

1. Background

Introduction

1.1 Leave entitlements and obligations for Australian Government employees and employers are established in workplace relations legislation including the: *Fair Work Act 2009* (Fair Work Act); *Long Service Leave (Commonwealth Employees) Act 1976*; *Maternity Leave (Commonwealth Employees) Act 1973*; *Paid Parental Leave Act 2010*; and related regulations.

1.2 The *Australian Public Service Enterprise Award 2015*, entity specific enterprise agreements established under Part 2-4 of the Fair Work Act, and entity policies provide additional obligations on Australian Public Service (APS) employers and employees in relation to leave.^{1 2}

1.3 Human resource financial processes encompass the day-to-day management and administration of employee benefits including payroll and other entitlements, such as leave.

1.4 Employee benefits (including wages and salaries, superannuation, leave, separation and redundancies) represent the highest value departmental expenditure for most Australian Government entities, and the inputs and estimates that contribute to the measurement of the associated liability are subject to management judgement. In 2020–21, leave and other entitlements represented \$3.0 billion (5.5 per cent) of Australian Government employee benefits expenses (\$54.8 billion), and \$11.1 billion (2.5 per cent) of Australian Government employee benefits liabilities (\$447.5 billion) as at 30 June 2021.

1.5 The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out that the accountable authority must govern the entity in a way that ‘promotes the proper use and management of public resources for which the authority is responsible’³ and that accountable authorities must establish and maintain appropriate systems of risk oversight and management, and appropriate systems of internal control.

1.6 The PGPA Act also states that the accountable authority must act in a way that is ‘not inconsistent with the policies of the Australian Government’. The government’s workplace bargaining policy states that entities are responsible for ensuring that workplace arrangements are consistent with the policy, meet all legislative obligations, and that entities are responsible for ensuring that their workplace relations policies and practices are consistent with the policy.

1.7 The establishment and implementation of policies that align with legislative, award and enterprise agreement requirements support good practice in the administration of staff leave and assist entities to communicate entitlements and obligations to employees and delegates.

1 Several entities have workplace determinations in place under subsection 24(1) of the *Public Service Act 1999* extending the timeframe of operation for enterprise agreements.

2 Enterprise bargaining at the entity level in the Australian Public Service was first introduced in 1993 through the *Industrial Relations Reform Act 1993*. This allowed each entity to have pay and conditions specific to the work performed.

3 Section 8 of the PGPA Act states that ‘proper, when used in relation to the use or management of public resources, means efficient, effective, economical and ethical’.

Selected entities

1.8 Entities were selected from those that engage employees under the *Public Service Act 1999* and provide a broad cross-section of government entities based on size (small, medium and large) and function (policy, service delivery and regulation). Table 1.1 includes employee and financial statistics for each entity and sets out a combined average staffing level of 56,588 employees across all 10 entities, accounting for 37 per cent of the total APS workforce in 2020–21.

Table 1.1: Audit entities average staffing levels and employee leave benefits and provisions

Entity	2020–21 Average staffing level	2020–21 Employee benefits expenses (leave) (\$,000)	2020–21 Employee benefits liabilities (leave) (\$,000)
Aboriginal Hostels Ltd (AHL)	331	2,308	7,762
Australian Criminal Intelligence Commission (ACIC)	702	10,911	30,559
Australian Tax Office (ATO)	18,131	227,632	778,616
Clean Energy Regulatory (CER)	318	4,737	13,245
Department of Finance (Finance)	1,262	32,131 ^a	116,306 ^a
Department of Industry, Science, Energy and Resources (DISER)	2,549	43,336	125,546
Murray-Darling Basin Authority (MDBA)	266	4,773	12,120
National Disability Insurance Agency (NDIA)	3,979	41,798	92,109
National Indigenous Australians Agency (NIAA)	1,154	15,257	53,069
Services Australia	27,896	368,547	844,632

Note a: Finance reporting includes both departmental (\$14.7 million employee benefits expense and \$65.8 million employee provisions) and administered (\$17.4 million employee benefits expense and \$50.5 million employee provisions) elements. Administered employee benefits and provisions relate to employees engaged under the *Members of Parliament (Staff) Act 1984*.

Source: Entity annual reports and portfolio budget statements.

Rationale for undertaking the audit

1.9 The increase in findings relating to human resource management and administration across Australian Government entities during the period from 2015–16 to 2018–19, and the significance of these as a proportion of all financial statements audit findings prompted the ANAO to undertake procedures relating to the management of staff leave in three entities. This was performed as part of the 2019–20 financial statements audits of the Department of Home Affairs, the Department of Prime Minister and Cabinet and the Department of the Treasury.

1.10 Analysis in these three financial statements audits identified weaknesses in processes relating to staff leave and associated monitoring controls. The reporting on the three entities indicated their systems did not facilitate the identification of: rates of non-compliance with entity policies; weaknesses in monitoring controls and reporting; and patterns of attendance and leave

that, if identified and addressed, may result in higher levels of attendance. This resulted in poor outcomes for the three entities from that intended by the related policies.

1.11 This audit will provide assurance to the Parliament about the extent to which entities are complying with legislative, award, enterprise agreement and policy requirements relating to staff leave.

Audit approach

Audit objective, criteria and scope

1.12 The objective of the audit was to assess the compliance by selected Australian Public Service entities with legislation and other relevant requirements relating to staff leave.

1.13 To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:

- Have the entities established policies for the administration of leave types that align with the relevant legislation, award and enterprise agreement provisions?
- Did the entities comply with the legislation, award, enterprise agreement, and policy requirements in the administration of leave types?

Audit methodology

1.14 The audit methodology included:

- examination of relevant legislation, awards, enterprise agreements and entity policies relating to the administration of the following leave entitlements:
 - annual and purchased leave;
 - long service leave;
 - maternity and parental leave;
 - personal (and carer's) leave; and
 - APS level flexible leave and Executive Level time off in lieu.
- meetings with entity staff responsible for the administration of staff leave;
- analysis of entity data and sample testing of individual leave balances and transactions including leave approvals and supporting documentation; and
- testing of entity information system controls used for the administration of leave.

Data integrity

1.15 The Australian Government's information management standard sets out requirements for the maintenance of government business information including that entities create, save or capture business information into systems with sufficient functionality to satisfy operational and other stakeholder needs for reliable and trusted information.

1.16 The ANAO tested the reliability and completeness of entity data for all types of leave within the scope of this audit and found that for eight of 10 entities leave data was reliable and complete. Issues were identified with missing records and incomplete approval date fields provided to the

ANAO by Finance; and incomplete data for AHL for all types of leave, where 26% of leave transactions had no approval data available.

1.17 Services Australia is the provider of a number of services for NDIA, including a shared human resources management information system (HRMIS). For the purpose of determining timeliness of leave approvals, the ANAO requested the system field that identifies the date an instance of leave was approved. The configuration of Services Australia and NDIA's HRMIS resulted in the ANAO being unable to obtain detailed approval data for some leave transactions as their HRMIS records the date a leave transaction was last actioned and substitutes for the approval date where subsequent adjustments occur. This limits the ability to accurately monitor compliance with leave requirements through systems based reporting, where the date of approval is a necessary data point for analysis.

1.18 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$660,000.

1.19 The team members for the audit were Pooja Bajaj, Alexander Aird, Michael Commens, Benjamin Webb and Colin Bienke.

2. Compliance with annual and purchased leave provisions in relevant legislation, awards, enterprise agreements, and policies

Areas examined

This chapter examines entities' policies and compliance with legislative, award, enterprise agreement, and policy provisions in the administration of employee annual and purchased leave.

Conclusion

All entities except AHL have established policies for the administration of annual and purchased leave that align with relevant legislation, award and enterprise agreement provisions.

All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of annual and purchased leave, except for the following instances of material non-compliance:

- annual leave commencing prior to approval — non-compliance for all six entities with a requirement (ATO, CER, Finance, MDBA, NDIA and NIAA) ranging from 19.5 per cent at the ATO to 27.8 per cent at NIAA;
- annual leave balances exceeding thresholds — non-compliance for all four entities with a requirement (AHL, Finance, MDBA and NIAA) ranging from 15 per cent at AHL to 21 per cent at Finance; and
- approval of purchased leave inconsistent with enterprise agreement requirements — non-compliance at Finance (eight per cent) and DISER (24 per cent).

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐

Note: The key explaining symbols used for summarising compliance findings is provided in summary Table S.1.

Areas for improvement

The ANAO made one recommendation to AHL relating to the development and implementation of leave policies. The ANAO also made suggestions for improvement relating to leave approvals, monitoring and assurance and management reporting.

2.1 Workplace relations legislation, the *Australian Public Service Enterprise Award 2015* (the award) and entity enterprise agreements establish annual and purchased leave entitlements and obligations for Australian Government public service employers and employees under the *Public Service Act 1999*.

2.2 To assess entity compliance with annual and purchased leave provisions the ANAO examined whether entities:

- developed and implemented policies for the administration of annual and purchased leave that align with legislative, award and enterprise agreement provisions;

Compliance with annual and purchased leave provisions in relevant legislation, awards, enterprise agreements, and policies

- complied with legislative, award, enterprise agreement, and policy requirements in the administration of annual and purchased leave; and
- established appropriate management reporting on the use and administration of staff leave.

Have entities established policies for the administration of annual and purchased leave that align with relevant legislation, award and enterprise agreement provisions?

Nine entities established policies for the administration of annual and purchased leave that align with legislation, award, and entity enterprise agreement provisions. AHL has not established policies to support the administration of annual and purchased leave entitlements.

2.3 Section 87 of the *Fair Work Act 2009* and section 16 of the *Australian Public Service Enterprise Award 2015* establish annual leave entitlements. As provided for by the National Employment Standards (NES), which are defined within the *Fair Work Act 2009*, an employee (other than an irregular or intermittent employee) is entitled to four weeks of paid annual leave for each year of service. An employee on annual leave will, for the period of the annual leave, be paid at the employee's ordinary hourly rate.

2.4 Enterprise agreements and determinations covering all entities include an entitlement to four weeks of paid annual leave consistent with the award and NES. End of year shutdown leave, encompassing the period between 25 December and 1 January, is granted to employees in eight entities and specified in agreements and determinations.⁴ The number of days granted for the end of year shutdown is not specified in agreements, however this is three business days. Services Australia's employees covered by the agreement are entitled to an additional three days of annual leave in lieu of end of year shutdown leave.

2.5 Enterprise agreements also specify annual leave balances and purchased leave entitlements as shown in Table 2.1.

Policies, and procedures for administering annual leave entitlements

2.6 Entities should establish fit-for-purpose policies for the administration of leave entitlements that support compliance with legislation, relevant awards, entity enterprise agreements, and the government's information management standards.⁵

2.7 Nine entities developed policies for the administration of annual leave consistent with legislation, award and enterprise agreement requirements. AHL has not established policies for the management of staff leave. Table 2.1 sets out annual and purchased leave entitlements, and obligations relating to the approval of leave for all 10 entities.

4 AHL and Services Australia's enterprise agreement do not include an entitlement to end of year shutdown leave.

5 National Archives of Australia, *Information Management Standard for Government* [Internet], available from [Information Management Standard for Australian Government | naa.gov.au](https://naa.gov.au/information-management-standard-for-australian-government) [accessed 27/04/2022]

Table 2.1: Entity annual and purchase leave entitlements and administrative arrangements

Entity	Annual leave entitlement ^a	Annual leave threshold ^b	Purchased leave (maximum)	Requirement to approve annual leave in advance	Requirement to approve purchased leave in advance
ACIC	20 days	40 days	4 weeks	No	No
AHL	20 days	40 days	4 weeks	No	No
ATO	20 days	50 days	8 weeks	Yes	Yes
CER	20 days	40 days	4 weeks	Yes	Yes
DISER	20 days	40 days	10 weeks	No	Yes
Finance	20 days	40 days	4 weeks	Yes	Yes
MDBA	20 days	40 days	8 weeks	Yes	No
NDIA	20 days	40 days	8 weeks	Yes	Yes
NIAA	20 days	40 days	8 weeks	Yes	Yes
Services Australia	23 days	46 days	4 weeks	No	No

Note a: Annual leave entitlement is for full-time equivalent staff. Pro-rata entitlements exist for part-time employees.

Note b: Leave plans for managing employee leave where annual leave balances exceed the threshold are to be agreed prior to the balance exceeding the threshold. Leave plan requirements are set out in entity policies for all entities except for AHL.

Source: ANAO analysis of entity enterprise agreements and leave policies between 1 July 2020 and 31 October 2021.

Recommendation no. 1

2.8 Aboriginal Hostels Limited develop and implement policies for the administration of all leave types that align with legislative, award and enterprise agreement provisions.

Aboriginal Hostels Limited response: Agreed

2.9 *AHL will establish a comprehensive leave policy that will align with relevant legislative award and enterprise agreement provisions. As recommended by the ANAO, the policy will include a requirement for the prior approval of schedulable leave and also detail the requirement for unscheduled leave and associated documentation to be submitted within appropriate and measurable timeframes.*

2.10 *Work to develop the leave policy has commenced and will be finalised once bargaining for AHL's new enterprise agreement is completed. As the proposed new enterprise agreement includes significant changes, once approved, AHL will ensure that the new policy will fully align with relevant provisions.*

Did entities comply with legislative, award, enterprise agreement, and policy requirements in the administration of annual and purchased leave?

All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of annual and purchased leave, except for the following instances of material non-compliance:

- annual leave commencing prior to approval — non-compliance for all six entities with a requirement (ATO, CER, Finance, MDBA, NDIA and NIAA) ranging from 19.5 per cent at the ATO to 27.8 per cent at NIAA;
- annual leave balances exceeding thresholds — non-compliance for all four entities with a requirement (AHL, Finance, MDBA and NIAA) ranging from 15 per cent at AHL to 21 per cent at Finance; and
- approval of purchased leave inconsistent with enterprise agreement requirements — non-compliance at Finance (eight per cent) and DISER (24 per cent).

Annual leave accruals and balances

2.11 Section 16 of the *Australian Public Service Enterprise Award 2015* and entity enterprise agreements set out that annual leave accrues at the rate of 20 days each year for all entities except Services Australia with its enterprise agreement stating that ‘A full time employee will accrue 23 days (172.5 hours) of annual leave for each full year of service’.⁶

2.12 The ANAO has obtained assurance over the accurate accrual and financial reporting of annual leave balances through:

- IT general and application controls testing that is complemented by employee benefits controls and substantive testing for the eight entities where this is the related financial statements audit approach; and
- substantive testing of employee benefits transactions and balances for the remaining two entities, ACIC and AHL.

2.13 Results of the 2020–21 financial statement audits of the 10 entities concluded that there were no material adverse audit findings relating to employee leave transactions and balances, including annual leave.

2.14 As shown in Table 2.1, employees at all 10 entities have entitlements to accrue annual leave and obligations to manage annual leave balances in accordance with enterprise agreements. Four entities (AHL, Finance, MDBA and NIAA) have explicit clauses requiring the employee and employer to manage annual leave balances exceeding thresholds.⁷

2.15 The ANAO analysed all employee annual leave balances between 1 July 2020 and 31 October 2021 to determine the number of employees exceeding the annual leave threshold specified in entity enterprise agreements. ANAO observed that all 10 entities had employees that exceeded

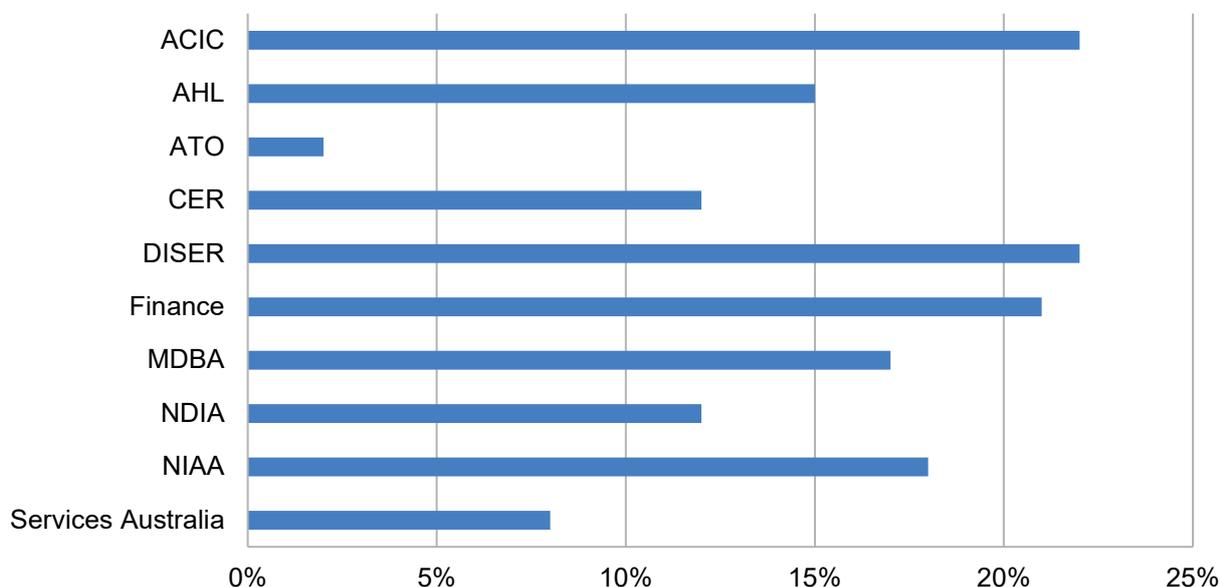
6 The additional three days annual leave at Services Australia is provided in lieu of end of year shutdown leave.

7 These four entity enterprise agreements and policies use terms such as ‘will’ and ‘must’ when describing responsibilities of employees and employers to manage annual leave balances exceeding thresholds.

enterprise agreement thresholds for annual leave. The rate of employees exceeding the threshold at the four entities with an explicit compliance requirement ranged from 15 per cent at AHL to 21 per cent at Finance.⁸ Additional detail is included in Appendix 3.

2.16 Figure 2.1 shows the rate of employees at each entity exceeding the annual leave threshold set out in enterprise agreements.

Figure 2.1: Percentage of employees exceeding entity annual leave threshold



Note: Percentage of employee leave balances exceeding the threshold calculated using the total number of employees for each entity

Source: ANAO analysis of entity leave data between 1 July 2020 and 31 October 2021.

2.17 All entities except AHL have enterprise agreement clauses and/or policies for the management of excess annual leave balances. These typically require entities to develop plans in consultation with employees to manage excessive annual leave balances. For example, Finance’s annual leave policy states that when accrued annual leave exceeds 40 days, a manager must work with the employee to develop an agreed strategy to reduce the leave to 40 days or below within a 12-month period.

2.18 The ANAO observed that a combined 223 employees across all entities had leave balances greater than 75 days with the highest annual leave balance observed in entity data equivalent to 241 days of annual leave or more than six times the annual leave balance specified in the entity’s enterprise agreement.

2.19 Some entities advised that the COVID-19 pandemic impacted the management of excessive leave balances including the development of staff leave plans. For example, MDBA advised the ANAO that between 28 July 2020 and 9 December 2021, MDBA did not direct staff with leave balances greater than 40 days to take leave.

⁸ ANAO reviewed annual leave accruals and balances from 1 July 2020 to 31 October 2021.

Timeliness of approval of annual and purchased leave taken

2.20 The Australian Public Service Commission defines scheduled leave by detailing the leave types that comprise unscheduled absences. Personal, carers and miscellaneous leave (bereavement, compassionate and emergency leave) are identified as unscheduled absences.

2.21 To facilitate appropriate resourcing of operational requirements and the efficient use of resources, entity policies should require that annual and purchased leave is approved in advance of being taken, and the circumstances where there may be exceptions to this. This is consistent with the Australian Public Service Commission's classification of these types of leave as schedulable.

2.22 As shown in Table 2.1, six of 10 entities have requirements in enterprise agreements and/or policy which requires the prior approval of annual leave, for example:

- ATO's enterprise agreement states that 'where leave is planned, approval must be gained prior to the employee's absence' from duty;
- MDBA's enterprise agreement states that annual leave requires prior approval except in exceptional circumstances⁹;
- NDIA's enterprise agreement states that generally, you must obtain prior approval for annual, purchased, long service or flex leave or give notice of the taking of unplanned leave, as soon as practicable, including notice of the duration, or expected duration, of the leave; and
- NIAA's leave policy states employees must obtain prior approval for all leave through the relevant approval process before the leave is taken.

2.23 There may be instances where it would be appropriate for annual and other scheduled/planned leave to be approved following commencement. These include when:

- an employee accesses annual leave in lieu of personal leave, where personal leave entitlements have been exhausted;
- employees or managers move to another role, breaking reporting lines prior to the approval of leave; or
- an approver goes on unplanned leave prior to approving employee leave.

2.24 Existing system limitations may also result in the loss of original approval data where leave applications are amended after approval for personal leave taken during periods of leave.

2.25 The ANAO applied a threshold of 10 per cent to its analysis of leave commencing prior to approval. Only Services Australia (see Table 2.3) has a rate of annual leave commencing prior to approval below 10 per cent. The ANAO's analysis of entity records identified rates of non-compliance for all six entities with explicit requirements to have annual and purchased leave approved prior to commencement.

9 MDBA's enterprise agreements does not include a prior approval requirement for purchased leave.

Table 2.2: Entity rates of non-compliance with annual and purchased leave approval requirements

Entity	Annual leave commenced before evidence of approval obtained ^a	Purchased leave commenced before evidence of approval obtained ^a
Entities where there is a requirement for prior approval of leave		
ATO	19.5%	21.4%
CER	24.9%	14.9%
Finance	25.3%	30.8%
MDBA ^b	23.2%	17.4%
NDIA	20.8%	28.5%
NIAA	27.8%	23.3%

Note a: Figures indicate the percentage of total leave transactions approved after commencement of leave. Rates of non-compliance set out in the table are the rates observed in entity data. The ANAO has not applied the 10% threshold discussed at paragraph 2.25 to its calculation.

Note b: MDBA does not have a requirement in its enterprise agreement or policy for the prior approval of purchased leave.

Source: ANAO analysis of entity leave approval data between 1 July 2020 and 31 October 2021.

2.26 The ANAO also analysed leave approval records for the four entities without an explicit requirement for prior approval of annual and purchased leave. ANAO analysis of entity leave approval data between 1 July 2020 and 31 October 2021 is included in Table 2.3.

Table 2.3: Entities without an explicit requirement for the prior approval of annual and purchased leave

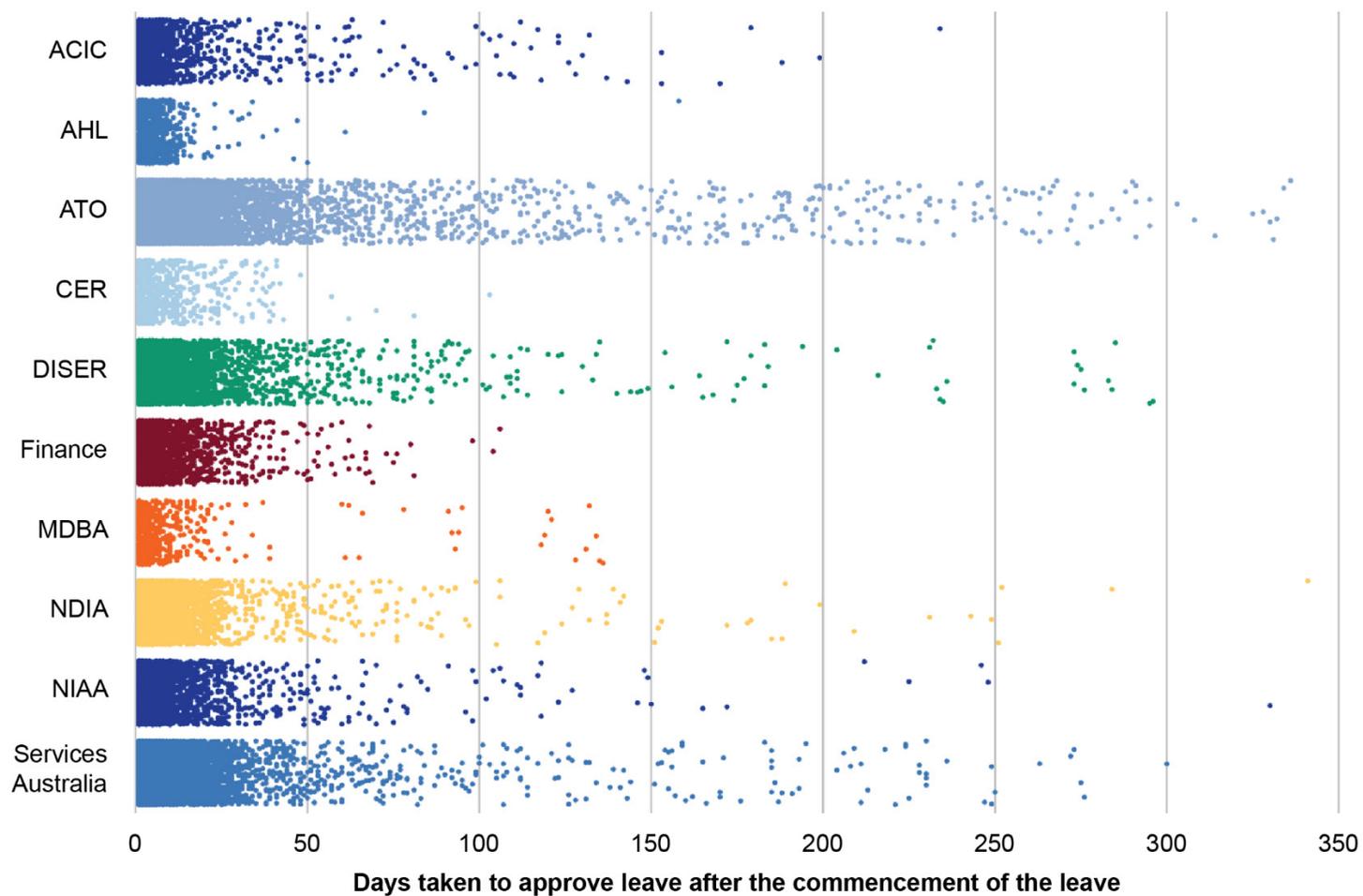
Entity	Annual leave commenced before evidence of approval obtained ^a	Purchased leave commenced before evidence of approval obtained ^a
ACIC	26.0%	33.3%
AHL	53.9%	0%
DISER	22.2%	40.5%
Services Australia	9.1%	13.0%

Note a: Figures indicate the percentage of total leave transactions approved after commencement of leave.

Source: ANAO analysis of entity leave approval data between 1 July 2020 and 31 October 2021.

2.27 Figure 2.2 shows the distribution in days taken to approve annual leave following the commencement of that leave. The figure indicates that even for entities with a clear policy requirement, there are many instances of long delays in approving annual leave. Mean and median days taken to approve annual leave following commencement for all entities included in Appendix 8.

Figure 2.2: Entity's distribution of days taken to approve annual leave following commencement



Note: Days taken to approve leave calculated from the date of the commencement of leave to the date of approval.

Note: Population, mean and median figures for each entity is included in Appendix 8, Table A.6.

Note: The configuration of Services Australia and NDIA's HRMIS resulted in the ANAO being unable to obtain all leave transaction approval records (see paragraph 1.17). Accordingly, Figure 2.2 includes transactions where the date of last action was recorded instead of the leave approval date for Services Australia and NDIA.

Source: ANAO analysis of entity leave data between 1 July 2020 and 31 October 2021.

Opportunities for improvement

2.28 Entities should ensure that there is sufficient oversight and monitoring of employee leave approval processes to provide assurance to management that the administration of employee leave complies with legal and enterprise agreement obligations. To support the monitoring of compliance with relevant enterprise agreement requirements, entities should also ensure that the original approval of annual and other scheduled leave is retained in entity records where subsequent adjustments to this leave is made.

Annual leave payments

2.29 Section 16 of the *Australian Public Service Enterprise Award 2015* states that annual leave is to be paid at the ordinary hourly rate of pay, except where applicants use annual leave at half pay in accordance with enterprise agreements.

2.30 In assessing the accurate payment of annual leave, the ANAO relied on the assurance obtained over automated system controls for four entities where these have been tested as part of the financial statements audits and complemented this with substantive sample testing as part of this audit. These automated system controls have been established to support the accurate payment of annual leave entitlements consistent with legislative, award and enterprise agreement requirements. ANAO analysis found that entities have established effective systems controls to support the accurate payment of annual leave where this was tested as part of the financial statements audits.

2.31 The ANAO undertook sample testing for annual leave transactions for the six entities where financial statements audits have not obtained assurance over automated controls for the payment of annual leave due to the selection of alternative audit approaches.¹⁰ ANAO sample testing of leave transactions at these entities demonstrated the accurate payment of annual leave.

Purchased leave maximum threshold and approvals

2.32 As shown above in Table 2.1 entity enterprise agreements include entitlements for purchased leave ranging from four to 10 weeks. For example, Finance's enterprise agreement states that 'Where approved by the delegate, employees may purchase from one to four weeks additional leave each year.'

2.33 The ANAO undertook data analysis of purchased leave transactions to determine compliance with enterprise agreement provisions. The analysis indicates that two entities (Services Australia and NIAA) were not compliant with purchased leave maximum entitlement requirements. A total of six employees or less than one per cent of employees accessing purchased leave at Services Australia purchased more leave than the annual four-week entitlement. Two employees or 1.5 per cent of employees accessing purchased leave at NIAA were granted purchased leave exceeding the enterprise agreement entitlement shown in Table 2.1.¹¹

2.34 The ANAO also reviewed samples of purchased leave transactions to determine whether appropriate approvals were obtained and conditions relating to existing annual leave balances were

10 The ANAO did not undertake systems control testing for six entities (ACIC, AHL, CER, DISER, Finance and MDBA).

11 Percentages are calculated using the total number of employees purchasing or taking leave at each entity between 1 July 2020 and 31 October 2021.

not exceeded. The ANAO found that eight of 10 entities complied with purchased leave approval requirements. Twenty-four per cent of samples at DISER and eight per cent of samples tested at Finance were not compliant with approval requirements. Non-compliance at DISER was because the approval was provided by an officer without the requisite delegation, and the non-compliance at Finance was that there was no record of the approval.

2.35 See Appendix 3 for additional results on purchased leave.

Opportunity for improvement

2.36 Entities should ensure that there is sufficient oversight and monitoring of employee leave to provide assurance to management that where required, sufficient documentation is maintained and readily accessible, and that the administration of employee leave complies with legal and enterprise agreement obligations.

Existence of purchased leave with annual leave exceeding threshold

2.37 As a control to prevent further significant balances of leave being accumulated, some entities have established policies that either prohibit or limit the approval of purchased leave when the enterprise agreement threshold for annual leave has been exceeded.

2.38 MDBA and ACIC have established policy requirements that specify purchased leave will only be approved for employees who have not exceeded the annual leave threshold set out in enterprise agreements and policies. For example, ACIC's employment policy states:

Employees are ordinarily expected to utilise their Annual Leave prior to taking Purchased Leave. In any event, an application for Purchased Leave will not be approved if the employee holds an Annual Leave credit equivalent to four (4) weeks, except in extenuating circumstances such as future leave requirements to undertake an extended holiday.

2.39 The ANAO tested for the interaction of purchased leave use with annual leave balances for MDBA and ACIC as these were the only two entities with a relevant clause and found no instances of non-compliance.

Management reporting and assurance

2.40 Regular reporting to management on the status of employee leave and compliance with legislative, award and enterprise agreement requirements assists entities to identify trends in the use of employee leave and supports management to respond to instances of non-compliance.

Assurance arrangements

2.41 AHL and Finance have not established effective standardised systems generated reporting which would support the effective monitoring of compliance. The ANAO also observed inconsistencies in data, such as inconsistent date fields used to record the approval date of leave. There were also delays in obtaining sufficient assurance over the completeness of leave data provided.

Management reporting

2.42 Entities advised that they manage employee leave balances through system notifications and reminders when leave balances approach or exceed thresholds and dashboard reporting on human resources metrics for line managers and business areas.

2.43 All entities except ACIC and AHL have established reporting to senior management that include trends and statistics relating to the administration of employee leave. The following arrangements are in place for the eight entities that have established management reporting:

- ATO provides reporting on leave use trends and mitigation strategies for unscheduled leave to business groups and provides group level workforce reporting that includes leave statistics, trends and analysis, and commentary.
- CER has monthly reporting that is provided to managers and executives at branch and division level. Reports includes employees who are approaching or over enterprise agreement limits.
- DISER senior executives have access to point-in-time dashboards which include statistics on leave balances, absentee rates, and other relevant human resource metrics. Group level flexible leave reports are also provided.
- Finance provides monthly workforce reporting to all senior leaders. The reports provided include employee leave balances and highlight anomalies such as excess annual, APS level flexible leave and Executive Level time off in lieu balances.
- MDBA provides monthly reporting to program and portfolio managers on recommendations and actions relating to: unapproved flex sheets; excess annual and flexible leave balances; low personal leave balances; absenteeism; and forecast leave.
- NDIA provides monthly reporting to business areas and senior management that highlight key trends relating to the use of leave, raise awareness of leave arrangements, and support the consistent processing of leave applications.
- NIAA provides statistics on annual leave, flexible leave, and unscheduled absences each quarter for its Chief Operating Officer and as part of its internal reporting to the NIAA Executive Board. Senior executive managers also have access to point in time dashboards.
- Services Australia produces monthly reports for its executive that include trend analysis of annual leave use and annual leave balances, workforce composition, attrition and separation rates, and workforce capability and diversity statistics.

2.44 For the two entities with limited or no reporting to the senior executive the following reporting arrangements are in place:

- AHL has not implemented reporting at any level relating to compliance with employee leave provisions.
- ACIC provides quarterly reporting on excess annual leave balances to employees and line managers and a twice-yearly report to its executive committee on annual leave. ACIC does not provide reporting on compliance activities undertaken or statistics and trend analysis for other types of leave.

Opportunity for improvement

2.45 Entities could improve management reporting by ensuring that reporting to their executive includes analysis of compliance trends and work undertaken to detect and prevent non-compliance with leave entitlements and administrative requirements.

3. Compliance with long service leave provisions in relevant legislation, enterprise agreements and policies

Areas examined

This chapter examines entities’ policies and compliance with legislative, enterprise agreement and policy provisions in the administration of long service leave.

Conclusion

All entities except AHL have established policies for the administration of long service leave that align with relevant legislation and enterprise agreement provisions.

All 10 entities complied with legislative, enterprise agreement and policy requirements in the administration of long service leave, except for the following instances of material non-compliance:

- long service leave approved without delegation — non-compliance of 8 per cent at NDIA;
- long service leave commenced prior to approval — non-compliance for all six entities with a requirement at ATO, CER, Finance, MDBA, NDIA and NIAA ranging from 11 per cent at Finance to 36.6 per cent at NIAA;
- long service leave broken by leave type not permitted — non-compliance at ACIC, ATO, CER, DISER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 1.5 per cent at Services Australia to 11 per cent at DISER; and
- long service leave granted without qualifying service — non-compliance at Services Australia (one employee).

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	●	◐	◐	◐	◐	◐	◐	◐	◐

Note: Key explaining symbols used for summarising compliance findings is provided in summary Table S.1.

Areas for improvement

The ANAO made one recommendation relating to the implementation of systems controls to ensure the use of long service leave complies with legislative requirements. The ANAO also made one suggestion for improvement relating to communicating long service leave requirements to leave approvers.

3.1 The *Long Service Leave (Commonwealth Employees) Act 1976* establishes long service leave entitlements and obligations for Australian Government public service employees and Australian Government public service employers. To assess entity compliance with long service leave provisions the ANAO examined whether entities:

- developed and implemented policies for the administration of long service leave that align with legislative and enterprise agreement provisions; and

- complied with legislative, enterprise agreement and policy requirements in the administration of long service leave.

Have entities established policies for the administration of long service leave that align with relevant legislation and enterprise agreement provisions?

All entities except AHL have established policies for the administration of long service leave that align with relevant legislation and enterprise agreement provisions.

3.2 Australian Government public service employees accrue an entitlement of 0.3 months long service leave for each year of continuous service and become eligible to use this following the completion of 10 years continuous service in accordance with sections 11, 12, 16 and 18 of the *Long Service Leave (Commonwealth Employees) Act 1976*. Long service leave for particular officers of the MDBA is administered under the *Long Service Leave Act 1976 (ACT)* with leave accruing at a rate of 6.5 working days each year, with leave accessible following seven years continuous service.¹²

3.3 Entity enterprise agreements also include provisions for long service leave consistent with the *Long Service Leave (Commonwealth Employees) Act 1976*. Agreements for nine entities state the minimum amount of long service leave that can be taken is seven calendar days (14 calendar days at half pay) and that long service leave can be broken only by attendance at work, maternity and parental leave, or otherwise provided by conditions of the enterprise agreement. Some officers at MDBA, who were previously employed at the Murray-Darling Basin Commission (MDBC) can access long service leave in blocks of a minimum five working days (10 days at half pay). These employees were not Commonwealth employees at the time of their engagement at MDBC, as such their long service leave is administered in accordance with the *Long Service Leave Act 1976 (ACT)*.

Policies and procedures for administering long service leave entitlements

3.4 Nine entities developed policies for the administration of long service leave (LSL) consistent with legislative and enterprise agreement requirements. AHL has no policies in place for the management of staff leave.

3.5 Table 3.1 sets out entity long service leave entitlements and obligations established in legislation, enterprise agreements and entity policies.

Table 3.1: Entity long service leave entitlements and administrative arrangements

Entity	Annual entitlement for each year of continuous service	Continuous service requirement	Minimum LSL days with each period of leave	LSL requires prior approval
ACIC	0.3 months	10 years	7 days (14 days half-pay)	No
AHL	0.3 months	10 years	7 days (14 days half-pay)	No
ATO	0.3 months	10 years	7 days (14 days half-pay)	Yes
CER	0.3 months	10 years	7 days (14 days half-pay)	Yes

¹² This arrangement is in place for employees who transferred to MDBA from the Murray-Darling Basin Commission (MDBC).

Entity	Annual entitlement for each year of continuous service	Continuous service requirement	Minimum LSL days with each period of leave	LSL requires prior approval
DISER	0.3 months	10 years	7 days (14 days half-pay)	No
Finance	0.3 months	10 years	7 days (14 days half-pay)	Yes
MDBA ^a	0.3 months	10 years	7 days (14 days half-pay)	Yes
NDIA	0.3 months	10 years	7 days (14 days half-pay)	Yes
NIAA	0.3 months	10 years	7 days (14 days half-pay)	Yes
Services Australia	0.3 months	10 years	7 days (14 days half-pay)	No

Note a: Some employees at MDBA who had previously been employed at the Murray-Darling Basin Commission accrue long service leave at a rate of 6.5 working days for each year of eligible service. Those employees previously employed at MDBC are able to take long services leave in five day blocks at full-pay and 10 day blocks at half-pay.

Source: ANAO analysis of entity enterprise agreements, leave policies and procedures.

Did entities comply with legislative, enterprise agreement and policy requirements in the administration of long service leave?

All 10 entities complied with legislative, enterprise agreement and policy requirements in the administration of long service leave, except for the following instances of material non-compliance:

- long service leave approved without delegation — non-compliance of 8 per cent at NDIA;
- long service leave commenced prior to approval — non-compliance for all six entities with a requirement at ATO, CER, Finance, MDBA, NDIA and NIAA ranging from 11 per cent at Finance to 36.6 per cent at NIAA;
- long service leave broken by leave type not permitted — non-compliance at ACIC, ATO, CER, DISER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 1.5 per cent at Services Australia to 11 per cent at DISER; and
- long service leave granted without qualifying service — non-compliance at Services Australia (one employee).

Long service leave balances (including accruals)

3.6 Long service leave for full-time employees accrues at a rate of 0.3 months leave for each year of continuous service as stated in the long service leave formula set out in section 18 of the *Long Service Leave (Commonwealth Employees) Act 1976*.¹³

3.7 Assurance has been obtained over the accurate accrual and financial reporting of long service leave balances through:

¹³ MDBA employees formerly employed at the Murray-Darling Basin Commission accrue leave at 6.5 working days each year.
Long service leave accrues at pro rata rates for part-time employees.

- IT general and application controls testing that is complemented by employee benefits controls and substantive testing for the eight entities where this is the related financial statements audit approach; and
- substantive testing of employee benefits transactions and balances for the remaining two entities, ACIC and AHL.

3.8 Results of the 2020–21 financial statement audits of the 10 entities concluded that there were no material adverse findings relating to employee leave transactions and balances, including long service leave.

Recognition of prior service (including approvals), entitlement to long service leave and continuity of service

3.9 Section 11 of the *Long Service Leave (Commonwealth Employees) Act 1976* and regulations 6–9 and 11 of the *Long Service Leave (Commonwealth Employees) Regulations* state that Australian Government employees are required to achieve 10 years qualifying service to become eligible for long service leave.¹⁴

3.10 ANAO analysed entity data to determine whether entities had granted long service leave to only those employees who had met qualifying service requirements. Analysis shows that all entities except Services Australia were compliant, granting long service leave to only those employees meeting minimum qualifying service requirements. There was one employee (less than one per cent) at Services Australia who was granted long service leave without meeting the minimum 10 year qualifying service requirements. This occurred because the employee had a break in service greater than 12 months.

3.11 Section 12 of the *Long Service Leave (Commonwealth Employees) Act 1976* establishes continuity of service requirements that prohibit breaks in service of longer than 12 months. Sample testing found that all entities were compliant with continuity of service obligations.

3.12 Detailed results are included at Appendix 4.

Timeliness of approval of long service leave

3.13 To facilitate appropriate resourcing of operational requirements and efficient use of resources, some entity policies and/or enterprise agreements require that long service leave is approved in advance of being taken. For example, NDIA’s enterprise agreement has a general leave provision which states that:

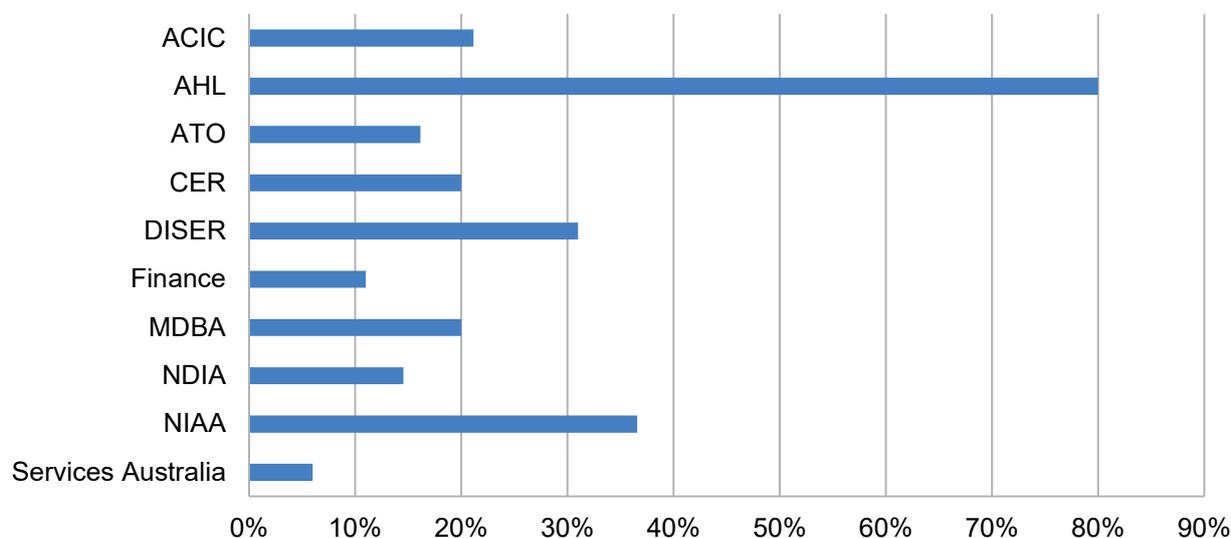
Generally, you must obtain prior approval for annual, purchased, long service or flex leave or give notice of the taking of unplanned leave, as soon as practicable, including notice of the duration, or expected duration, of the leave.

3.14 As stated at paragraph 2.23, there may be instances where the commencement of annual and other schedulable types of leave before approval may be explained. As stated at paragraphs 2.23 and 2.24, to account for these instances the ANAO has applied a threshold of 10 per cent to its analysis. Only Services Australia (see Figure 3.1) has a rate of long service leave commencing prior to approval below 10 per cent.

¹⁴ MDBA employees formerly employed at the Murray-Darling Basin Commission are eligible to access long service leave following seven years of qualifying service.

3.15 Six entities (ATO, CER, Finance, MDBA, NDIA and NIAA) have established enterprise agreement provisions or policy requirements that long service leave be approved before the commencement of this leave as detailed in Figure 3.1 shows the rates of leave being approved following commencement for entities with and without an explicit requirement for prior approval of long service leave.

Figure 3.1: Entity rates of long service leave commencing prior to leave being approved



Source: ANAO analysis of entity leave data between 1 July 2020 and 31 October 2021.

Use and payments of long service leave

3.16 Analysis of long service leave data relating to minimum long service leave usage requirements in enterprise agreements and entity policies indicates that AHL, CER, Finance, MDBA and NIAA were compliant with relevant provisions between 1 July 2020 to 31 October 2021. A small number of instances (between one and eight) at ACIC, ATO, DISER, NDIA, and Services Australia where employees accessed long service leave for a period of less than seven days at full pay or 14 days at half pay. For these entities the rate of non-compliance was one per cent or less.

3.17 Section 16 of the *Long Service Leave (Commonwealth Employees) Act 1976* sets out the requirement for long service leave to be granted to employees by the approving authority and for payments in lieu of unused long service leave credits upon cessation of employment. ANAO undertook sample testing of the granting of long service leave and the payment in lieu of long service leave and found two instances (8 per cent) of non-compliance at NDIA, where the approver did not have the required delegation.

3.18 Detailed results are included at Appendix 4.

Inappropriate use of long service leave

3.19 Enterprise agreements and entity policies set out that periods of long service leave can only be broken by attendance at work except where provided for by legislation such as the *Maternity Leave (Commonwealth Employees) Act 1973*, parental leave or where specified in enterprise agreements. For example, ATO's enterprise agreement states:

The minimum period during which Long Service Leave can be taken is seven calendar days (at full pay, or 14 days at half pay). Except as otherwise provided by legislation or this Agreement, Long Service Leave can only be broken by attendance at work.

3.20 All entities except AHL have also established policies regarding the use of long service leave. This incorporates consideration for the use of long service leave in a manner consistent with the accrued entitlement — being based on calendar days as opposed to business days.

3.21 ANAO testing of long service leave transactions identified that only AHL was compliant with requirements that leave be broken only by types of leave allowed in legislation, enterprise agreements and/or leave policies. Nine entities had at least one instance of long service leave not in compliance with this requirement. The rate of long service leave being broken by leave in a manner not consistent with its enterprise agreement and relevant policy ranges from 1.5 per cent of all long service leave transactions at Services Australia to 11 per cent at DISER.

3.22 Detailed results are included at Appendix 4.

Opportunity for improvement

3.23 To support compliance with legislative, enterprise agreement and policy requirements entities should provide clear guidance for approvers on the use of other types of leave in conjunction with long service leave.

Recommendation no. 2

3.24 All entities establish appropriate controls to ensure the use of long service leave complies with legislative, award, enterprise agreement and policy requirements, including controls that ensure long service leave is broken only by permitted types of leave.

Aboriginal Hostels Limited response: *Agreed*

3.25 *AHL will ensure that policies and guidelines reflect relevant legislative, award and enterprise agreement requirements, including controls that provide assurance that Long Service Leave is only broken by permitted leave types.*

Australian Criminal Intelligence Commission response: *Agreed*

3.26 *The ACIC is reviewing its leave policies to ensure they align to legislative requirements, particularly as they relate to long service leave. In addition, the ACIC is investigating further controls in its human resource information management system to prevent long service leave from being broken by other types of leave, except where permitted.*

Australian Taxation Office response: *Agreed*

3.27 *Noting the strong level of compliance already achieved, the ATO will review its existing controls to further ensure the use of long service leave complies with legislative, award, enterprise agreement and policy requirements, including controls that ensure long service leave is only broken by permitted types of leave.*

Clean Energy Regulator response: *Agreed*

3.28 *CER will implement a procedural control to reviewing Long Service Leave takings to ensure that the leave is compliant with the legislation.*

Department of Finance response: *Agreed*

3.29 *Finance agrees with the recommendation and will work with our Shared Services payroll provider to implement controls and regular monitoring and ensure compliance monitoring of long service leave usage.*

Department of Industry, Science, Energy and Resources response: *Agreed*

Murray Darling Basin Authority response: *Agreed*

3.30 *The MDBA will implement appropriate controls to ensure the use of long service leave complies with legislative, award, enterprise agreement and policy requirements including controls that ensure long service leave is only broken by permitted leave types.*

National Disability Insurance Agency response: *Agreed*

3.31 *The NDIA recognises the importance of establishing controls to ensure all leave provisions are applied in line with the NDIA Enterprise Agreement 2020-2023 (EA), legislation, award and complementary NDIA policies and practices and business processes.*

3.32 *In response to this recommendation, the NDIA has commenced actions to enhance the control framework for long service leave, focusing on pre-approval educational elements and post approval compliance reporting. The NDIA's policy review program is underway focusing on*

policies and supporting documents for all leave types. This review will ensure provisions are clear and correct in all documentation, and support managers and employees to understand the correct application of leave provisions. Any changes will be embedded through the existing HR advisory and HR business partnering functions.

3.33 The NDIA will support manager education through reviewing and updating manager training packages to clearly articulate considerations when approving leave, specifically guidance on use of other leave types in conjunction with long service leave and guidance on delegation requirements for approving leave.

3.34 The NDIA has committed to expanding data analytics to support compliance with leave entitlements including long service leave conditions. This includes establishing a HR compliance dashboard focussed specifically on leave entitlements, which will complement the existing HR Management Dashboard and HR Metrics Data Tool. Any key trends will be considered for targeted action through the NDIA HR business partnering function and a rolling communication program.

National Indigenous Australians Agency response: Agreed

3.35 The NIAA provides information to all employees applying for long service leave in the human resource information management system on how to correctly apply for leave. This information is repeated in the request generated for the manager to approve.

3.36 Applications for long service leave are now submitted directly into the NIAA's human resource information management system, with controls built into the system to ensure long service leave meets the minimum amount of calendar days. An error is generated, and applications cannot be submitted if they do not meet this requirement.

3.37 The Department of Prime Minister and Cabinet (PM&C) who implement NIAA's payroll services through a shared services arrangement also undertake manual quality assurance spot checks to ensure the long service leave applications submitted and approved are compliant with the Long Service Leave Act and the payment amount is correct.

3.38 The NIAA is currently reviewing and updating its Leave Policy in line with the Enterprise Agreement 2021-24. The policy will be open for staff consultation before an expected finalisation date of August 2022.

3.39 The NIAA will supplement the above controls by reviewing the intranet content to ensure it encompasses any updates to the Leave Policy and provides clear information to both employees and approving managers on the process and requirements for long service leave applications. The NIAA will also conduct scheduled education to the relevant delegates for long service leave approval.

Services Australia response: Agreed

3.40 Services Australia has implemented a Long Service Leave policy that is consistent with legislation and continues to implement controls to ensure its correct administration. The audit findings demonstrate the agency's application of long service leave has high compliance.

4. Compliance with personal (and carer’s) leave provisions in relevant legislation, awards, enterprise agreements, and policies

Areas examined

This chapter examines entities’ policies and compliance with legislative, award, enterprise agreements, and policy provisions in the administration of personal (and carer’s) leave.

Conclusion

All entities except AHL have developed appropriate policies for administering personal (and carer’s) leave that align with relevant legislation, award and enterprise agreement provisions.

All 10 entities complied with legislative, award, enterprise agreement and policy requirements in the administration of personal (and carer’s) leave, except for the following instances of material non-compliance:

- personal leave without evidence exceeded consecutive day limit — non-compliance at AHL, CER, DISER, Finance, NDIA and NIAA ranging from 1.9 per cent at DISER to 11.3 per cent at NIAA;
- personal leave without evidence exceeded annual limit — non-compliance at ACIC, CER, DISER, Finance, MDBA, NDIA and Services Australia ranging from less than one per cent at NDIA and Services Australia to 25.4 per cent at MDBA; and
- leave not supported by documentary evidence — 12 per cent non-compliance at Finance.

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐

Note: Key explaining symbols used for summarising compliance findings is provided in summary Table S.1.

Areas for improvement

The ANAO made two suggestions for improvement relating to documentary evidence supporting personal (and carer’s) leave and for the development of appropriate policy provisions requiring the approval of personal (and carer’s) leave.

4.1 The National Employment Standards (NES) establish minimum entitlements for personal (and carer’s) leave. Additional entitlements for Australian Government public sector employees are established in the *Australian Public Service Enterprise Award 2015* and enterprise agreements.

4.2 To assess entity compliance with personal leave provisions the ANAO examined whether entities:

- developed and implemented policies for the administration of personal (and carer’s) leave that align with legislative, award and enterprise agreement provisions; and

- complied with legislative, award, enterprise agreement, and policy requirements in the administration of personal (and carer's) leave.

Have entities established policies for the administration of personal (and carer's) leave that align with relevant legislation, award and enterprise agreement provisions?

All entities except AHL have developed appropriate policies for administering personal (and carer's) leave that align with relevant legislation, award and enterprise agreement provisions.

4.3 The NES establish a minimum entitlement of 10 days paid personal leave for full-time employees. For Australian Public Service (APS) employees, section 17 of the *Australian Public Service Enterprise Award 2015* (the award) states that employees who are entitled to personal leave under the NES are entitled to accrue an additional five days personal (and carer's) leave each year and that an employee on personal leave will be paid at the employee's ordinary hourly rate. Entity enterprise agreements may include additional personal leave entitlements above those specified in the NES and the award.

4.4 Table 4.1 details enterprise agreement entitlements to personal (and carer's) leave for employees of each entity. Enterprise agreements for eight of 10 entities establish annual limits on personal leave taken without supporting evidence, ranging from five days at ACIC, MDBA and Services Australia to 10 days at CER. All entities except Services Australia have a requirement for consecutive personal leave days to be supported by documentary evidence when exceeding limits as shown in Table 4.1.

4.5 In addition to entitlements for personal leave, enterprise agreements at all 10 entities also include entitlements to paid bereavement and/or compassionate leave of either 2 or 3 days for each eligible instance. The ANAO has incorporated testing of bereavement and compassionate leave where this forms part of personal leave for employees. Where it is separately recognised, this falls outside the scope of this audit.

Policies for administering personal leave entitlements

4.6 Nine entities developed policies for the administration of personal (and carer's) leave consistent with legislation, award and enterprise agreement requirements. AHL has no policies in place for the management of staff leave. Table 4.1 sets out personal leave entitlements and obligations established in legislation, award, enterprise agreements and entity policies.

Table 4.1: Annual personal (and carer's) leave entitlements and administrative arrangements^{a b}

Entity	Annual personal leave entitlement ^{a b}	Annual personal leave days without evidence	Consecutive or continuous days of personal leave without evidence
ACIC	18 days	5 days	3 days
AHL ^c	18 days	N/A	5 days
ATO ^d	17 days	8 days	3 days
CER	20 days	10 days	2 days
DISER	18 days	9 days	3 days
Finance	18 days	7 days	2 days
MDBA ^e	18 days	5 days	3 days
NDIA	18 days	8 days	3 days
NIAA	18 days	N/A	2 days
Services Australia	18 days	5 days	N/A

Note a: Personal leave entitlements include carer's leave and accrual rates are for full-time equivalent staff. Pro-rata entitlements exist for part-time employees.

Note b: Personal leave typically accrues annually on the employee's anniversary of commencement, however some entities such as Services Australia accrue personal leave daily, with leave credited monthly.

Note c: In AHL, a determination made under subsection 24(1) of the *Public Service Act 1997* covering COVID-19 leave arrangements on 25 March 2020 varied the enterprise agreement requirements for personal leave without evidence from 3 consecutive days to 5 consecutive days, and removed the cap of 4 days of personal leave per year requirement for a medical certificate.

Note d: ATO employees engaged prior to 30 November 2011 accrue 3.4 weeks personal leave annually. ATO employees engaged on or after 30 November 2011 accrue one-week personal leave on engagement and each annual anniversary each year after, plus 0.2 weeks on engagement and monthly thereafter.

Note e: The production of evidence for staff exceeding the annual personal leave limit at MDBA is at the delegate's discretion.

Source: ANAO analysis of entity enterprise agreements, leave policies and procedures between 1 July 2020 and 31 October 2021.

Did entities comply with legislative, award, enterprise agreement and policy requirements in the administration of personal (and carer's) leave?

All 10 entities complied with legislative, award, enterprise agreement and policy requirements in the administration of personal (and carer's) leave, except for the following instances of material non-compliance:

- personal leave without evidence exceeded consecutive day limit — non-compliance at AHL, CER, DISER, Finance, NDIA and NIAA ranging from 1.9 per cent at DISER to 11.3 per cent at NIAA;
- personal leave without evidence exceeded annual limit — non-compliance at ACIC, CER, DISER, Finance, MDBA, NDIA and Services Australia ranging from less than one per cent at NDIA and Services Australia to 25.4 per cent at MDBA; and

- leave not supported by documentary evidence — 12 per cent non-compliance at Finance.

Entitlement and use of personal (and carer's) leave

4.7 As shown in Table 4.1 all entity enterprise agreements include clauses and entitlements relating to personal (and carer's) leave, which in most cases provide additional entitlements to personal leave without documentary evidence than the minimum established in the award.

4.8 The ANAO tested entity data and found that ACIC was the only entity compliant with requirements for consecutive personal leave days without evidence. Non-compliance with consecutive day requirements ranged from two instances at the ATO (less than 1 per cent) to 150 instances at NIAA (11.3 per cent) where employees accessed more days without evidence than permitted in enterprise agreements.

4.9 The ATO was the only entity compliant with annual personal leave without evidence requirements. This is because the ATO has implemented a HRMIS control that prevents employees from being able to access personal leave without evidence above annual personal leave limits. Non-compliance with annual thresholds, where employees accessed personal leave without evidence above limits established in enterprise agreements, ranged from less than one per cent at NDIA and Services Australia to 25.4 per cent at MDBA.

4.10 Results for all entities with a relevant agreement clause are included in Appendix 5.

Supporting evidence for personal (and carer's) leave

4.11 The National Employment Standards (NES) within the *Fair Work Act 2009* set out a range of entitlements for paid and unpaid personal (and carer's) and compassionate leave:

- sections 96, 97 and 107 establish entitlements for ten days paid personal (or carer's) leave;
- sections 102, 103 and 107 establish entitlements for two days unpaid personal (or carer's) leave for each eligible instance; and
- sections 104, 105 and 107 establish entitlements for two days compassionate leave for each eligible instance.

4.12 Section 17 of the *Australian Public Service Enterprise Award 2015* states that an employee may be granted personal (and carer's) leave with pay subject to available credits, without production of evidence, to the extent of five days in any calendar year and that no more than three consecutive days of personal/carer's leave may be taken without the production of evidence.

4.13 The ANAO undertook sample testing of personal leave transactions to determine compliance with supporting documentary evidence (e.g. medical or other certificates), entitlement and approval requirements where supporting documentary evidence was required as outlined in paragraph 4.11.¹⁵ Testing found that seven entities (ACIC, AHL, CER, DISER, MDBA, NDIA and NIAA) were compliant, maintaining sufficient documentation for each leave transaction. The ANAO identified non-compliance at Services Australia (four per cent), ATO (nine per cent), and Finance (12 per cent).

15 Sample sizes ranged from nine relevant transactions at AHL to 25 relevant transactions for DISER, Finance, MDBA, NDIA, NIAA and Services Australia.

Opportunity for improvement

4.14 Entities could improve the administration of personal leave requiring documentary evidence through the development and implementation of human resource management information system changes that demonstrate documentary evidence supporting compliance with legislative, award, enterprise agreement and policy requirements for personal (and carer's), has been sighted by the approver or recorded in the system.

Timeliness of approval of personal leave

4.15 To appropriately demonstrate compliance with legislative, award and enterprise agreement provisions, entity policies should require employees to apply for and substantiate personal leave as soon as possible upon the recommencement of work. Some entities have established policies requiring the timely submission of supporting evidence for personal leave. For example, Services Australia's personal leave policy states that employees must provide evidence when required within five business days of the last day of personal leave.

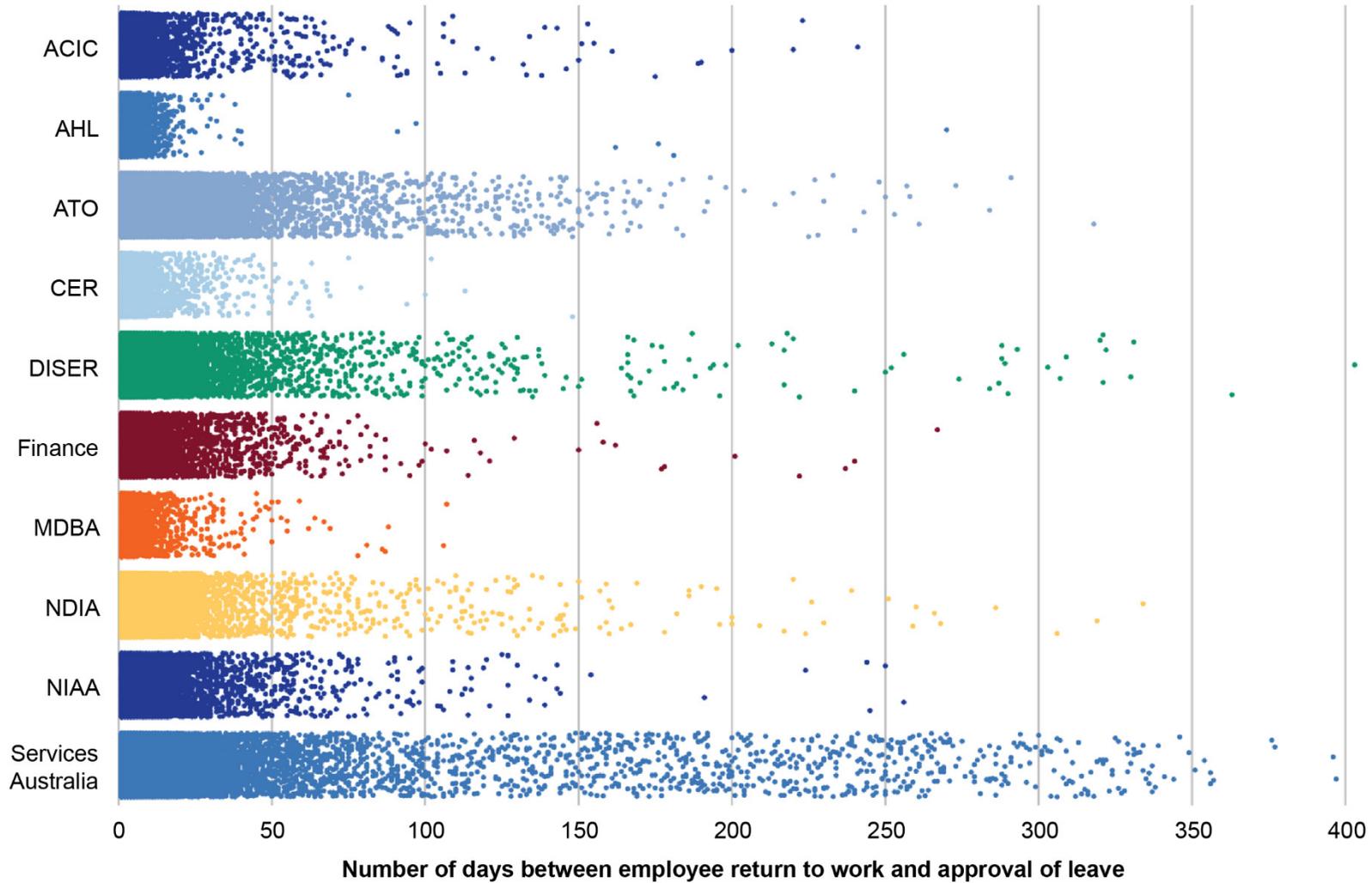
4.16 Analysis found that the average number of business days taken to approve personal leave after the leave ended ranged between 4.1 days at ATO to 7.4 days at DISER. Figure 4.1 sets out the distribution in days taken to approve personal leave following return to work for all 10 entities.

4.17 Figures for all entities are included in Appendix 8.

Opportunity for improvement

4.18 Entities can improve the timeliness of the approval of personal leave by developing appropriate policy provisions requiring the timely submission of personal leave applications and supporting documentary evidence, supported by an appropriate assurance process, where required.

Figure 4.1: Number of days between employee return to work and approval of leave



Note: Population, median and mean for each entity is included in Appendix 8, Table A.7.

Source: ANAO analysis of entity data between 1 July 2020 and 31 October 2021.

5. Compliance with maternity and parental leave provisions in relevant legislation, awards, enterprise agreements, and policies

Areas examined

This chapter examines entities' policies and compliance with legislative, award, enterprise agreement and policy provisions in the administration of maternity and parental leave.

Conclusion

All entities except AHL have developed appropriate policies for administering maternity and parental leave that align with relevant legislation, award and enterprise agreement provisions.

All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of maternity and parental leave, except for the following instances of material non-compliance:

- paid maternity leave granted above entitlement — non-compliance at ATO, DISER, MDBA and NIAA ranging from less than one per cent at ATO and DISER to 12.5 per cent at MDBA;
- maternity leave granted above entitlement — non-compliance at ATO and DISER ranging from two per cent at ATO to nine per cent at DISER;
- documentation supporting fitness to work not on file — non-compliance at ATO and Finance ranging from eight per cent at ATO to 14 per cent at Finance;
- maternity leave counting as service exceeded entitlement — non-compliance at AHL, ATO, DISER, MDBA, NIAA and Services Australia ranging from less than one per cent at Services Australia and DISER to 12.5 per cent (one instance) at MDBA;
- documentary evidence supporting maternity leave — non-compliance at Services Australia (12 per cent) and Finance (20 per cent); and
- documentary evidence supporting parental leave not on file — non-compliance at DISER, Finance, NIAA and Services Australia ranging from eight per cent at Services Australia to 100 per cent at NIAA.

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	●	◐	◐	◐	◐	◐	◐	●	◐	◐

Note: Key explaining symbols used for summarising compliance findings is provided in summary Table S.1.

Area for improvement

The ANAO made one recommendation aimed at recording that evidence has been sighted where this is required when approving maternity and parental leave.

5.1 The *Fair Work Act 2009, Maternity Leave (Commonwealth Employees) Act 1973* and entity enterprise agreements establish employee entitlements for maternity and parental leave as well as

supporting partner leave or equivalent entitlements. To assess entity compliance with maternity and parental leave provisions the ANAO examined whether entities:

- developed and implemented policies for the administration of maternity and parental leave that align with legislative, award and enterprise agreement provisions; and
- complied with legislative, award, enterprise agreement and policy requirements in the administration of maternity and parental leave.

Have entities established policies for the administration of maternity and parental leave that align with relevant legislative, award, enterprise agreement and policy provisions?

All entities except AHL have developed appropriate policies for administering maternity and parental leave that align with relevant legislation, award and enterprise agreement provisions.

5.2 Sections 67 and 70 of the *Fair Work Act 2009*, establish entitlements for up to 52 weeks unpaid parental leave for employees with 12 months qualifying service.

5.3 Sections 6 and 7 of the *Maternity Leave (Commonwealth Employees) Act 1973* and section 18 of the *Australian Public Service Enterprise Award 2015* establish entitlements for up to 52 weeks maternity leave of which 12 weeks is paid at the employees' ordinary rate of pay. To be eligible for paid maternity leave employees must meet a minimum of 12 months continuous service prior to the commencement of leave.

5.4 Entity enterprise agreements include entitlements for an additional two or four weeks paid maternity/parental leave as well as paid supporting partner leave ranging from two to six weeks as set out in Table 5.1.

Policies for administering maternity and parental leave entitlements

5.5 Nine entities developed policies for the administration of maternity and parental leave consistent with legislation, award and enterprise agreement requirements. AHL has not established or implemented policies for the management of staff leave.

5.6 Table 5.1 details key maternity and parental leave enterprise agreement entitlements and policy requirements.

Table 5.1: Maternity and parental leave entitlements and administrative arrangements

Entity	Paid maternity leave	Paid parental/ supporting partner leave	Paid/unpaid maternity/parental leave limit ^a	Leave type requires prior approval
ACIC	14 weeks	2 weeks	52 weeks	No
AHL	16 weeks	2 weeks	52 weeks	No
ATO ^b	16 weeks	2 weeks	52 weeks	Yes
CER	14 weeks	2 weeks	52 weeks	Yes
DISER	14 weeks	4 weeks	52 weeks	Yes

Entity	Paid maternity leave	Paid parental/supporting partner leave	Paid/unpaid maternity/parental leave limit ^a	Leave type requires prior approval
Finance	16 weeks	4 weeks	52 weeks	Yes
MDBA	16 weeks	6 weeks	52 weeks	Yes ^c
NDIA ^d	14 weeks	4 weeks	52 weeks	Yes
NIAA	14 weeks	4 weeks	52 weeks	Yes
Services Australia	14 weeks	2 weeks	52 weeks	No

Note a: Employees can access additional periods of unpaid leave (up to 24 months in total), subject to approval by the entity delegate.

Note b: ATO's agreement includes 4 weeks of maternal leave under the same eligibility rules as maternity leave.

Note c: MDBA has an explicit clause for maternity leave but not for parental or supporting partner leave.

Note d: NDIA's maternity leave fact sheet has a clause requiring the provision of documentary evidence to support the leave which is not included in NDIA's enterprise agreement or leave policy.

Source: ANAO analysis of entity enterprise agreements, leave policies and procedures between 1 July 2020 and 31 October 2021.

Did entities comply with legislative, award, enterprise agreement, and policy requirements in the administration of maternity and parental leave?

All 10 entities complied with legislative, award, enterprise agreement, and policy requirements in the administration of maternity and parental leave, except for the following instances of material non-compliance:

- paid maternity leave granted above entitlement — non-compliance at ATO, DISER, MDBA and NIAA ranging from less than one per cent at ATO and DISER to 12.5 per cent at MDBA;
- maternity leave granted above entitlement — non-compliance at ATO and DISER ranging from two per cent at ATO to nine per cent at DISER;
- documentation supporting fitness to work not on file — non-compliance at ATO and Finance ranging from eight per cent at ATO to 14 per cent at Finance;
- maternity leave counting as service exceeded entitlement — non-compliance at AHL, ATO, DISER, MDBA, NIAA and Services Australia ranging from less than one per cent at Services Australia and DISER to 12.5 per cent (one instance) at MDBA;
- documentary evidence supporting maternity leave — non-compliance at Services Australia (12 per cent) and Finance (20 per cent); and
- documentary evidence supporting parental leave not on file — non-compliance at DISER, Finance, NIAA and Services Australia ranging from eight per cent at Services Australia to 100 per cent at NIAA.

Entitlement and use of maternity leave

5.7 As shown in Table 5.1 entity enterprise agreements establish entitlements to paid maternity leave ranging from 14 to 16 weeks. ANAO analysis of entity maternity leave data found that six

entities, ACIC, AHL, CER, Finance, NDIA and Services Australia were compliant with paid maternity leave entitlements. Non-compliance at the remaining four entities ranged from one instance each at DISER (less than one per cent) and MDBA (12.5 per cent), to three instances at NIAA (9.7 per cent) and ATO (less than one per cent). In all these instances the employees received more paid maternity leave than the entitlement.

5.8 Section 6 of the *Maternity Leave (Commonwealth Employees) Act 1973* sets out entitlements for up to 52 weeks paid and unpaid maternity leave as well as an additional period of up to 52 weeks leave following delegate approval. The ANAO undertook data analysis of employees exceeding the entitlement of 52 weeks unpaid leave. ACIC, AHL, CER, MDBA, NDIA and NIAA were compliant with this requirement with no instances of unpaid maternity leave exceeding the 52 week entitlement. Instances of non-compliance for the remaining four entities ranged from one employee at Finance (1.7 per cent) to 15 employees at DISER (nine per cent).

5.9 Section 7 of the *Maternity Leave (Commonwealth Employees) Act 1973* establishes requirements for the provision of documentary evidence supporting fitness for duty within six weeks of the expected delivery date and fitness to resume duties following the birth. Two entities, ACIC and NDIA, did not have any relevant transactions for sample testing. AHL, CER, DISER, NIAA, and MDBA were compliant with documentary evidence requirements. One instance (eight per cent) of non-compliance was identified at the ATO and three instances (14 per cent) at Finance. In these instances, there was no evidence on file supporting the employees' continuation of work within six weeks of the expected date of birth.

5.10 Section 7B of the *Maternity Leave (Commonwealth Employees) Act 1973* provides entitlements for paid maternity leave following the completion of 12 months continuous service. The ANAO undertook data analysis of employees accessing paid maternity leave to determine compliance with eligibility requirements that employees must have 12 months prior service before accessing paid maternity leave. The ANAO's analysis identified that all 10 entities were compliant with this requirement. The ANAO did not identify any instances where employees were granted maternity leave without meeting the 12 months minimum continuous service requirement.

5.11 Section 7B of the *Maternity Leave (Commonwealth Employees) Act 1973* states that maternity leave should not affect continuity of service. Enterprise agreements also have requirements that specify the amount of maternity leave which qualifies as service for the purposes of accrued leave and benefits. ANAO analysis of entity data identified that ACIC, CER, Finance and NDIA were compliant. Non-compliance was identified with the remaining six entities (AHL, ATO, DISER, MDBA, NIAA, and Services Australia) where employees continued accruing leave and other benefits beyond the period of paid maternity leave specified in enterprise agreements and set out in Table 5.1. The number of instances ranging from one instance each at AHL (10 per cent), DISER (less than one per cent), MDBA (12.5 per cent) and NIAA (3.1 per cent), to 12 at ATO (2.5 per cent).

5.12 Detailed results are included at Appendix 6.

Entitlement and use of parental and supporting partner leave

5.13 Sections 70–79 of the *Fair Work Act 2009* and the National Employment Standards (NES) provide entitlements for up to 52 weeks unpaid parental leave and the right to request an additional period of unpaid parental leave for employees with a minimum 12 months continuous service.

Section 18 of the *Australian Public Service Enterprise Award 2015* also includes entitlements for parental leave consistent with the Fair Work Act and NES.

5.14 The ANAO undertook data analysis to determine whether employees accessing parental leave exceeded the entitlement threshold. All entities except ATO were compliant with the 52 weeks parental leave entitlement established in legislation. ATO had two instances (less than one percent) of non-compliance where parental leave was granted exceeding the entitlement.

5.15 The ANAO undertook sample testing for compliance with paid and unpaid parental leave requirements for eligibility. One instance of non-compliance with unpaid parental leave provisions was identified at the ATO (four per cent), where the leave was incorrectly classified, and MDBA (17 per cent) where the employee was granted paid parental leave despite no longer being eligible at the time leave was taken.

5.16 Supporting partner leave is not consistently defined in all enterprise agreements but a comparable entitlement is included in agreements for all 10 entities ranging from two to six weeks. ANAO analysis of entity data indicates that five entities (ACIC, AHL, MDBA, NDIA and NIAA) were compliant with relevant provisions when granting supporting partner leave. Non-compliance was identified at the other five entities (ATO, CER, DISER, Finance, and Services Australia) with the number of employees receiving paid supporting partner leave (or equivalent entitlement) above specified rates ranging from one employee at CER (7.7 per cent) and Services Australia (less than one percent) to nine employees at the ATO (three per cent).

5.17 Outcomes from ANAO analysis is included at Appendix 6.

Approval and documentary evidence

5.18 All entities have enterprise agreement and/or policy requirements for maternity and parental leave to be supported by documentary evidence.¹⁶ For example:

- Services Australia's parental leave policy states that to apply for leave employees are to supply evidence. This includes a medical certificate with a due date, or official evidence of an eligible adoption, fostering or surrogacy arrangement.
- Finance and NIAA's maternity leave policies state that documentary evidence must be submitted with the application, either: a doctor's or obstetrician's certificate stating the expected date of birth; or approval for adoption or permanent care order from the person/organisation with statutory responsibility for the placement of the child.

5.19 The ANAO tested a sample of leave transactions for each entity and found that AHL, ACIC, ATO, CER, DISER, MDBA, NIAA and NDIA were compliant with documentary evidence requirements for maternity leave. Three instances of non-compliance were identified at Services Australia (12 per cent) and five instances at Finance (20 per cent).¹⁷ In each of these instances the application for maternity leave was not supported by sufficient documentary evidence.

5.20 Sample testing across all entities where there is a requirement to obtain supporting documentation for parental leave found that ACIC, AHL, ATO¹⁸, CER, MDBA and NDIA were

16 NDIA has the requirement for supporting documentary evidence in its maternity leave fact sheet, rather than in its leave policy.

17 Sample size for Services Australia and Finance was 25 maternity leave transactions.

18 ATO does not require documentary evidence to be provided for unpaid parental leave.

compliant, with appropriate documentary evidence on file for each transaction tested by the ANAO. Instances of non-compliance were identified at four entities with the rate of non-compliance 100 per cent at NIAA, 92 per cent at DISER, 64 per cent at Finance and eight per cent at Services Australia.¹⁹

5.21 Outcomes from sample testing is included at Appendix 6.

¹⁹ Sample sizes ranged from five transactions at AHL to 25 transactions at Finance and Services Australia

Recommendation no. 3

5.22 Department of Finance; Department of Industry, Science, Energy and Resources; National Indigenous Australians Agency; and Services Australia establish appropriate controls to ensure the use of maternity and parental leave complies with legislative, award, enterprise agreement and policy requirements, including controls that ensure documentary evidence has been sighted by the approver or recorded in the system.

Department of Finance response: Agreed

5.23 *Finance agrees with the recommendation and will work with our Shared Services payroll provider to implement appropriate controls to ensure the use of maternity and parental leave complies with legislative, award, enterprise agreement and policy requirements. Finance will also develop enhanced guidance for managers and staff on the effective management of maternity and parental leave, including record keeping requirements.*

Department of Industry, Science, Energy and Resources response: Agreed

National Indigenous Australians Agency response: Agreed

5.24 *Currently there is no functionality for the uploading of documentary evidence when applying for supporting partner leave in the NIAA's human resource information management system. The NIAA, with the support of PM&C, will implement a mandatory documentary evidence field in the supporting partner leave application form.*

5.25 *Maternity leave is applied for and approved through the PM&C-managed ServicePortal. There is an option to upload documentary evidence, however this field is not mandatory. The NIAA will engage with the ServicePortal team within PM&C to update the form, making the evidence field mandatory.*

5.26 *The NIAA are currently reviewing and updating its Leave Policy in line with the Enterprise Agreement 2021-24. The policy will be open for staff consultation before an expected finalisation date of August 2022.*

5.27 *The NIAA will also review the maternity leave information available on the intranet to ensure it encompasses any updates to the Leave Policy and provides clear information to both employees and managers on the process for applying for and approving maternity leave applications.*

Services Australia response: Agreed

5.28 *Services Australia will undertake education and communication campaigns, and continue to train staff and monitor compliance, to further strengthen the management of employee leave.*

Timeliness of approval of maternity and parental leave

5.29 To facilitate appropriate resourcing of operational requirements and efficient use of resources, entity policies require that maternity and parental leave is approved in advance of being taken. This is consistent with the Australian Public Service Commission's classification of these types of leave as schedulable.

5.30 Seven entities, ATO, CER, DISER, Finance, MDBA, NDIA and NIAA have established requirements in enterprise agreements or policies that maternity and parental leave be approved

prior to commencement. Rates of non-compliance, where leave commenced prior to approval for all seven entities with a requirement are detailed in Table 5.2. There may be a limited number of instances where maternity or parental leave has been approved and a need arises for the leave to commence in advance of this.

Table 5.2: Entity rates of non-compliance with polices requiring the prior approval of maternity and parental leave

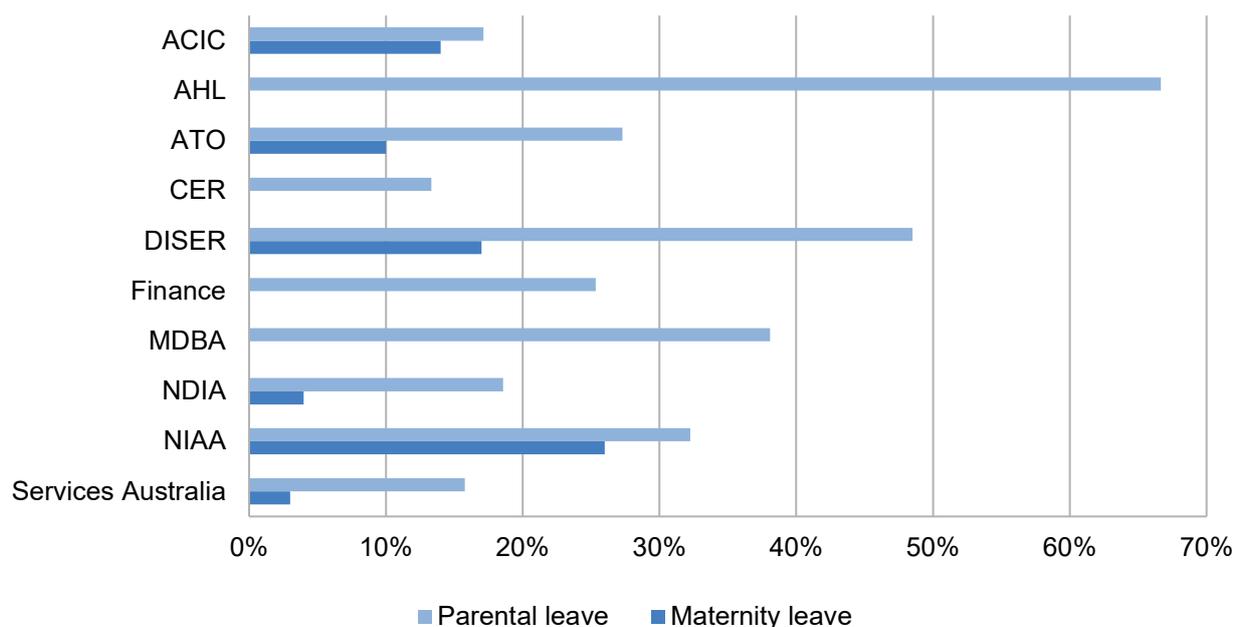
Entity	Maternity leave commenced before approval obtained	Parental leave commenced before approval obtained
ATO	9.6%	27.3%
CER	0%	13.3%
DISER	17.1%	48.5%
Finance	No approval date recorded in data set provided to ANAO	25.4%
MDBA	0%	38.1%
NIAA	26.1%	32.3%
NDIA	3.7%	18.6%

Note: Maternity leave approvals dates not captured in AHL's data.

Source: ANAO analysis of entity leave data between 1 July 2020 and 31 October 2021.

5.31 Figure 5.1 shows the rates of maternity and parental leave approvals being provided following the commencement of leave.

Figure 5.1: Rates of maternity and parental leave commencing prior to the approval of leave^a



Note a: AHL, CER, Finance and MDBA did not have any instances of maternity leave commencing prior to the leave being approved.

Source: ANAO analysis of entity leave data between 1 July 2020 and 31 October 2021.

6. Compliance with flexible leave and Executive Level time off in lieu provisions in relevant awards, enterprise agreements and policies

Areas examined

This chapter examines entities' policies and compliance with award, enterprise agreement and policy provisions in the administration of Australian Public Service (APS) level flexible leave and Executive Level (EL) time off in lieu (TOIL).

Conclusion

All entities except AHL have developed appropriate policies for administering flexible leave and time off in lieu leave.

No entity was compliant with award and agreement requirements in the administration of APS level flexible leave. Two entities, ACIC and AHL have not established flexible leave functionality in existing human resource management information systems. The ANAO identified the following among the remaining entities:

- flexible leave credit or debit balances exceeded maximum threshold — ATO, CER, DISER, Finance, MDBA, NDIA and Services Australia ranging from 3.4 per cent of APS level employees at Services Australia to 15.4 per cent at MDBA; and
- settlement clause requirements — non-compliance at ATO, CER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 2.6 per cent of flexible leave records at Services Australia to 13.8 per cent at MDBA.

Five entities (ATO, Finance, NDIA, NIAA and Services Australia) advised that leave days taken using TOIL is administered using existing human resource management information systems.

Finance is the only entity that has established systems to record additional hours worked by Executive Level employees to support its administration of accrual and use of TOIL.

	ACIC	AHL	ATO	CER	DISER	Finance	MDBA	NDIA	NIAA	Services Australia
Policy Alignment	●	○	●	●	●	●	●	●	●	●
Compliance	◐	◐	◐	◐	◐	◐	◐	◐	◐	◐

Note: Key explaining symbols used for summarising compliance findings is provided in summary Table S.1.

Area for improvement

The ANAO made one recommendation aimed at improving the administration of APS level flexible leave.

6.1 The *Australian Public Service Enterprise Award 2015* (the award) and enterprise agreements establish rights, obligations, and entitlements for flexible leave for eligible Australian Public Service (APS) level Australian Government public service employees. Enterprise agreements may also include provisions for Executive Level (EL) time off in lieu (TOIL).

6.2 To determine compliance with award, enterprise agreement and entity policy requirements the ANAO examined whether entities:

- developed and implemented policies for the administration of APS level flexible leave and Executive Level TOIL that align with award and enterprise agreements; and
- complied with award, enterprise agreement and policy requirements in the administration of APS level flexible leave and Executive Level TOIL.

Have entities established policies for the administration of APS level flexible leave and Executive Level time off in lieu that align with award and enterprise agreement provisions?

All entities except AHL have established appropriate policies for the administration of flexible leave and time off in lieu that align with award and enterprise agreement requirements.

6.3 Section 8 of the *Australian Public Service Enterprise Award 2015* (the award) establishes flexible leave entitlements, allowing employees to set alternative patterns of attendance.

6.4 Enterprise agreements establish eligibility for flexible leave, which is restricted to employees at the APS 6 level or below. As shown in Table 6.1 maximum flexible leave credit and debit balances are also established in enterprise agreements. Some agreements allow for balances in excess of those set out in the agreement to be carried forward following delegate approval.

6.5 Entity enterprise agreements reviewed by the ANAO, include clauses relating to time off in lieu (TOIL) for Executive Level employees. Finance has the most detailed TOIL clause of the 10 entities, providing: managers will approve the accrual of TOIL for EL employees (and their equivalents) for work performed in excess of 8 hours 30 minutes on any one day, on a weekend or public holiday, or during annual closedown; TOIL will accrue and may be taken on an hour-for-hour basis Monday to Friday, and at a rate of 1.5 hours per hour for work performed on a weekend, annual closedown or public holiday.

6.6 The remaining nine entities include less detailed TOIL clauses, for example, NIAA and ACIC enterprise agreements state that where an Executive Level employee undertakes significant additional productive effort which involves working in excess of ordinary hours for sustained periods, the Chief Executive Officer (delegate) and employee may agree arrangements for fair and reasonable time off in lieu (TOIL) to recognise the additional effort.

6.7 Nine entities developed policies for the administration of flexible leave consistent with award and enterprise agreement requirements. AHL has no policies in place for the management of staff leave.

6.8 Table 6.1 sets out analysis on the alignment between flexible leave and TOIL entitlements, and the policies for their administration.

Table 6.1: Flexible leave and time off in lieu administrative arrangements

Entity	Maximum flexible leave credit	Maximum flexible leave debit	Settlement clause ^a	TOIL entitlement
ACIC	22.5 hours	10 hours	No	Yes

Entity	Maximum flexible leave credit	Maximum flexible leave debit	Settlement clause ^a	TOIL entitlement
AHL	37.5 hours	10 hours	No	Yes
ATO	36.75 hours	15 hours	Yes	Yes
CER	37.5 hours	10 hours	Yes	Yes
DISER	37.5 hours	10 hours	No	Yes
Finance	37.5 hours	10 hours	Yes	Yes
MDBA	37.5 hours	15 hours	Yes	Yes
NDIA	37.5 hours	22.5 hours	Yes	Yes
NIAA	38 hours	7.6 hours	No	Yes
Services Australia	37.5 hours	22.5 hours	Yes	Yes

Note a: Settlement clauses specify the period of time employees have to reduce flexible leave credit and debit balances below limits established in enterprise agreements when limits are exceeded.

Source: ANAO analysis of entity enterprise agreements, leave policies and procedures between 1 July 2020 and 31 October 2021.

Did entities comply with award, enterprise agreement and policy requirements in the administration of flexible leave and time off in lieu?

No entity was compliant with award, enterprise agreement and policy requirements in the administration of APS level flexible leave. Two entities, ACIC and AHL have not established flexible leave functionality in existing human resource management information systems. The ANAO identified the following among the remaining entities:

- flexible leave credit or debit balances exceeded maximum threshold — ATO, CER, DISER, Finance, MDBA, NDIA, NIAA and Services Australia ranging from 3.4 per cent of APS level employees at Services Australia to 15.4 per cent at MDBA; and
- settlement clause requirements — non-compliance at ATO, CER, Finance, MDBA, NDIA and Services Australia ranging from 2.6 per cent of flexible leave records at Services Australia to 13.8 per cent at MDBA.

Five entities (ATO, Finance, NDIA, NIAA and Services Australia) advised that leave days taken using TOIL is administered using existing human resource management information systems.

Finance is the only entity that has established systems to record additional hours worked by Executive Level employees to support its administration of accrual and use of TOIL.

6.9 Eight entities manage flexible leave within existing human resource management information systems. Two entities, ACIC and AHL have not established flexible leave functionality in existing human resource management information systems and administer employee flexible leave using spreadsheets and local arrangements between APS level employees and their supervisor. The ANAO did not undertake data analysis or sample testing of flexible leave at ACIC and AHL.

Flexible leave debit and credit balances

6.10 The award establishes entitlements for APS level employees to access flexible leave and enterprise agreements establish the specific provisions such as maximum credit and debit balances as shown in Table 6.1. For example, CER's enterprise agreement states that the maximum carryover of flex time credits will be 37 hours and 30 minutes, and the maximum flex time debits will be 10 hours, unless exceptional circumstances are approved by the agency head.

6.11 For eight entities with human resource management information systems, ANAO undertook data analysis of employees exceeding the flexible leave maximum credit and/or debit balance to determine compliance with enterprise agreement requirements. Data indicates that employees at all eight entities exceeded maximum flexible leave credit or debit limits established in enterprise agreements, ranging from 3.4 per cent of APS level employees at Services Australia to 15.4 per cent at MDBA.

6.12 The ATO's rate of employees exceeding flexible credit or debit limits was 6.6 per cent. The ATO advised the ANAO that the unprecedented workload undertaken by the ATO during the audit period to deliver on measures arising from the COVID-19 pandemic had an impact on the ATO's management of flexible leave.

6.13 ANAO identified a combined 102 employees at Finance, NDIA and Services Australia with a flexible debit balance greater than negative 200 hours or more than five weeks. A combined total of eight employees at ATO and Services Australia had a flexible leave credit balance that exceeded 600 hours (or 16 weeks).

6.14 Entity results are included at Appendix 7.

Flexible leave settlement periods

6.15 As shown in Table 6.1 six entities have requirements that excess flexible leave credit and debit balances are to be settled within timeframes specified in enterprise agreements or policies. For example:

- ATO's flexible leave policy establishes a maximum credit to be carried over consecutive settlement periods, stating that if you have more than the maximum credit at the end of the settlement period because of unanticipated work demands or leave, your manager will approve enough flex leave in the next settlement period to reduce your credit to an acceptable level.
- Services Australia's flex and time off in lieu policy establishes excess flex credit or debit balances that are not to be carried over to the next settlement period apart from exceptional circumstances. If employees have excess flex credits for more than two settlement periods, this must be reduced to under the allowable amount in the next settlement period.

6.16 Analysis of non-compliance with settlement period requirements identified that employees at the six entities had employees who maintained flexible leave balances exceeding the enterprise agreement limits over consecutive settlement periods. This ranged from 2.6 per cent of flexible leave records at Services Australia to 13.8 per cent at MDBA.

Compliance with flexible leave and Executive Level time off in lieu provisions in relevant awards, enterprise agreements and policy

6.17 Entities should actively monitor compliance with settlement clauses and implement strategies to ensure employees required to work significant additional hours are only doing so for short periods of time and in accordance with enterprise agreement provisions.

6.18 Entity results are included at Appendix 7.

Recommendation no. 4

6.19 All entities establish or refine information systems and/or other procedural controls to support the consistent management of flexible leave provisions established in enterprise agreements and determinations.

Aboriginal Hostels Limited response: Agreed

6.20 *AHL's current Human Resource Management Information System (HRMIS) does not support implementation of this recommendation. AHL is currently investigating options for the introduction of a new HRMIS.*

6.21 *AHL expects that the new HRMIS will incorporate the necessary functionality to support the implementation of this recommendation. AHL currently has manual procedural controls to support the management of flexible leave provision and will work to improve these controls, pending the implementation of a new HRMIS by the Company.*

Australian Criminal Intelligence Commission response: Agreed

6.22 *The ACIC has developed the functionality within its human resource information management system to manage flexible leave within the system for APS1-6 employees. This will provide increased assurance related to the management and use of flexible leave credits. The ACIC is investigating options to improve the recording and tracking of time off in lieu (TOIL) for Executive Level employees.*

Australian Taxation Office response: Agreed

6.23 *Noting the level of compliance already achieved, the ATO will strengthen current procedural controls to support the consistent management of flexible leave provisions. This includes strengthening our education and awareness programs and communication.*

Clean Energy Regulator response: Agreed

6.24 *A procedural control is our HR monthly reporting identifies those who at the end of the month have excess flex credits or debits and these are flagged with the employee/supervisor and Manager to closely manage.*

Department of Finance response: Agreed

6.25 *Finance notes that it is the only audited entity that has established systems to record time off in lieu arrangements (TOIL) for Executive Level staff that supports the consistent administration of accrual and use of TOIL. Finance agrees with the recommendation to further refine procedural controls to manage flexible leave provisions. Regular monitoring of excess flexible leave and TOIL balances will continue through monthly management reporting.*

Department of Industry, Science, Energy and Resources response: Agreed.

Murray Darling Basin Authority response: Agreed

6.26 *The MDBA will improve our information systems and/or other procedure controls to support the consistent management of flexible leave provisions as well as continue to work with our staff to ensure that leave provisions remain within acceptable levels.*

National Disability Insurance Agency response: Agreed

6.27 *The NDIA supports the recommendation to refine information systems and/or other procedural controls to support the consistent management of flexible leave provisions. The NDIA has commenced work to implement this recommendation, which complements existing information systems and processes supporting self-service, communication and education activities.*

6.28 *The NDIA's policy review program is underway focusing on policies and supporting documentation for all leave types. This review will ensure provisions are clear and correct in all documentation, and support managers and employees to understand the correct application of leave provisions, including flexible leave. Any changes to policy and supporting documentation on flexible leave provisions will be embedded by the NDIA business partnering function.*

6.29 *The NDIA will review self-service knowledge articles to ensure clear guidance for managers and employees on application of flexible leave provisions.*

6.30 *The NDIA will commence a rolling communications strategy to focus on specific topics, including flexible leave, aimed at educating managers and employees on leave provisions and correct application of those leave provisions, including flexible leave.*

6.31 *The NDIA will include flexible leave provisions in the review of manager training packages to clearly articulate considerations when approving leave, specifically guidance on use of flexible leave and leave thresholds. The NDIA will undertake additional targeted engagement to address opportunities to improve compliance for annual leave, long service leave and flexible leave. This will be informed by the development of a HR Compliance dashboard focussed specifically on leave entitlements that complements the current HR provides further insights into trends and non-compliance.*

National Indigenous Australians Agency response: Agreed

6.32 *The NIAA has implemented a functionality in the human resources management system to create an error on timesheets where an employee has exceeded the maximum flex debit. This ensures employees remedy the error prior to submitting a timesheet.*

6.33 *The NIAA will implement a system-generated email to both the employee and their manager when flex balances exceed the maximum. This automated message will include options to cash out leave if operational requirements prevent the employee utilising the excess flex within a reasonable timeframe.*

6.34 *The NIAA is currently reviewing and updating its Leave Policy in line with the Enterprise Agreement 2021-24. The policy will be open for staff consultation before an expected finalisation date of August 2022.*

6.35 *The NIAA will supplement the above controls by reviewing the intranet content to ensure it encompasses any updates to the Leave Policy and provides clear information to both employees and approving managers on the process and requirements for accruing, applying for and approving flex.*

Services Australia response: Agreed

6.36 *Services Australia will consider appropriate amendments to procedural controls, and future system requirements in the context of the expected delivery of the Government Enterprise Resource Planning (GovERP) system.*

TOIL entitlements

6.37 As shown in Table 6.1 all entities have enterprise agreement clauses relating to time off in lieu (TOIL). Executive Level (EL) employees at these entities are not required to consistently document regular hours worked and/or submit periodic timesheets.

6.38 As stated in paragraph 6.5, Finance has clear requirements for the administration of EL TOIL and has designed and implemented processes for the recording of both the accrual and use of EL TOIL. The ANAO gained an understanding of Finance's system for administering EL TOIL and observed that applications to recognise additional hours are submitted and approved in Finance's human resource management information system (HRMIS). The HRMIS automatically calculates the rate of TOIL that can be accessed in accordance with accrual requirements set out in Finance's enterprise agreement (see paragraph 6.5). Manager approvals to access TOIL balances are also recorded in Finance's HRMIS.²⁰

6.39 ATO, NDIA, NIAA and Services Australia have advised that they have processes in place for the recording and management of TOIL in HRMIS. These four entities only record days taken using TOIL and do not record the amount or dates of the additional hours worked to support the use of TOIL.

6.40 Five entities (ACIC, AHL, CER, DISER and MDBA) advised that IT or other systems and processes are either not used or not consistently used to record the approval, recognition and use of TOIL. The ANAO was further advised by these entities that TOIL is typically managed informally between employees and their manager.

6.41 Due to inconsistent use of information management systems for the administration of TOIL, the ANAO did not undertake further analysis relating to the administration of TOIL.



Grant Hehir
Auditor-General

Canberra ACT
30 June 2022

²⁰ Finance's TOIL policy allows credits to be converted to annual leave or cashed out (up to five days each) annually, subject to policy requirements.

Appendices

Appendix 1 Entity responses



Australian Government
Aboriginal Hostels Limited



AHL
ACCOMMODATION
For Australia's First Peoples

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

Performance Audit - Management of staff leave in the Australian Public Service

Thank you for your correspondence of 18 May 2022 requesting our written comments on the draft audit report on the Management of Staff Leave in the Australian Public Service, under section 19 of the *Auditor-General Act 1997 (the s19 report)*.

Aboriginal Hostels Limited (AHL) welcomes any constructive review and external scrutiny of its processes and procedures and acknowledges the findings and recommendations as set out in the s19 report. AHL welcomes the findings and agrees to the implementation of the recommendations as detailed in our responses, attached to this letter.

AHL notes the observations in relation to the timeliness of the approval of scheduled leave and that entity policies should require that annual leave and purchased leave is approved in advance of being taken. While the s19 report acknowledges that AHL does not have an explicit requirement for the prior approval of annual and purchased leave, analysis of our data indicated that 53.9 per cent of annual leave commenced before approval was reflected in the Human Resource Management Information System (HRMIS), which was significantly higher than the other audited entities.

As a Commonwealth Company, whose purpose is to provide safe, comfortable, culturally appropriate and affordable short-term accommodation for Aboriginal and Torres Strait Islander people, we are unique as an Australian Public Service (APS) employer. Many of our staff work in service delivery roles across our network of 43 hostels, and unlike more traditional APS employees the majority of our hostel staff do not require access to our ICT systems to undertake their duties. As a consequence, planned leave requests for our hostel employees are often approved verbally by their supervisor prior to the leave being taken, with the leave approval often being recorded in the HRMIS on behalf of the employee at a later date. This can create a time delay, as leave is often entered into the HRMIS in batches and then forwarded to AHL's payroll team for processing in the fortnightly pay run.

We will immediately implement training and development programs for supervisors to ensure they understand the need to document the approval of leave requests in the HRMIS, prior to leave commencing.

AHL has recently developed a business case, which recommends the implementation of a new HRMIS with enhanced functionality, including the automation of a range of existing manual processes. Once implemented, it is expected that the new HRMIS would also support the strengthening of leave management and associated governance processes.

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Finally, I would like to acknowledge the efforts of your team and the collaborative approach in undertaking this audit. AHL looks forward to a continuing positive working relationship with the ANAO.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dave Chalmers', with a long horizontal stroke extending to the right.

Dave Chalmers, AO, CSC
Chief Executive Officer

15 June 2022



AUSTRALIAN
**CRIMINAL
INTELLIGENCE
COMMISSION**

DEPUTY CEO SUPPORT

GPO Box 1936
Canberra City ACT 2601
www.acic.gov.au

Our ref: 22/104011

15 June 2022

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

Audit of the Management of staff leave in the Australian Public Service

Thank you for your correspondence to Michael Phelan APM on 18 May 2022 which contained a copy of the Australian National Audit Office (ANAO) proposed audit report on the *Management of staff leave in the Australian Public Service*.

The ACIC welcomes the findings of the report, and is committed to managing staff leave in accordance with legislative requirements and the ACIC Enterprise Agreement 2016-19. To ensure our ongoing compliance, the ACIC is reviewing its leave policies and is in the process of implementing improvements to our human resource information management system.

I would like to express my thanks to the ANAO audit team, who were professional and collaborative in their engagement with ACIC staff throughout the audit.

Attached to this letter is our summary response (Attachment A) and our response to the proposed recommendations (Attachment B).

Should you require further information, please contact Tim Simpson, National Manager Workforce Capability and Assurance on 02 6268 7317 or via email timothy.simpson@acic.gov.au.

Yours sincerely

A handwritten signature in black ink that reads 'Anne M. Brown'.

Anne Brown
Deputy CEO Support

Australian Criminal Intelligence Commission
Page 1 of 1



Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

Re: Australian National Audit Office (ANAO) Section 19 draft report for the Management of Staff Leave in the Australian Public Service (APS) – May 2022

Thank you for your letter dated 18 May 2022, and for the opportunity to provide comments on the Section 19 draft report for the Management of Staff Leave in the APS audit.

Attached is the ATO response to the recommendations (Annexure 1) and a summary of our comments to be included in the report (Annexure 2).

The ATO agrees with the relevant updated recommendations as recorded in subsequent correspondence after receipt of the Section 19 draft report, as reflected at Annexure 1.

Although this audit presented some challenges, I would like to thank the ANAO team for their co-operative approach to working through those.

The ATO will take on board the findings from the ANAO and continue to refine and improve processes in the management of staff leave.

If you require further information on this matter, please contact Assistant Commissioner Liam Page, Workforce Strategy, on (03) 9275 9908.

Yours sincerely

A handwritten signature in black ink, appearing to read "JA Curtis".

Jacqui Curtis
Chief Operating Officer
Australian Taxation Office
Date: 15/06/2022

Australian Taxation Office additional response

The ATO does have concerns with the data presented in scatterplots in figures 2.2 and 4.1 and does not believe they appropriately represent the performance of ATO managers in approving the tens-of-thousands of leave events that occurred in the audit period. The graphs do not clearly reflect the distribution of elapsed time (days) taken to approve leave and do not give context to the scale of the number of leave events that are represented. This representation may lead to incorrect inferences as to the comparative performance of agencies. Furthermore, the analysis and representation of this data does not sufficiently recognise that there are valid reasons that leave may be applied for and approved after it is taken, including for example where a staff member extends their leave, or where they may have depleted their personal leave and seek to use annual leave in the event of illness.

ANAO comment on Australian Taxation Office's additional response

The ANAO observed 29,497 instances of annual leave being approved following the commencement of that leave and 149,074 instances of personal leave (which are ordinarily approved upon return to work). Figure 2.2 and Figure 4.1 are intended to demonstrate the distribution of days taken to approve annual and personal leave following either the commencement of annual leave or return to work for personal leave. The ANAO has included footnotes to these figures to Appendix 8 where the number of instances, mean and median for each entity are provided to ensure appropriate context is available to readers. The ANAO has also acknowledged that there may be some instances where it may be appropriate for scheduled leave to be approved following commencement of leave (see paragraphs 2.23 and 2.24).



Grant Hehir
Auditor-General for Australia
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

Management of staff leave in the Australian Public Service

Thank you for the opportunity to respond to the Australian National Audit Office's (ANAO's) proposed report on the Management of staff leave in the Australian Public Service.

I welcome the report and recommendations, noting a range of positive findings for the Clean Energy Regulator (the agency) including appropriate policies aligned with legislative and enterprise agreement requirements.

The agency accepts recommendation 2 and 4 – as the applicable recommendations for the agency – and has commenced actions to implement improvements to our processes consistent with these recommendations.

I thank the ANAO for its careful analysis and consideration of this matter and value the comments on the agency's management of staff leave.

Yours sincerely



David Parker AM
Chair, Clean Energy Regulator
15 June 2022

GPO Box 621 Canberra ACT 2601 1300 553 542 enquiries@cleanenergyregulator.gov.au www.cleanenergyregulator.gov.au 1



Australian Government
Department of Finance

Rosemary Huxtable PSM
Secretary

Our Ref: EC22-000241

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

I refer to the Australian National Audit Office's (ANAO's) correspondence dated 18 May 2022 providing the proposed audit report *Management of Staff Leave in the Australian Public Service* (Report) and seeking a response from the Department of Finance (Finance).

I note and welcome the conclusion of the ANAO that Finance has largely complied with requirements for the management of employee leave.

Finance agrees with the audit recommendations and findings and will implement actions to address areas identified for improvement. This will include system and process enhancements and providing enhanced guidance for managers and staff to support timely approval of leave and improved record keeping.

Finance notes that the sustained high workload it experienced during the audit period to support the Australian Government to deliver on measures arising from the COVID-19 pandemic impacted on the management of flexible and annual leave balances within the limits specified in our Enterprise Agreement and relevant policies.

Finance will continue to monitor key workforce indicators through regular management reporting to support the effective management of staff leave. The Department is implementing strategies to actively manage flexible and leave balances that exceed enterprise agreement provisions.

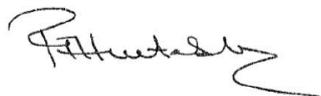
Our detailed response to each of the three recommendations relevant to Finance, as advised in the ANAO advice of 9 June 2022, is provided in the attachment to this letter.

One Canberra Avenue, Forrest ACT 2603 • Telephone 02 6215 3445
Internet www.finance.gov.au

I am aware that corrections to the Report have been provided separately to your officers.

Thank you for the opportunity to respond to the proposed report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Huxtable', with a stylized flourish at the end.

Rosemary Huxtable
Secretary

15 June 2022



Australian Government
Department of Industry, Science,
Energy and Resources

OFFICE OF THE SECRETARY
DAVID FREDERICKS PSM

Mr Grant Hehir
Auditor-General
Australian National Audit Office
38 Sydney Avenue
Forrest ACT 2603


Dear Mr Hehir

Thank you for your correspondence of 19 May 2022 seeking comment from the Department of Industry, Science, Energy and Resources (the department) on the Australian National Audit Office's (ANAO) proposed audit report on Management of Staff Leave in the Australian Public Service (APS).

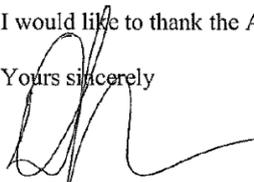
The department notes the proposed audit report and its conclusion that all 10 entities including the department largely complied with the requirements for management of staff leave in the Australian Public Service. We accept the recommendations as they relate to the department and will work collaboratively to investigate and implement these recommendations.

The department notes that policies for schedulable leave types such as annual, purchased, long service and maternity leave should include explicit provisions that require delegate approvals of leave to be provided prior to the commencement of leave. We also welcome the ANAO's finding that all DISER policies were found to align with requirements.

Attached is the department's summary response and response to the relevant recommendations.

I would like to thank the ANAO for its collaborative approach throughout the audit process.

Yours sincerely



15 June 2022



Office of the Chief Executive

Ref: ECC22-000354

Mr Grant Hehir
Auditor-General for Australia
Australian National Audit Office

Dear Mr Hehir

Thank you for your correspondence of 18 May 2022 regarding the Australian National Audit Office proposed audit report on the Management of Staff Leave in the Australian Public Service.

Pursuant to section 19 of the Auditor-General Act 1997, the Murray-Darling Basin Authority (MDBA) has prepared a response to the report. I accept the report recommendations and I am confident that the MDBA is well placed to implement the relevant recommendations.

I am pleased that the report recognises that the MDBA was largely compliant with annual, long service, parental/maternity, personal leave obligations and entitlements. The report provides useful feedback on the management of our leave and areas where the MDBA can improve.

Please find enclosed with this letter the MDBA's audit response summary which is our response to the recommendations. I would like to thank the staff from the ANAO for their professionalism and collaborative approach to the audit.

Yours sincerely

Andrew Reynolds
Acting Chief Executive

14 June 2022

Attachment A: Audit response summary

Attachment B: MDBA Response to recommendations

Office locations
Adelaide, Albury-Wodonga, Canberra,
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Page 1



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Office of the CEO

Mr Grant Hehir
Auditor-General for Australia
Australian National Audit Office

Via email: OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Mr Hehir

**Response to the Australian National Audit Office (ANAO) Proposed Audit Report on
*Management of Staff Leave in the Australian Public Service***

Thank you for providing the National Disability Insurance Agency (NDIA) with the opportunity to review and comment on the ANAO proposed report on *Management of Staff Leave in the Australian Public Service*.

The NDIA acknowledges the findings of the report and supports the recommendations and opportunities for improvement they provide in managing staff leave entitlements. The NDIA appreciates the ANAO's conclusion the NDIA has established policies for the administration of leave types that align with the relevant legislation and enterprise agreement provision and the NDIA is largely compliant with legislation and other relevant requirements relating to staff leave.

The NDIA notes the four recommendations provided by the ANAO and agree with the two that apply to all entities including NDIA. The NDIA has commenced work to implement these recommendations, which complement existing leave management strategies including communication and education activities on the use of leave entitlements. The NDIA is also investigating additional mechanisms for identifying and monitoring compliance through data analytics, focussing specifically on leave entitlements. This will be in addition to existing Human Resources (HR) management reporting to guide and support management action.

Attachment A to this letter includes the overall response to the proposed report and the response to ANAO's recommendations. If you would like further information on NDIA's response, please contact Hamish Aitkman, Chief People Officer on 03 5224 8218 or email hamish.aitkman@ndis.gov.au.

The NDIA appreciates the professional and constructive engagement from the ANAO Audit Team through the conduct of this performance audit. We look forward to the upcoming tabling of the Final Report.

Yours sincerely

Martin Hoffman
Chief Executive Officer
National Disability Insurance Agency

10 June 2022





Australian Government
National Indigenous Australians Agency

CHARLES PERKINS HOUSE
16 BOWES PLACE
WODEN

Reference: EC22-001113

Mr Grant Hehir
 Auditor-General for Australia
 Australian National Audit Office
OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Mr Hehir

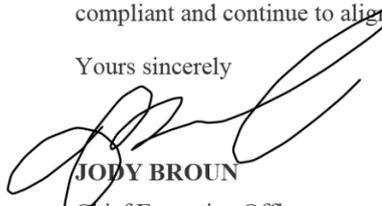
Thank you for the opportunity to respond to the 'Management of staff leave in the Australian Public Service' report provided on 19 May 2022. This letter provides a response from the National Indigenous Australians Agency (NIAA) for preparation of the final report by the Australian National Audit Office (ANAO).

NIAA is committed to ensuring best practice human resource management and administration. Through our shared services arrangement with the Department of Prime Minister and Cabinet (PM&C) a number of strategies have already been implemented to ensure compliance with all leave requirements. The NIAA will continue working in partnership with PM&C to improve our human resources information management systems and administration of leave.

The NIAA agrees with the ANAO's four recommendations, in particular the three directly relevant to NIAA (recommendations two, three and four). The NIAA has provided responses to each recommendation noting relevant actions already taken and underway.

The ANAO's performance audit has provided the NIAA with a valuable opportunity to examine our human resources policies, procedures and systems to ensure they remain compliant and continue to align with best practice.

Yours sincerely


JODY BROUN
 Chief Executive Officer
 National Indigenous Australians Agency
 15 June 2022

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 Telephone | +61 2 6271 5111 Fax | +61 2 6271 5414 Website| www.niaa.gov.au ABN| 30 429 895 164



Australian Government
Services Australia

Our Ref: EC22-002445

Chief Executive Officer
Rebecca Skinner PSM

Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr *Grant* Hehir

Service Australia's response the ANAO proposed report on the Management of staff leave in the Australian Public Service

Thank you for providing Services Australia (the agency) with the opportunity to comment on the Australian National Audit Office's (ANAO) proposed report on the *Management of staff leave in the Australian Public Service*.

The agency welcomes this report and the findings that the agency has policies for administering leave that aligned with relevant legislation, award and enterprise agreement provisions. The audit findings confirm the agency largely complied with the requirements for the management of employee leave. The agency has the highest average staffing level from the ten entities examined in the audit, and this therefore equates to examining many thousands of instances of leave taken by our employees.

Health and wellbeing are important to maintaining the endurance and resilience of the workforce. Leave supports employees to balance their individual circumstances and life events, and to be well at work. Over the period of time that the audit examined the management of staff leave, the agency has delivered essential payments services to many thousands of eligible customers. Managers and staff seek to balance leave needs and preferences with business requirements, sometimes during periods of unprecedented demand for assistance.

Work is under way to deliver a common corporate Government Enterprise Resource Planning (GovERP) system that will comprise a number of essential corporate capabilities to deliver back-office services, including human resources services and reporting. In this context, the agency's existing human resource information management system has a limited life span. Considering this, the agency will undertake education and communication

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campaigns, and continue to train staff and monitor compliance, to further strengthen the compliance rate with the requirements for the management of staff leave.

I understand this audit is one of the first compliance audits conducted by the ANAO. The agency would welcome the opportunity to be involved in any processes with other participating entities allowing for the provision of feedback on its implementation.

The agency's contact for this matter is Ms Peta Martyn, National Manager Audit. Ms Martyn may be contacted on 02 6223 4211 or peta.martyn@servicesaustralia.gov.au.

Yours sincerely



Rebecca Skinner

10 June 2022

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.

2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's 2021–22 Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.

3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:

- strengthening governance arrangements;
- introducing or revising policies, strategies, guidelines or administrative processes; and
- initiating reviews or investigations.

4. In this context, the below actions were observed by the ANAO during the course of the audit or advised by the entity. The ANAO has not sought to obtain assurance over the source of these actions or whether they have been appropriately implemented.

- ACIC has a project in progress to develop improvements in the ability to monitor and report. This will include the development of several new fields and reports so that management can better monitor and report against leave compliance. This project had commenced prior to the audit commencing, however the ANAO was advised the audit has assisted in guiding and directing where effort was required.
- AHL has advised it has recently commissioned a review of its human resource management information needs, to determine if a more suitable (and affordable) system exists that would provide an increased range of functionality and allow a greater degree of automation, for leave as well as other functions (including human resource, recruitment, learning and development, and work health and safety).
- ATO and Services Australia communicated the engagement and analysis from the audit will inform considerations for the Government Enterprise Resource Planning (GovERP) initiative for a common ERP platform, comprising a number of essential corporate capabilities to deliver back-office services, including financial, human resources and procurement services and reporting.
- NDIA has initiated various leave management strategies including communication and education activities to address high annual leave balances, as well as exploring options to expand monitoring mechanisms through data analytics. While these initiatives

commenced prior to the audit, the engagement and analysis from the audit will inform considerations in the design of our HR compliance dashboard (to better support compliance with related leave conditions), the review of specific supporting documents, and improvements in data analytics required for monitoring purposes.

Appendix 3 Annual and purchased leave data table

Table A.1: Data analysis and sample testing results

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
Total No. unique employees as at 30 June 2020, 30 June 2021 and 31 October 2021	34,438	919	343	20,220	477	4,139	5,175	2,359	452	1,645
No. employees exceeding annual leave balance threshold ^{a b}	2,734 (8%)	203 (22%)	58 (17%)	377 (2%)	70 (15%)	894 (22%)	626 (12%)	504 (21%)	56 (12%)	300 (18%)
No. employees exceeding annual leave threshold (multiple years)	1,203 (3.5%)	120 (13%)	39 (11%)	171 (1%)	35 (7%)	504 (12%)	343 (7%)	320 (14%)	26 (6%)	162 (10%)
No. employees who used or purchased more than the maximum amount of the purchased leave entitlement	6 (<1%)	0	0	0	0	0	0	0	0	2 (1.5%)
No. samples where purchased leave approvals complied with requirements	25/25 (100%)	2/2 (100%)	25/25 (100%)	25/25 (100%)	5/5 (100%)	19/25 (76%)	25/25 (100%)	23/25 (92%)	25/25 (100%)	12/12 (100%)
Payment of annual leave was consistent with section 16 of the Australian Public Service Enterprise Award 2015										
Systems control test	Effective control in place	N/A	N/A	Effective control in place	N/A	N/A	Effective control in place	N/A	N/A	Effective control in place
Sample test	N/A	25/25 (100%)	25/25 (100%)	N/A	25/25 (100%)	25/25 (100%)	N/A	25/25 (100%)	25/25 (100%)	N/A
Entitlement to annual leave complied with section 87-94 of the Fair Work Act 2009 and NES ^c										
System control test	Effective control in place	N/A	N/A	Effective control in place	N/A	N/A	Effective control in place	N/A	N/A	Effective control in place
Sample test	N/A	25/25 (100%)	25/25 (100%)	N/A	25/25 (100%)	25/25 (100%)	N/A	25/25 (100%)	25/25 (100%)	N/A

Note a: Figure includes number of employees who exceeded the annual leave balances between 1 July 2020 to 31 October 2021.

Note b: Only AHL, Finance, MDBA, and NIAA have explicit requirements to manage annual leave balances exceeding enterprise agreement thresholds.

Note c: Sample testing was undertaken where effective systems controls had not been established to ensure compliance.

Source: ANAO analysis of entity leave data and sample results for the period 1 July 2020 and 31 October 2021.

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
No. samples where the recognised prior service is complete, accurate and appropriately documented	25/25 (100%)	15/15 (100%)	25/25 (100%)							

Note a: Percentage derived by multiplying the number of LSL instances of non-compliance by two and dividing by the total number of instances of LSL.

Source: ANAO analysis of entity leave data and sample results for the period 1 July 2020 and 31 October 2021.

Appendix 5 Personal leave data table

Table A.3: Data analysis and sample testing results

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
No. employees taking personal leave without evidence	29,418	679	256	15,506	128	3,331	4,416	1,359	372	1,326
No. employees whose total number of consecutive days without evidence exceeds entitlement	N/A	0	3 (1.2%)	2 (<1%)	7 (5.5%)	62 (1.9%)	107 (2.4%)	64 (4.7%)	15 (4%)	150 (11.3%)
No. employees whose total number of days without evidence exceeds entitlement	128 (<1%)	17 (2.5%)	65 (25.4%)	0	N/A	327 (9.8%)	5 (<1%)	18 (1.3%)	4 (1.1%)	N/A
No. samples where the entitlement to leave complied with sections 96-101 of the <i>Fair Work Act 2009</i> and 2-2 of the National Employment Standards	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)
No. samples where the leave complied with section 17 of the Australian Public Service Enterprise Award 2015	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)
No. samples where required documentary evidence was appropriate	24/25 (96%)	14/14 (100%)	25/25 (100%)	10/11 (91%)	9/9 (100%)	25/25 (100%)	25/25 (100%)	22/25 (88%)	11/1 (100%)	25/25 (100%)
No. samples where the leave was supported by medical or other certificates	24/25 (96%)	14/14 (100%)	24/24 (100%)	10/11 (91%)	9/9 (100%)	25/25 (100%)	25/25 (100%)	22/25 (88%)	11/11 (100%)	25/25 (100%)

Source: ANAO analysis of entity leave data and sample results for the period 1 July 2020 and 31 October 2021.

Appendix 6 Maternity and parental leave data table

Table A.4: Data analysis and sample testing results

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
No. employees accessing maternity leave	1,043	39	11	654	11	166	228	59	19	40
No. employees granted maternity leave above entitlement (52 weeks)	1 (<1%)	0	0	13 (2%)	0	15 (9%)	0	1 (1.7%)	0	0
No. employees granted paid maternity leave above entitlement	0	0	1 (12.5%)	3 (<1%)	0	1 (<1%)	0	0	0	3 (9.7%)
No. employees without 12 months prior service for maternity leave	0	0	0	0	0	0	0	0	0	0
No. employees whose maternity leave was counted as service exceeding the entitlement	5 (<1%)	0	1 (12.5%)	12 (2.5%)	1 (10%)	1 (<1%)	0	0	0	1 (3.1%)
No. employees accessing paid and unpaid parental leave	685	46	6	510	4	113	120	43	18	15
No. employees granted parental leave above entitlement (52 weeks)	0	0	0	2 (<1%)	0	0	0	0	0	0
No. employees granted paid parental/supporting partner leave above entitlement	1 (<1%)	0	0	9 (3%)	0	2 (1.9%)	0	2 (5.7%)	1 (7.7%)	0
No. samples where the entitlement to maternity leave was supported by documentary evidence	22/25 (88%)	7/7 (100%)	25/25 (100%)	25/25 (100%)	5/5 (100%)	25/25 (100%)	25/25 (100%)	20/25 (80%)	25/25 (100%)	7/7 (100%)
No. samples where documentary evidence to continue to be fit for duty or resume duty in accordance with sections 7 and 7A where appropriate	2/2 (100%)	N/A	15/15 (100%)	11/12 (92%)	5/5 (100%)	13/13 (100%)	N/A	19/22 (86%)	20/20 (100%)	7/7 (100%)

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
No. samples where the maternity leave is appropriately approved and supported	22/25 (88%)	7/7 (100%)	25/25 (100%)	25/25 (100%)	5/5 (100%)	25/25 (100%)	25/25 (100%)	20/25 (80%)	25/25 (100%)	7/7 (100%)
No. samples where the leave taken complied with the Paid Parental Leave Act 2010 Chapter 2	25/25 (100%)	5/5 (100%)	5/6 (83%)	25/25 (100%)	4/4 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	6/6 (100%)	6/6 (100%)
No. samples where the leave complied with section 18 of the Australian Public Service Enterprise Award 2015	25/25 (100%)	5/5 (100%)	6/6 (100%)	25/25 (100%)	4/4 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	6/6 (100%)	6/6 (100%)
No. samples where the entitlement to leave complied with sections 70-79 of the <i>Fair Work Act 2009</i> and 2-2 of the National Employment Standards	25/25 (100%)	5/5 (100%)	6/6 (100%)	24/25 (96%)	4/4 (100%)	25/25 (100%)	25/25 (100%)	25/25 (100%)	6/6 (100%)	6/6 (100%)
No. samples where the parental leave required documentary evidence where appropriate	23/25 (92%)	5/5 (100%)	6/6 (100%)	Unpaid parental leave does not require documentary evidence in ATO's policy	4/4 (100%)	2/25 (8%)	25/25 (100%)	4/11 (36%)	6/6 (100%)	0/6 (0%)

Source: ANAO analysis of entity leave data and sample results for the period 1 July 2020 and 31 October 2021.

Appendix 7 Flexible leave and TOIL data table

Table A.5: Data analysis and sample testing results^a

Entity	Services Australia	ACIC ^b	MDBA	ATO	AHL ^b	DISER	NDIA	Finance	CER	NIAA
No. employees with flex balances	30,653	–	110	14,524	–	2,230	4,159	974	279	758
No. flexible leave records	410,477	–	1,506	216,906	–	25,525	42,132	11,899	2,964	8,564
No. employees with flex credit balance exceeding maximum threshold	2,453	–	25	3,258	–	476	496	205	29	105
No. instances of flex credit balance exceeding maximum threshold ^c	9,403	–	193	12,851	–	2,599	1,545	957	128	406
No. employees with flex debit balance exceeding maximum threshold	978	–	7	528	–	160	110	32	17	56
No. instances of flex debit balance exceeding maximum threshold ^c	4,483	–	39	1,428	–	491	306	89	52	80
Percentage of instances exceeding maximum credit and/or debit balances	3.4%	–	15.4%	6.6%	–	12.1%	4.4%	8.8%	6.1%	5.7%
No. employees exceeding flex credit/debit balance threshold over consecutive settlement periods	2,626	–	31	2,205	–	–	417	176	35	–
Percentage employees exceeding maximum credit and/or debit balances over consecutive settlement periods	2.6%	–	13.8%	3.9%	–	–	3%	6.7%	4.5%	–

Note a: Where entities have established effective system controls to ensure compliance, sample testing was not undertaken.

Note b: ACIC and AHL do not have systems capable of generating flexible leave reports for analysis by the ANAO.

Note c: Instances are the number of employee flexible leave records.

Source: ANAO analysis of entity leave data for the period 1 July 2020 and 31 October 2021.

Appendix 8 Leave approvals for scheduled and unscheduled leave

Table A.6: Data analysis results for scheduled leave, including annual leave

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
No. instances of scheduled leave approved after commencement of leave	34,781	2,134	717	44,832	951	8,391	8,246	4,173	928	3,996
Scheduled leave approved after leave (% of total scheduled leave)	11.3%	28.7%	25.7% ^a	21.1%	53.3%	27.5%	23.1%	34% ^b	26.1%	31.4%
Mean No. business days to approve scheduled leave after commencement of leave	9.9	15.9	10.2	9	6.1	22.2	10.6	8.9	15	13.2
Median No. business days to approve scheduled leave after commencement of leave	3	5	4	3	4	6	4	4	5	6
No. instances of annual leave approved after commencement of leave (subset of scheduled leave)	23,970	1,582	572	29,497	851	5,509	6,533	2,324	671	2,851
Mean No. business days to approve annual leave after commencement of leave (subset of scheduled leave)	5.8	11	9.4	8.1	5.8	11.4	7.6	7.9	9.1	9.5
Median No. business days to approve annual leave after commencement of leave (subset of scheduled leave)	3	4	4	3	4	5	4	4	5	5

Note a: Analysis includes 110 instances of study leave. MDBA advised that due to the approval being provided outside the HRMIS, approval dates could not be verified.

Note b: Analysis includes 2,608 instances of study leave taken, of which 1,730 applications were approved in the HRMIS after the leave commencement date. Finance advised that study leave is managed and approved in a different system and due to reporting limitations approval dates could not be verified.

Source: ANAO analysis of entity leave data for the period 1 July 2020 and 31 October 2021.

Table A.7: Data analysis results for unscheduled leave, including personal leave

Entity	Services Australia	ACIC	MDBA	ATO	AHL	DISER	NDIA	Finance	CER	NIAA
Mean No. business days taken to approve unscheduled leave after the leave ended	5.1	7.3	6.6	4.4	5.4	7.5	5.4	6.7	6.6	8.8
Median No. business days taken to approve unscheduled leave after the leave ended	2	3	4	2	4	3	3	3	4	4
No. instances of personal leave approved after the leave ended	138,115	5,091	2,030	149,074	2,429	25,996	41,749	10,709	3,388	13,144
Mean No. business days taken to approve personal leave (subset of unscheduled leave)	4.9	7.3	6.5	4.1	5.3	7.4	5.3	6.7	6.5	7.3
Median No. business days taken to approve personal leave (subset of unscheduled leave)	2	3	3	2	4	3	3	3	4	4

Source: ANAO analysis of entity leave data for the period 1 July 2020 and 31 October 2021.