**Parental Leave Policy**

# Purpose

This policy sets out the parental leave and related entitlements for all [insert firm name] (**Firm**) employees and outlines the procedure for accessing parental leave entitlements.

This Policy should be read and interpreted in conjunction with the NES. If the NES or your employment contract contain a more favourable entitlement than this Policy, the more favourable entitlement will apply.

# Legislative parental leave entitlements

If you satisfy the eligibility requirements, you are entitled to 12 months of unpaid parental leave in accordance with the *Fair Work Act 2009* (Cth) (**Fair Work Act**), as amended from time to time.

You will be eligible to access unpaid parental leave if you are a permanent employee or regular casual employee and you have completed 12 months of continuous service with the Firm as of the:

* expected date of birth, where the leave is unpaid special parental leave or birth related leave starting before the birth of the child;
* date of placement, for adoption related leave; or
* the date on which the employee’s period of leave is due to start, in any other case.

Parental leave can be taken where:

* you, your spouse, or your de facto partner gives birth; or
* you and/or your spouse or de facto partner adopt a child under the age of 16.

You may take accrued annual or long service leave entitlements concurrently with a period of unpaid parental leave, provided your total absence from work does not exceed 12 months, including any period of flexible parental leave and subject to any extensions of parental leave granted under clause 7 of this Policy.

# Notice and evidence requirements

# Request for parental leave

To take a period of parental leave, you are required to provide:

* at least 10 weeks’ written notice (unless it is not possible) prior to the proposed commencement date of the leave; and
* a medical certificate confirming the pregnancy and the expected date of the birth.

As your intended start date may change, you are expected to discuss with your manager or supervising Partner the timing of when you expect to take parental leave and confirm, at least 4 weeks prior to the leave commencing, the intended start and end dates of your leave.

If you are pregnant, your period of parental leave may start up to 6 weeks before the expected date of birth, or earlier if agreed with the Firm. Your period of parental leave must end during the 24 month period starting on the date of the child’s birth.

If you are not pregnant and the leave is birth-related leave, the period of leave must start and end during the 24 month period starting on the date of the child’s birth.

# Adoption leave

If you wish to take a period of adoption leave, you must provide the Firm with 10 weeks’ notice, or as much notice as possible where relevant, of the date on which the leave is expected to commence and the amount of leave requested.

Adoption leave must start and end during the 24 month period starting on the day of placement of the child.

To take adoption leave, you must provide the Firm with:

* at least 10 weeks’ written notice prior to the proposed commencement of the adoption leave; and
* a statutory declaration stating that you are requesting to take a period of adoption leave to become the primary carer of a child under the age of 16.

You are entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required to adopt. If you wish to take pre-adoption leave to attend an interview or examination required in relation to the adoption of a child, you must provide the Firm with written notice as soon as practicable, including the expected date and period of the leave, and evidence of the scheduling of the interview or examination.

# Flexible parental leave

Up to 100 days of your entitlement to parental leave under clause 3.1 or 3.2 of this Policy may be taken as flexible unpaid parental leave in accordance with the Fair Work Act. Flexible parental leave can be taken as separate periods of one or more days or in a single continuous period.

Flexible unpaid parental leave can be taken during the 24 month period starting on the date of birth or day of placement of the child. If you are a pregnant employee, you may take flexible unpaid parental leave during the 6 week period prior to the expected date of birth of the child.

You must give at least 4 weeks’ written notice of your intention to take flexible parental leave or, if not practicable, as much notice as possible.

# Compassionate parental leave

If you are entitled to unpaid parental leave in accordance with the Fair Work Act, you remain entitled to take that period of leave if the child is stillborn after 20 weeks gestation.

You may cancel your intended period of parental leave by giving notice to the Firm cancelling your intended parental leave and confirming your expected return to work date.

Parents who experience a stillbirth or infant death may take compassionate leave while on parental leave.

# Other entitlements related to parental leave

# Safe job

If you are a pregnant employee and you provide medical evidence that you are fit for work but cannot continue working in your current position due to the risk of harm to you or your baby, or a hazard associated with your position, the Firm will transfer you to an appropriate safe job, if available. You may remain in the safe job until it is safe for you to return to your usual role, or you begin your parental leave, whichever is sooner.

If no safe position is available, pregnant employees who are otherwise entitled to parental leave will be entitled to paid “no safe job” leave.

# Special parental leave

If you are a pregnant employee who is entitled to parental leave, you are also entitled to unpaid special parental leave in respect of any period where you are not fit for work because of a pregnancy related illness or a miscarriage that has occurred between 12 and 20 weeks gestation. To take a period of special maternity leave, you are required to:

* notify the Firm as soon as practicable, which may be after the leave has started; and
* provide a medical certificate or other acceptable evidence that you need to take a period of special maternity leave, where requested by the Firm.

You may take personal/carer’s leave instead of unpaid special parental leave if you have accrued entitlements available.

# Pregnant employees may be required to take leave prior to birth

If you are a pregnant employee who is entitled to unpaid parental leave, the Firm may require you to provide a medical certificate confirming you are fit to continue working in the 6 week period prior to the expected birth of your child. The medical certificate must state that you can continue working without risk of harm to you or your baby or that it is inadvisable for you to continue working.

# Flexible working arrangements during pregnancy

An employee who has completed at least 12 months of continuous service with the Firm may request flexible working arrangements during pregnancy, such as:

* varying your starting and finishing times;
* reducing your hours of work; or
* remote working arrangements.

The Firm will accommodate any request for flexible working arrangements if reasonably practicable to do so.

A request for flexible working arrangements must be made in writing to your manager or supervising Partner.

The Firm will consider your request for flexible working arrangements and respond to your request within 21 days advising if it can be granted, having regard to the business requirements at the time. Where approved, your temporary working arrangements will be confirmed in writing.

If the Firm cannot grant your request, it will discuss the request with you to advise of the reasons it cannot grant the request and to identify if there are other working arrangements it can make to accommodate your circumstances.

A request will only be refused based on reasonable business grounds. If this occurs, we will advise you of the reasonable business grounds in writing.

# Keeping in touch days

You are entitled to a maximum of 10 keeping in touch days, to be taken during the period of parental leave. Keeping in touch days can be worked as part days, whole days and taken in separate periods or one consecutive block.

Keeping in touch days allow you to perform work during your parental leave to stay up to date with the workplace, refresh your skills and assist in your eventual return to work after parental leave.

If you wish to use your keeping in touch days, you must speak with your manager or supervising Partner about the proposed days and the work you would perform. Keeping in touch days must be approved by the Firm.

You will be paid your normal salary for a keeping in touch day. Payment for a keeping in touch day will not affect the continuity of your period of parental leave.

# Requests to extend parental leave

You are entitled to request an extension to any period of parental leave for a maximum period of an additional 52 weeks. You must submit a written request for the extension at least four weeks before your expected return to work date.

The Firm will consider your request and advise if it can be granted, having regard to the business requirements at the time. Where approved, your total combined period of parental leave cannot exceed two years.

If the Firm cannot grant your request, it will discuss the request with you to advise of the reasons it cannot grant the request and to identify if an alternative agreement can be reached. A request will only be refused based on reasonable business grounds.

# Paid parental leave

# Government paid parental leave scheme

You may also be eligible for government payments, depending on your circumstances. To be eligible for parental leave pay under the government scheme, you must have an individual taxable income of $156,647 or less for the financial year in which you are applying for the payment. If your income exceeds this amount, you may still be eligible for parental leave pay if you and your partner’s combined taxable income is less than $350,000 for the financial year. You must also meet residence requirements and a work test. These eligibility requirements are subject to change from time to time. You can investigate your eligibility for payments under the government scheme at [www.servicesaustralia.gov.au](http://www.servicesaustralia.gov.au).

The government parental leave scheme includes payment for up to 100 days, or 20 weeks of 5 working days, payable at a rate of $176.55 (gross) per day (as at May 2024).

If you have a partner, 10 days (2 weeks) of the paid parental leave scheme entitlement will be reserved for your partner’s use, with a maximum of 90 days able to be taken by one parent in the couple. If you are a single parent, you can access the full 100 days.

If you intend to claim paid parental leave under the government scheme, you must notify the Firm at least 10 weeks prior to the expected date of your parental leave.

# OPTIONAL: Firm provided paid primary carer leave

If you take parental leave and you are the primary carer of the child, you are entitled to [insert – refer to fact sheet for guidance on what is offered by other firms] weeks parental leave paid by the Firm.

Paid parental leave is to be taken concurrently with your 52 weeks of unpaid parental leave and does not extend the maximum 52 week period.

You can elect to be paid parental leave at full pay or at half pay. If you do not notify the Firm of a preference to be paid at half pay, your paid parental leave will be paid to you at full pay.

Part-time employees are entitled to a pro-rata portion of the paid parental leave entitlement.

# OPTIONAL: Firm provided paid secondary carer leave

If you take parental leave and are not the primary carer of the child, you are entitled to [insert – refer to fact sheet for guidance on what is offered by other firms] weeks’ parental leave paid by the Firm.

Secondary carer paid parental leave is to be taken at or about the time of the birth or placement of your child. Any other leave you are entitled to under this policy, such as unpaid parental leave, will be reduced by the amount of paid parental leave you take.

Part-time employees are entitled to a pro-rata portion of the paid parental leave entitlement.

# Returning to work

You must provide at least four weeks’ written notice of your expected return to work date.

On your return to work, you are entitled to return to:

* your pre-parental leave position; or
* if that position no longer exists, an available position for which you are qualified and suited, nearest in status and pay to your pre-parental leave position.

You will be entitled to make a request for flexible working arrangements on your return to work, provided that:

* you have completed at least 12 months of continuous service with the Firm; and
* you remain responsible for the care of a child (school aged or younger)

Flexible working arrangements may be temporary (such as whilst child care arrangements are implemented) or permanent (whilst your child or children remain school aged or younger). This may include arrangements such as:

* varying your starting and finishing times;
* reducing your hours of work; or
* remote working arrangements.

The Firm will accommodate any request for flexible working arrangements if reasonably practicable to do so.

A request for flexible working arrangements must be made in writing to your manager or supervising Partner.

The Firm will consider your request for flexible working arrangements and respond to your request within 21 days advising if it can be granted, having regard to the business requirements at the time. Where approved, your temporary working arrangements will be confirmed in writing.

If the Firm cannot grant your request, it will discuss the request with you to advise of the reasons it cannot grant the request and to identify if there are other working arrangements it can make to accommodate your circumstances.

A request will only be refused based on reasonable business grounds. If this occurs, we will advise you of the reasonable business grounds in writing.

If there are other accommodations which would support your return to work, you are encouraged to raise this directly with your manager or Partner in writing, and the Firm will give consideration to whether those accommodations can reasonably be accommodated.

# Dispute resolution

If you have made a request under clauses 5.2, 7, 8 or 11 of this Policy for flexible working arrangements or to extend your period of parental leave and you:

* are concerned about the process followed in relation to your request;
* have not received a response within 21 days of making a request; or
* believe your request has been unreasonably refused,

you should speak to your manager, supervising partner or HR.

If your dispute is not resolved after speaking with your manager, supervising partner or HR, you can apply to the Fair Work Commission to have the dispute resolved.