



Parental Leave Policy

Relevant Authority	Department of Finance Enterprise Agreement 2019
Delegate	<p>A delegate will exercise powers and functions in accordance with the Human Resources Delegations.</p> <p>Delegates should ensure that employees are aware of and comply with the requirements of this policy</p>
Related Documents	<p>Public Service Act 1999 (PS Act)</p> <p>Fair Work Act 2009</p> <p>Paid Parental Leave Act 2010</p> <p>Maternity Leave Act 1973 (ML Act)</p> <p>APSC Circular 2021/08: Compassionate Leave for Miscarriage</p>
Approved by	Assistant Secretary, HR Branch
Policy owner	HR Branch
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Key Contact:	Workplacerelements@finance.gov.au

1. What is this policy aiming to achieve?

- 1.1 This policy aims to outline the department's policy on parental leave entitlements.

2. Purpose

- 2.1 Parental leave assists employees to accommodate the needs of their children and families. It includes all forms of leave (paid and unpaid) in relation to parenting: maternity, adoption, miscarriage, long-term foster and parenting leave.
- 2.2 Clause 21 of the Department's EA contains provisions for maternity, parenting and parental leave.

3. Maternity Leave

- 3.1 The ML Act provides pregnant APS employees (ongoing and non-ongoing employees) who have been employed with the APS for a minimum continuous period of 12 months with an entitlement to:
- 12 weeks of maternity leave (the mandatory absence) to count as service; and
 - a 52 week period of absence from the workplace, commencing from the first day of the mandatory absence.
- 3.2 If the qualifying period is not met, the employee is entitled to 12 week's unpaid maternity leave. If the qualifying period is met during the first 12 weeks of unpaid maternity leave, the remainder of the 12 week maternity leave period will be with paid.
- an employee may choose to use other paid leave to which they are entitled to during any period of unpaid maternity leave, this includes leave during the first 12 weeks.
- 3.3 Where an employee is on a non-ongoing contract with Finance and meets the APS qualifying period, they will receive equivalent entitlements to ongoing employees until the end date of their non-ongoing contract.
- 3.4 Maternity leave will be paid according to an employee's agreed regular or part time hours to taking leave. A part-time employee may revert to full time at any time if the delegate agrees and full time work is available. The delegate should only approve such as request prior to maternity leave in exceptional circumstances based on demonstrated operational requirements.

4. Additional Four weeks of maternity leave

- 4.1 An employee who is eligible for paid maternity leave under the ML Act is also entitled to an additional four weeks of paid maternity leave under the Finance EA, increasing their total paid maternity leave entitlement to 16 weeks.
- 4.2 The additional four weeks must be taken immediately following the initial 12 week maternity leave period.
- 4.3 Clause 21.5 of the EA provides the ability for employees who are eligible for the four weeks paid leave (maternity, parenting, adoption and longer term fostering of a child) to transfer one to four weeks of this entitlement to a partner who is a Finance employee.

5. Additional 12 months parental leave

- 5.1 Employees may request an additional 12 months of unpaid parental leave. Upon request from the employee, the delegate will agree to the extension of unpaid parental leave immediately following the initial 12 month period.

6. Using Maternity Leave

- 6.1 Paid maternity leave can be taken at full pay, or half pay or a combination of both not exceeding 32 weeks.
- 6.2 Maternity leave is taken as calendar days and is not extended by public holidays or closedown periods.
- 6.3 Paid maternity leave must be taken at the beginning of the period of maternity leave. It must be taken in one continuous block and cannot be split by other forms of paid or unpaid leave.
- 6.4 Other forms of leave can be used in conjunction with maternity leave to extend the period up to 52 weeks, for example annual, purchase, long service and leave without pay.
- 6.5 Personal leave cannot be accessed while an employee is on maternity leave with pay, in accordance with the ML Act. Employees may apply for paid personal leave during periods of unpaid maternity leave. Approval is submit to satisfactory medical evidence

7. Miscarriage or Stillbirth

- 7.1 If an employee, their spouse or de facto partner has a miscarriage, the employee can apply for up to two days' paid compassionate leave. Compassionate leave for casual employees will be unpaid.

- 7.2 An employee may access paid maternity leave if the pregnancy ends after 20 weeks gestation.
- 7.3 In other circumstances, employees may use other forms of leave, such as personal leave, compassionate leave or special maternity leave under clause 21.3 of the EA, to cover their absence.

8. Mandatory Absence

- 8.1 The ML Act requires that a period of maternity leave begins at least six weeks before the expected date of birth, and concludes six weeks after the birth (also known as the mandatory absence). If the birth occurs more than six weeks before the expected date of birth, the mandatory absence begins from the date of birth.
- 8.2 A pregnant employee can continue to work closer to the expected date of birth if a medical certificate is provided confirming they are fit to work until a specified date.
- 8.3 If an employee is on another form of paid leave (such as personal or annual leave) six weeks prior to the expected date of birth, their mandatory leave will commence immediately unless they provide a medical certificate stating they are fit to continue to work.
- 8.4 If an employee wishes to return to work during the six period after birth, a medical certificate is required stating fitness for duty.

9. Adoption and Long-term Foster leave

- 9.1 An employee with 12 month's continuous service in the APS who becomes the primary caregiver of a child under 16 years through adoption, long term formal foster care or a permanent care order is entitled to a total period of 52 weeks' absence from the workplace, which includes 16 weeks of paid leave from the date of placement of the child.
- 9.2 If the qualifying period is not met, the employee is entitled to 16 weeks of unpaid leave.
- 9.3 Treatment of adoption and long-term foster leave, including combining with other leave types, continuity of service and access to leave at half pay, will be consistent with maternity leave provisions.
- 9.4 Clause 29.1 of the EA sets out leave entitlements for adoption leave.
- Two days pre-adoption leave may be taken to attend interviews or examinations required to obtain approval for an adoption. The leave may be paid through existing entitlements such as annual leave or TOIL, or taken as miscellaneous leave without pay if all paid leave entitlements are exhausted.
- 9.5 Clause 21.11 of the EA sets out leave entitlements for long-term foster leave.

10. Parenting leave

- 10.1 An employee who is not the primary caregiver to a dependent child is entitled to paid leave within 12 months of the birth or permanent placement.
- 10.2 Clause 21.4 of the EA sets out leave entitlements for parenting leave.

11. Continuity of Service

- 11.1 The first 16 weeks of paid maternity, adoption or long-term foster leave will count as service. Where employee takes maternity, adoption or long-term foster leave at half pay, only the first 16 weeks of leave will count as service.
- 11.2 Unpaid maternity leave in excess of 16 weeks will not count as service for any purposes, but will not break continuity of service.
- 11.3 Where an employee takes parenting leave at half pay, the full eight weeks will count as service for all purposes.
- 11.4 Employees who do not have 12 months qualifying service are entitled to 52 weeks maternity LWOP, in these circumstances the first 12 weeks of maternity LWOP will count as service for all purposes.

12. Approval process

- 12.1 Employees should first discuss the proposed parental leave with their manager, then obtain prior approval for all leave through the relevant approval process before the leave is taken. Maternity, Adoption and Long-term Foster leave forms are available on the Intranet and should be forwarded to HR Assist.
- 12.2 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.
- 12.3 Applications for other types of leave to extend the absence (such as annual, purchase, long service leave or unpaid leave) requires approval from the delegate and can be submitted on the Maternity, Adoption and Long-term Foster leave forms.
- 12.4 If an employee wishes to extend their absence while already on leave, in the first instance they should discuss the leave application with their manager to seek their approval, then contact HR Assist setting out the leave type and dates so it can be submitted on their behalf.

13. Effect on superannuation

- 13.1 Members of either the CSS or PSS who proceed on unpaid Maternity Leave are not required to pay contributions for any contribution day falling in the period of leave. Contributors to both schemes may elect to pay contributions for all or some of the contribution days falling during the absence. Any such election may only be in respect of contributions falling on or after the date of election. Where members take paid leave during their unpaid Maternity Leave, they must contribute in respect of any contributions day falling during that paid leave.
- 13.2 Members of an accumulation superannuation funds are entitled to have employer superannuation contributions paid during periods of paid and unpaid parental leave (including maternity, parental, adoption and foster care leave) for periods of leave to a maximum of 52 weeks. Where other types of leave are used during the 52 weeks, superannuation contributions will continue to be paid at the full rate of entitlement.

14. Flexible working arrangements

- 14.1 Finance has an 'if not, why not' approach to flexible work. All roles may be worked flexibly unless there are business reasons that the proposed arrangements are not suitable.
- 14.2 All employees returning from Maternity leave under the ML Act and /or returning from up to 12 months Parental leave (including Adoption or Long-term Fostering leave) will have access to part-time work arrangements until the child reaches school age.
- 14.3 Manager will seek to accommodate the part-time work requests of employees up until the child is of school age.

As not all positions suit part-time work it may be necessary for managers to take a flexible approach to try to accommodate part-time arrangements. Options that may be considered include:

- reassignment to a position that is suitable for part-time work
 - identification of a package of work that can be performed on a part-time basis
 - job-share arrangements
 - where circumstances allow, restructuring duties/job redesign within a team to accommodate a part-time arrangement.
- 14.4 Managers should consult with employees about appropriate arrangements, and depending on operational requirements, the employee may be given suitable duties at their substantive classification either in the role they performed prior to leave or in another role.
- 14.5 An employee who wishes to continue part-time work after the child has commenced school must re-apply under the [Part-time Work Policy](#). Any approval will be subject to operational requirements.

- 14.6 The Finance EA sets out Finance's commitment to providing sufficient support and flexibility to employees to balance work and other responsibilities, particularly through flexible working arrangements and part-time work, home-based work and TOIL.
- 14.7 In addition, the *Fair Work Act 2009* (FW Act) provides that an employee who is a parent or has responsibility for the care of a child, may request a change in their working arrangements. This request may be made by an employee to assist them to care for their child if the child is:
- under school age (i.e. the age at which the child is required by the applicable State or Territory law to start attending school)
 - under 18 and has a disability.

In addition, the FW Act provides that an employee who is a parent, or who has responsibility for the care of a child, may request a change in working arrangements to assist the employee to care for the child. The FW Act provisions apply where a child is under school age or under 18 with a disability.

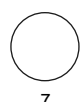
- 14.8 **Request to be in writing.** The provisions of the FW Act requires that an employee is to provide a written request for flexible working arrangements setting out the details of the change sought and the reasons for the change. The appropriate delegate (this will change depending on the type of working arrangement sought) is required to provide a written response within 21 days.
- A request can only be refused on reasonable business grounds, and if the outcome of the request is refusal the reasons for this decision must be set out in the written response
 - Employees are not entitled to make the request unless they have completed at least 12 months of continuous service immediately before making the request.

15. Return to work

- 15.1 At least four weeks prior to returning to work, the employee and their manager should discuss the employee's intentions and needs (for example options to work flexibly and breastfeed breaks), as well as their return role and current business priorities.

15.2 Keeping in touch days

- 15.2.1 An employee, at their request, is able to return to work for up to 10 days full time or part time if they perform one hour or more of paid work on that day during the initial period of unpaid Parental Leave. The purpose of performing the paid work is to enable the employee to keep in touch with their employment in order to facilitate a return to work after the end of the period of the Parental Leave.
- Both the employee and Finance must agree to the performance of paid work on a day that would otherwise be a leave day and the day is not within 14 days after the day the child was born



- Performing work on a keeping in touch day does not break the continuity of the period of unpaid Parental Leave.

15.3 Employees returning from up to 12 months of parental leave will generally return to the role they performed prior to commencing leave on the same full-time or part-time status. If the position no longer exists, the employee may be given alternative duties at their substantive classification (for which they are both suitable and qualified).

15.4 Finance provides paid breaks to staff to breastfeed or express milk during work hours. More information is available in the Support for Breastfeeding at the Workplace Policy.

16. Interaction with Government

16.1 Services Australia provides two financial support payments to help eligible parents take time off work to care for a newborn or recently adopted child.

16.1.1 **Parental Leave Pay (PLP)** – is for eligible working parents who are the child's primary (usually the birth mother or the initial primary carer of an adopted child).

- Employees are encouraged to contact Services Australia at their earliest convenience, to ensure enough time for adequate leave and financial planning to be undertaken prior to the child's birth or adoption
- Payments will only be made by Finance once funds have been received from Services Australia
- Further information in relation to the PLP scheme is available from [Services Australia website](#).

16.1.2 **Dad and Partner pay (DAPP)** - is for supporting dads or partners caring for a child born or recently adopted. Eligible fathers and partners will be able to receive two weeks' of government funded pay provided you are not working or taking paid leave for the same period.

- Eligibility will be assessed by Services Australia based upon a claim made to that Department. The payment is not automatic and a dad or partner must make a claim to be eligible to receive the payment.
- Claims for DAPP pay will be able to be lodged with Services Australia
- Further information in relation to the DAPP is available from [Services Australia](#)

