

## Parental Leave Guidelines

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## 1. Introduction

These Parental Leave Guidelines apply to employees of Secretariat (including Uniting Financial Services) and employees of Uniting Mission and Education (UME) in the Synod of NSW and the ACT.

This document aims to provide information about our Parental Leave processes and entitlements, and to answer frequently asked questions (FAQ's) relating to Parental Leave. This document is intended as a guide only.

It is the responsibility of each employee to determine which benefits they may be entitled to, and to make the necessary enquiries and applications to the Department of Human Services. If you are unsure, please speak with one of the Human Resources or Payroll team.

## 2. What is Parental Leave

As defined by Fair Work Australia, Parental Leave allows employees to take time away from work for the birth or adoption of a child. Parental Leave is available to an employee who is to be the primary caregiver of the newborn or adopted child.

Depending on specific circumstances, employees may be eligible for various forms of Parental Leave and related entitlements, including;

- Parental Leave – unpaid
- Parental Leave – government funded
- Parental Leave – employer funded
- Dad and Partner Leave – government funded
- Dad and Partner Leave – employer funded 'top up'
- Adoption Leave
- Special Maternity Leave
- Safe Job and no Safe Job Leave

Parental leave must be taken in a single continuous period, starting within the six weeks prior to the expected date of birth of the child, or in the case of adoption, the placement date of the child.

## 3. Eligibility

Parental leave is available to all permanent and casual employees who have a minimum of 12 months' continuous service with the employer prior to the date of birth, or expected date of birth, of the child, or in the case of adoption, the day of placement of the child.

To ensure their application and any potential payments are processed correctly, employees must follow the notice and evidence requirements as listed below in this document.

## 4. Unpaid Parental Leave

Unpaid parental leave forms part of the National Employment Standards (NES). Unpaid parental leave is an entitlement for an initial period of up to 12 months' unpaid leave that is associated with:

- the birth of a child to an employee or their partner, or
- the placement of a child aged under 16, with an employee for adoption.

To be eligible, the employee will have primary responsibility for the care of the child. Notice and evidence must be given to the employer as outlined in this document below.

Unpaid parental leave must be taken in a single continuous period, starting within six weeks of the expected date of birth of the child or in the case of adoption, the placement date of the child.

## 5. UCA Paid Parental Leave Scheme

Eligible employees of Secretariat and Uniting Mission and Education are able to access a defined period of employer-funded parental leave for the primary caregiver of a child. At the **commencement of the parental leave period**, an employee may receive up to twelve (12) weeks paid parental leave at their ordinary/substantive rate of pay.

This payment is inclusive of superannuation payments. **Leave is to be taken at the employee's substantive rate of employment, that is, in line with their contracted rate of employment.** For example, a full-time employee will be paid at their full time rate of pay, and a part-time employee will be paid at their normal part-time rate of pay.

Paid parental leave can be taken in addition to other accrued leave entitlements, however each leave type must be specified separately on the leave form and taken consecutively. **The paid parental leave component is to be taken before any government paid parental leave.**

Employees may use their 'Me Day' prior to any period of parental leave, but not during the parental leave period. They also need to be back in the workplace for 3 months before being able to take a 'Me Day'

**Public holidays are included in the period of paid parental leave** and are not paid in addition to this leave (ie, they do not extend the period of paid parental leave)

Paid parental leave forms part of the total period of parental leave requested by the employee (up to 12 months in the first instance). For more information, please speak with the Synod's Payroll or HR team.

## 6. Government Paid Parental leave

Eligible employees are currently able to access up to 18 weeks of government-funded paid parental leave, at the national minimum wage. Employees should contact the Department of Human Services to determine their eligibility and to apply for government funded paid parental leave.

Government payments are made to the employer, who then pays the employee. Payments can be made before, after or at the same time as other entitlements, such as annual, long service leave and employer funded parental leave, however the different leave types must be specified separately on the application for leave form submitted by the employee.

Once the maximum period of 30 weeks paid parental leave plus any statutory entitlements has lapsed, the employee will be on unpaid parental leave or will be required to return to work.

It is the employee's responsibility to organise this element of leave and the employer's obligation to pay via their payroll.

## 7. Concurrent leave

In line with the fair work guidelines working parents may both want to take unpaid parental leave. The parents can be working for the same or different employers.

### Both parents taking parental leave at the same time

Parents who are married or in a de facto relationship can take up to 8 weeks' unpaid parental leave at the same time. This is called 'concurrent leave.' Concurrent leave can start:

- on the birth or placement of the child
- earlier than this date, if the employer agrees or
- later than this date, however must be within 12 months of the birth or placement of the child.

Concurrent leave can be taken in separate periods. Each period has to be at least 2 weeks long, however, an employer can agree to shorter lengths.

Concurrent leave is part of an employee's total unpaid parental leave entitlement. This means that any concurrent leave taken is deducted from the total parental leave entitlement.

## Both parents taking parental leave at different times

Each parent can take a separate period of up to 12 months' unpaid parental leave. The combined leave cannot be for more than 24 months. Any concurrent leave or keeping in touch days taken are deducted from this overall entitlement.

If the pregnant employee takes unpaid parental leave first, it has to start:

- on the birth or placement of the child or
- up to 6 weeks before the expected birth (or earlier if their employer agrees).

If the employee who isn't pregnant takes unpaid parental leave first, the leave will start on the birth or placement of the child. If the leave is adoption related, one parent will start their leave period on the date of placement of the child.

In both cases, leave has to be taken in a single continuous period. This means the other parent has to start their unpaid parental leave the next working day after the first parent's leave ends.

## 8. Dad and Partner Pay

On 1 January 2013, the government-funded Dad and Partner Pay initiative was introduced. This initiative provides two weeks paid leave at the national minimum wage for parents who are not the primary carer of their children.

Dad and Partner Pay can be received at any time in the first year after the child's birth or adoption, as long as the dad or partner is on unpaid leave. This means that Dad and Partner Pay must start within 50 weeks of the child's birth or adoption to ensure that payments are made in time.

To be eligible for this federal government entitlement, an employee must meet the Department of Human Services eligibility criteria, and must either be on unpaid leave from work or not working. For further details, please contact the Department of Human Services.

For all permanent employees of Secretariat and UME, the employer will "top up" the difference between the government funded Dad and Partner Pay and the employees usual wage, **if it is taken within 6 weeks of the birth of the child**. This is to allow our dads and partners to spend some quality time with their family without a financial burden or dipping into their annual leave.

## 9. Special Maternity Leave

A pregnant employee who is eligible for unpaid parental leave can take unpaid special maternity leave if:

- she has a pregnancy-related illness or
- her pregnancy ends after 12 weeks because of a miscarriage, termination or stillbirth.

If an employee takes special maternity leave because of a pregnancy-related illness, the leave will end when the pregnancy or illness ends, whichever is earlier. If she takes leave because of a miscarriage, termination or still birth leave can continue until she is fit for work.

Special maternity leave won't reduce the amount of unpaid parental leave that an employee can take.

An employee will need to tell her employer as soon as possible (which can be after the leave has started) that she is taking special maternity leave. She will also need to advise how long she expects to be on leave.

The employer can ask for evidence and can request a medical certificate as outlined below.

## 10. Safe Jobs

All pregnant employees, including casuals, are entitled to move to a safe job if it isn't safe for them to perform their usual duties because of their pregnancy. This includes employees that aren't eligible for unpaid parental leave.

An employee who moves to a safe job will still receive the same pay rate, hours of work and other entitlements that she has in her usual job. She and her employer may agree on different working hours. She will remain in the safe job until it's safe to return to her normal job, or until she gives birth.

The employee will need to give her employer evidence that:

- she can work but isn't able to carry out her normal duties – specific tasks may need to be noted as well as potential safe modifications, and;
- how long she should abstain from the duties of her normal job, and;
- evidence of when it is safe to return to her normal job

The employer can request this information be provided in a medical certificate.

### When no safe job is available

If there is no safe job available, the employee can take 'no safe job leave'. If the employee is entitled to unpaid parental leave, no safe job leave is paid. For a full-time or part-time employee, no safe job leave is paid at the base rate of pay for ordinary hours of work.

For a casual, no safe job leave is paid at the base rate of pay (not including the casual loading) for the average number of hours they would have worked in the period they're on leave.

Employees who aren't entitled to unpaid parental leave can take unpaid no safe job leave.

## 11. Notice Requirements

Employees requesting parental leave must provide their employer at least 10 weeks' written notice of their intention to take leave.

Included in the request must be;

- An application for leave form showing the commencement and end date of the total period of parental leave (no longer than 12 months).
- If various forms of leave are being requested, (e.g., employer paid parental leave, long service or annual leave etc), each type must be specified separately on the form, and;
- A doctor's certificate stating the expected due date of the baby, or;
- Official documents from the adoption clinic, and;
- Manager approval

If an employee can't provide the appropriate notice (for example, if the baby is born prematurely), they will still be entitled to take the leave as long as they provide notice as soon as they can.

Discuss with the HR team or Payroll Manager your options and plans for the breakdown of your leave.

### 4 weeks before commencing leave

An employee must confirm their parental leave dates with their employer. If there have been any changes to the dates the employee should discuss with their employer as soon as possible. If an employee can't provide 4 weeks' notice, they need to provide as much notice as possible.

### Concurrent leave notice

Employees who are taking concurrent leave (parents taking leave at the same time) need to provide at least 10 weeks' notice to their employer for their first period of concurrent leave. For second and later periods, they need to provide at least 4 weeks' notice.

## 12. Evidence Requirements

Employers can ask employees for evidence of the expected date of birth or of the date of placement of an adopted child, for example a medical certificate of official adoption documentation.

Further, where the welfare of a pregnant employee needs to be confirmed, the employer can request the employee provide a medical certificate stating that it is safe for them to continue to work safely, or specify conditions that would ensure her safety. This evidence must include an expected end date, and if it does not, a medical certificate may be required before normal work can resume.

If an employee can't provide correct evidence, they may not be entitled to the leave.

If a pregnant employee wishes to work in the final 6 weeks of pregnancy she must provide a medical certificate stating that she is fit for work. The statement must also show whether it is inadvisable for her to continue in her present position during a stated period because of either illness or risks arising from pregnancy, or hazards connected with the position. If the team member cannot provide a medical certificate to this effect, she may be required to commence her leave early.

## 13. Extending Leave

### Up to 12 months

Under the Fair Work Act, an employee with at least 12 months' continuous service has a right to initially request up to 12 months' parental leave. An employee can extend their initial leave request, up to the period of 12 months, by providing 4 weeks written notice. The notice must include the expected return to work date.

For example; an employee requests to take 6 months' parental leave at the due date of her baby. At 5 months, the employee feels they are not ready to return to work, and decide to extend their parental leave period by 3 months, extending the total leave period to 9 months. The employee can extend their leave again, by providing 4 weeks written notice, up to the period of 12 months.

### Past 12 months

Under the Fair Work Act, an employee with at least 12 months' continuous service has a right to request an additional 12 months' parental leave. This extends the total leave period to 24 months.

An employee can only request to extend past the 12-month initial period one time. The request must be made in writing and provided 4 weeks prior to their expected return to work date. The employer must give reasonable consideration to the request and any rejection can only be made on the basis of 'reasonable business grounds'.

## 14. Keeping In Touch Days

Keeping in touch days allows an employee to stay connected with the workplace and assist in their transition back into work. This is available for employees who are on unpaid parental leave.

An employee on unpaid parental leave is eligible for 10 keeping in touch days per up to 12-month parental leave taken. A paid work activity of 1 hour or more within a day for the purpose of keeping in touch counts as 1 keeping in touch day out of the 10 day limit.

Keeping in touch days can be worked:

- As a part day
- 1 day at a time
- A few days at a time, or
- All at once

The **employee and employer** have to agree to the keeping in touch days.

A paid work activity for the purpose of keeping in touch can help you:

- Refresh your skills
- Transition back into the workplace
- Become familiar with new or updated processes
- Be involved in planning discussions or meetings that may affect your role

Activities that are considered keeping in touch (but are not limited to);

- Participate in a planning meeting
- Performing on the job training
- Performing work to become familiar with the workplace or your role before returning to work

Resuming regular work activities other than keeping in touch days is considered to be returning to work. You will also be considered as having returned to work if you access more than 10 keeping in touch days before the end of each 12 month parental leave period.

Work performed on a keeping in touch day will count as service, and will accrue towards your personal and annual leave and the hours worked will be paid.

To request a keeping in touch day;

1. Email your request for keeping in touch to your manager for approval
2. Forward your approval, start and end date, hours taken with the subject "Keeping in Touch" to Human Resources on [people@nswact.uca.org.au](mailto:people@nswact.uca.org.au)

For more information on keeping in touch days please click on [here](#).

<https://www.fairwork.gov.au/leave/maternity-and-parental-leave/when-on-parental-leave/keeping-in-touch-days>

## 15. Returning to Work From Parental Leave

When an employee intends to return to work, they must notify their manager and Human Resources at least 4 weeks prior to the end of his/her Parental leave.

For helpful information please click [here](#).

<https://www.fairwork.gov.au/leave/maternity-and-parental-leave/returning-to-work-from-parental-leave>

### Right to Return to the Same Job

An employee who has been on unpaid parental leave is entitled to come back to the job they had before they went on leave, even if another employee is working in their role as a replacement.

If an employee was transferred to a safe job before they took parental leave or they reduced their hours due to the pregnancy, then they are entitled to return to the job before the transfer or reduction.

### When an Employee's Job no Longer Exists

When an employee's job no longer exists or it has changed, then they should be offered a suitable job that:

- The employee is qualified and suited to work in
- Is nearest to their old job in pay and status.

Discussing Changes to an Employees Job:

If the employer decides to make a significant changes to an employee's job (status, pay or location), whilst the employee is on unpaid parental leave, they have to:

- Discuss these changes with the employee
- Give them an opportunity to speak about the changes



Changing Hours and Requesting Flexible Working Arrangements:

Certain employees, such as parents returning to work after taking parental leave, have the right to request flexible working arrangements.

For more information on flexible working arrangements please click [here](#).

### Employees on Fixed Term Contracts

Under the Fair Work Act an employer does not have to extend an employees fixed term contract because they are on parental leave.

If an employee is on a fixed term contract and it ends while they are on unpaid parental leave, they are not entitled to return unless the employment contract states otherwise.

If the fixed term contract ends after an employee comes back from leave an employee is entitled to return to the same job.

## 16. Requesting Parental Leave

If an employee is requesting parental leave they must provide at least 10 weeks' written notice of their intention to take leave.

Included in this request must be:

- An application for leave form, click [here](#), showing the commencement and end date of the total period of parental leave (no longer than 12 months in total);
- If various forms of leave are being requested (e.g annual leave, paid parental leave, unpaid parental leave, long service leave) each type of leave must be specified separately on the form;
- A doctor's certificate stating the expected due date of the baby; and
- Manager approval

An indicative payment schedule can be drawn up by payroll **after** this process has been completed.

4 weeks before commencing parental leave an employee must confirm their parental leave dates with their manager to confirm the final period of absence.

For information about the Government's paid parental leave, please click the [link](#).

## 17. Frequently Asked Questions

*Q. Does an employee have a 'right' to return to their previous position when they return to work after parental leave?*

When returning to work after parental leave, an employee is entitled to return to their former position. If the position no longer exists, the employee is entitled to be given another position for which they are qualified and which is nearest in status and remuneration to their previous role. While an employee is on unpaid parental leave, the employer must take all reasonable steps to inform them about any decision that will significantly affect the pay and/or status of their position. This communication allows the employee to be consulted in relation to change/s, and have the opportunity to discuss them with the employer.

*Q. Do casual employees have rights to Parental Leave?*

Yes. A further outcome of the Parental Leave Case (1990) was that the original entitlements for parental leave were extended to casual employees who had at least 12 months' continuous service with their employer. This right also continues as one of the NES, in circumstances where the employee has a reasonable expectation of continuing employment with the employer but for the birth or adoption of a child.

*Q. What about the rights to Parental Leave for same sex couples?*

The NES for parental leave applies to same sex couples.

*Q. What happens if the two partners (parenting the child) are both employees?*

Where two partners are both employees of the same organisation, they may each take up to 12 months' parental leave, but not at the same time. Apart from a short period of shared leave (up to a period of eight weeks), which can be taken in separate periods (usually no shorter than two weeks), the bulk of parental leave is to be taken by one partner or the other. The two parents can choose to split the leave if they wish, taking turns to act as 'primary' carer for the child.

*Q. What happens if pregnancy related medical issues arise and the employee cannot work for a period of time? What type of leave is she entitled to take? Can she be asked for any medical proof of her condition?*

A female team member can utilise either personal (sick) leave or unpaid special maternity leave during pregnancy if she is suffering from a pregnancy related illness. An employer can ask for evidence of the need to take special maternity leave, and can request a medical certificate. A medical practitioner must certify the necessary period of leave.

*Q. What happens if a pregnant employee is unable to perform part of her duty due to her pregnancy, such as lifting and carrying items?*

In some cases, women need to be transferred from their present position to an alternative role or "Safe Position", because of potential risks to their pregnancies. Such a transfer will require medical advice and the following conditions to be met:

- A medical practitioner's certificate stating whether it is safe for the employee to continue to work, which duties the employee can and cannot undertake and the period for which these conditions are expected to continue;
- There is an alternative role available with the Employer; and
- The rate and conditions attached to the alternative role are the same.

In the unlikely event that there is no "safe job" available, an employee is entitled to paid leave for the regular hours of work they would normally perform. Where possible, any duties that a pregnant employee cannot perform, such as heavy lifting, can be carried out by another employee.

*Q. What leave is available to the partner at the time the baby is born?*

Following the introduction of the federal government's Dad and Partner Pay initiative, eligible employees are entitled to two weeks paid leave at the national minimum wage paid for by the government. The employee must meet the eligibility requirements and be on unpaid leave for two weeks to be entitled to the payment. If the employee wishes to take a longer period of leave than that offered by the federal government, they can apply for a period of annual leave in addition to their unpaid leave of two (2) weeks.

In addition, UCA will offer to “top up” the gap between the government funded Dad and Partner Pay and the employee’s usual wage, if it is taken within 6 weeks of the birth of the child.

*Q. Can an employee request a period of parental leave so he/she can be the primary caregiver of the child as their partner has been on 12 months’ parental leave and is returning to full time work?*

Both parents and caregivers are entitled to a separate period of up to 52 weeks’ unpaid parental leave, if they have a responsibility for the child. The period of the second parent or care-giver’s unpaid parental leave must start immediately (the next working day) after the end of the first period of parental leave. The total period of parental leave taken by both parents and caregivers must not exceed 24 months, less any special maternity leave.

*Q. How close to the due date can a pregnant employee work?*

If a pregnant employee wishes to work in the final 6 weeks of pregnancy she must provide a medical certificate stating that she is fit for work. The statement must also show whether it is inadvisable for her to continue in her present position during a stated period because of either illness or risks arising from pregnancy, or hazards connected with the position. If the team member cannot provide a medical certificate to this effect, she may be required to commence her leave early.

*Q. Can an employee who is on parental leave request an extension of their leave?*

An employee who has been on unpaid parental leave for 52 weeks can request an extension of unpaid parental leave for a further period of up to 52 weeks immediately following the end of their unpaid parental leave period. Employers are required to consider all such requests and respond in writing no later than 21 days after the request is made. The request may be refused due to reasonable business grounds, details of which must be included in the written response.

*Q. What about an employee on 52 weeks’ parental leave who requests to return to work earlier?*

An employee whose period of unpaid leave has started, may request to reduce the period of their unpaid parental leave. The approval of such requests will be at the employer’s sole discretion and may factor in issues such as a contract employee working in the role as parental relief cover. All requests must be submitted in writing.

*Q. Can a full time employee request to return to work from parental leave part time?*

Under the Fair Work Act, an employee does not have a right to return from parental leave on a part-time basis. However, an employee who is a parent, or has responsibility for the care of a child, may make a request for flexible working arrangements, which would include a request for part-time work, to assist them in caring for their child if the child is under school age or is under 18 and has a disability. All requests must be made in writing and specify the details and reasons for the change/s sought. Once a written request is received the employer must give the employee a written response within 21 days, stating whether the request is granted or denied. The request can be refused but only on reasonable business grounds, which must be detailed in the written response.

*Q. What happens when an employee extends their period of unpaid parental leave beyond 12 months, can they take an additional 10 keeping in touch days?*

Yes

*Q. Does an employee need to use keeping in touch days?*

An employee does not need to use keeping in touch days if they do not wish to.

A keeping in touch day can be worked at least 42 days after the birth of a child or adoption. It can only be earlier if the employee requests it. If a request is made, a keeping in touch day can’t be worked earlier than 14 days after the birth or adoption. The manager and employee have to agree to keeping in touch days.

*Q. Can an employee take the paid parental leave at a rate less than their substantive (normal) rate of Pay?*

No, payment will be made at the substantive rate.

Q. Are public holidays included in the period of paid parental leave?

Public holidays do not extend the period of paid parental leave.

Q. Is an employee entitled to any 'gifted days' that fall during the period of paid parental leave?

No, as for public holidays they do not allow for the period of paid parental leave to be extended beyond 12 weeks.

Q. Can a 'Me Day' be used in any period of paid parental leave?

No, Me days must be taken before any period of paid parental leave begins and in line with the policy guidelines for these days. A period of 3 months applies on return from parental leave before another 'Me Day' can be taken if eligible.

**If you have any other questions in regard to your entitlements or processes please ask your HR team for assistance and advice.**