

Employment information for patients and carers

When you are diagnosed with a blood cancer or condition, you may find yourself having to negotiate your sick leave and annual leave entitlements, as well as working through what to tell your employer. In this fact sheet, we outline what your leave entitlements and options are, and provide suggestions on how to communicate effectively with your employer.

Sick Leave

Check out the terms and conditions of your individual employment agreement to find out what you are entitled to, as it may be more than the minimum statutory legal requirements. As a guide, we outline the minimum legal requirements in this fact sheet.

- Most employees are entitled to 10 days' paid sick leave a year. It depends on how long they have worked for the same employer, and their entitlement date.
- Sick leave entitlements are not pro-rated in any way. For example, if a part-time employee works 3 days a week, they will still become entitled to 10 days' sick leave per year after being in employment for 6 months.
- Sick leave can be used when an employee is sick or injured, or when the employee's spouse or partner, or a person who depends on the employee for care (such as a child or elderly parent), is sick or injured.
- Unused sick leave is automatically carried over to a maximum of 20 days' leave, unless more is provided for in the Employment Agreement. The employer and employee can agree that sick leave can accumulate to more than 20 days, but this has to be in writing and must be included in their employment contract or in written workplace policies.
- Sick leave also accumulates to up to 20 days for part-time employees.
- Unused sick leave can't be cashed-up or be part of any final payment to the employee when they leave, unless this is in the employment agreement.

What are my options if I have run out of sick leave?

If you have run out of sick leave and you're sick (or your spouse, partner or dependant is sick) you can ask your employer to:

- give you sick leave in advance,
- use some of your annual holidays, or
- you can ask to take unpaid leave.

What happens if I am on annual leave and fall ill or my dependant falls ill? Can I use sick leave instead of annual leave?

- If you (or your spouse, partner or dependant) falls sick before starting scheduled annual holidays, you can take the portion of annual holidays you are sick for as sick leave.
- If you (or your spouse, partner or dependant) falls sick when you have already started a period of annual holidays, you can change the days you are sick for to sick leave days rather than annual holidays, with approval and support of your employer.
- The employer can ask the employee to prove the sickness before allowing them to change their annual holidays for sick leave.

What happens if I am sick when working on a public holiday?

When an employee would have worked on a public holiday but is sick or bereaved, the day is treated as a paid unworked public holiday and:

- the employee would be paid their relevant daily pay or average daily pay, but would not be entitled to time and a half or an alternative holiday, and
- no sick or bereavement leave is deducted.

Leave without pay

What other leave options are available to me if I have exhausted my sick leave but I am unable to work while I have treatment, or I am caring for someone undergoing treatment?

You can request leave without pay. Leave without pay is when an employer lets an employee take time off work but doesn't pay them for the time taken off. Leave without pay doesn't stop an employee's employment, and usually the employee returns to their same position with the same terms and conditions after taking leave without pay (unless the employee and employer agree otherwise).

- Employees aren't entitled to leave without pay; they can only take it if their employer agrees. An agreement to take leave without pay could be contained in their employment agreement, or could be negotiated by the employee and employer at the time the employee asks for the leave.
- If the employee takes time off work without the employer's agreement, this is unauthorised leave and could result in a disciplinary process being taken.

Disclosure of illness

Do I legally have to disclose my medical history to my employer?

No. You don't legally have to disclose your condition to your employer, but it may help you to do so if the employer has concerns around absences from work or work performance. The employer can ask for independent medical advice and may go down a disciplinary route if you do not disclose your condition.

Honesty is advised to ensure that you get adequate support. It is recommended that both parties put together a plan on how to manage sick leave and duties while you (or your partner or dependant) need treatment or are recovering from treatment.

Do I legally have to disclose my medical history to a potential new employer?

No. You don't legally need to declare your medical history, but you do need to be able to fulfil the duties of the role that you have applied for.

If the employer asks you certain questions around your health and whether or not you can carry out the responsibilities of the role (usually in the interviewing stage), you are legally required to give correct information. Candidates would normally sign an application to say all of the information is true and correct.

Generally, an employer will ask employees whether they need any assistance before they start work. This will relate to having the correct workstation equipment and checking if they have RSI or any other injuries or illnesses that might affect their work.

An employer cannot discriminate in the recruitment process if a candidate says they are sick, however a candidate needs to ensure they can carry out the duties of the role.

Flexible working entitlements

I want/need to keep working but I want to reduce my hours or work more flexibly – what are my options?

If you have been recently diagnosed, have a conversation with your employer as quickly as possible to outline the situation and explain what you and your medical team advise. Chances are, you may be able to come to an informal short-term arrangement until more information about your diagnosis and treatment plan becomes available. For longer-term arrangements, as an employee, you have a right to request a flexible working arrangement. You can ask to change your working arrangements – either permanently or for a set time, for any purpose or reason. For example, caring for someone with an illness or needing flexibility to attend ongoing medical appointments.

If you would like more information on this please see our ['Guide on Flexible Working Entitlements'](#).

Income Protection and Life Insurance

What is income protection and how do I find out if I am eligible through my employment?

Some employers offer an enhanced benefit in the form of income protection or life insurance. Income protection is where your salary, or part of it, will continue to be paid while you are on leave. Details of any such agreement will be in your employment contract. Life insurance is a lump sum paid out to your family in the event of your death.

There is usually a stand-down period before the income protection insurance kicks in. You will need to speak with your local HR person or direct manager to see if income protection or life insurance applies to you and what the process to claim it would be.

Kiwisaver

What happens to my Kiwisaver contributions if I go on leave?

If you are away on sick or annual leave, your personal and employer contributions will continue unless you take a contributions holiday.

For more information on contributions holidays and withdrawing your Kiwisaver early, call 0800 KIWISAVER (0800 549 472) or 04 978 0800 if calling from a cell phone.

Medical Retirement or Medical Incapacity

What happens if I can't continue to work long term, but my employer can't keep my job open?

When an employee is no longer able to do their job due to illness or injury, it can be a challenging time for both employees and employers. In these situations, employees often feel vulnerable and stressed. They may worry about placing stress on other staff and be concerned about what will happen to them financially if they lose their job.

Similarly, their employer may feel pressure about how long they're going to keep the job open and how they'll run their organisation. They might also worry about how to treat the staff member with dignity and manage the workload while they go through any process.

The law does not require an employer to keep an employee in employment if they are unable to fulfil their role, due to illness or injury, or not able to do their work. The question is how long an employer should keep the role open for the employee to return to.

We suggest talking to your employer and reviewing the terms of your employment agreement.

If you would like more information on this, please see our ['Guide to Medical Retirement'](#).

Government Benefits

If you would like information on this, please see our [Fact sheet on Government Benefits](#) with a step-by-step guide on how to apply from Work and Income NZ (WINZ).

