



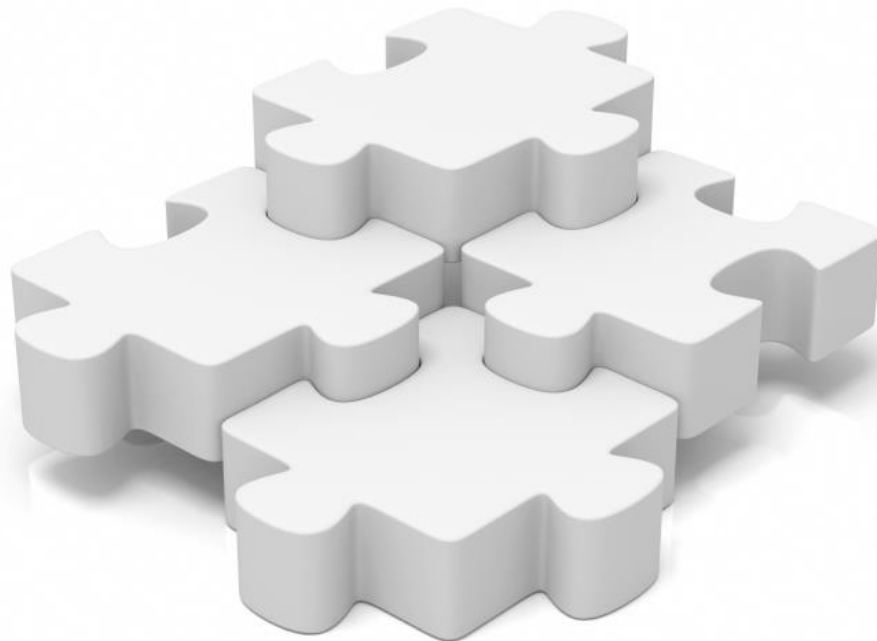
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A Smarter Alternative

## The WorkPac System

# Parental Leave and Return to Work Procedure - FTMs



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Applies To:	ALLOPS	Responsible for Review:	General Manager - Employment Relations	Date of Approval:	18 <sup>th</sup> July 2023

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## 1. WHY WE DO IT

WorkPac is committed to attracting and retaining quality employees. The organisation is therefore focused on providing support to new parents and encouraging them to return to work. This support includes parental leave and return to work options.

This procedure sets out information regarding parental leave, the Federal Government's paid parental leave scheme and return to work options offered by the WorkPac to ensure that employees can plan and balance the demands of both their family and work lives.

## 2. DEFINITIONS

<b>Department of Human Services</b>	The Federal Government's Department of Human Services, responsible for administering the paid parental leave scheme and ensuring employees are eligible for paid parental leave.
<b>Employee</b>	The relevant WorkPac employee or Field Team Member (FTM).
<b>Manager</b>	The FTM's WorkPac Representative.
<b>NES</b>	The 'National Employment Standards' established under the Fair Work Act 2009 (Cth), as amended or replaced from time to time. The NES prescribes employees' minimum entitlements, including parental leave.
<b>Paid Parental Leave</b>	Parental leave that is paid under the Federal Government's paid parental leave scheme, as amended from time to time
<b>Parental Leave</b>	Parental leave is a period of leave taken when a child is born or adopted. Parental leave may encompass maternity leave, paternity/partner leave, adoption leave and special maternity leave. A period of parental leave may include unpaid parental leave, annual leave and long service leave, should the employee be entitled to those forms of leave.
<b>Primary Carer</b>	A primary carer is the person who assumes the principal role of caring for a child. There can only be one primary carer for any child at any one time. The primary carer may be either parent.
<b>Secondary carer</b>	A secondary carer is a parenting partner who is not the primary carer.

## 3. THE NATIONAL EMPLOYMENT STANDARDS

The NES sets out minimum requirements in relation to Parental Leave and associated matters. This procedure is intended to meet and compliment the requirements of the NES. To the extent that anything in this procedure is:

- Inconsistent with any NES requirement; and
- Less favourable to an employee than the relevant NES requirement.

then the NES requirement will prevail to the extent of the inconsistency.

## 4. PREGNANT EMPLOYEES

Pregnancy is not considered an illness or injury and therefore employees will typically continue in their same role performing their usual duties throughout their pregnancy. However, WorkPac understands that some employees may experience pregnancy-related illness or injury and accordingly, WorkPac will attempt to support the employee where possible in such circumstances. Personal leave (sick leave) entitlements remain available to employees who experience a pregnancy-related illness or injury, in addition to the following entitlements.

### 4.1 Safe Job

An employee who cannot safely complete their usual job due to pregnancy are entitled to move to a safe job. WorkPac's obligation to find a safe job extends to casual employees and those who are not eligible for unpaid parental leave. The employee will need to provide their manager with evidence that they have some capacity to work but cannot perform their normal job (including why her normal job is not safe) and the expected duration of the period they should not work in their normal job for. This should be provided in the form of a medical certificate outlining the incapacity and/or restrictions.

Alternatively, an employee may also be unfit to continue in their usual role due to workplace restrictions, rather than their own medical condition/s. If there is a workplace policy or procedure that provides that a pregnant employee cannot continue working in that workplace past a particular point, then the employee is also entitled to move to a safe job. *An example of this would be a site policy that pregnant employees cannot continue to work on site past the 20 week mark because the vibrations in that environment pose too great a risk to the foetus. A safe job could be in a crib relief crew, on a different site or in an office (i.e. on Site, WorkPac office, charity office in town etc).*

An employee moved to a safe job is still paid the same rate, for the same hours of work, inclusive of any other entitlements payable in their usual job. The employee and manager may agree on varied working hours if appropriate, with no decrease to the employee's pay. The employee will remain in the safe job until they are able to safely return to their normal job. If this does not occur, the employee will remain in the safe job until the commencement of parental leave.

If the employee cannot be moved to a safe job because there is not one available, the employee may commence 'no safe job' leave. If the employee is eligible for unpaid parental leave (see Section 5.1 Eligibility), their 'no safe job' leave is paid. Permanent employees are paid this at their base rate of pay for ordinary hours of work. Casuals are paid at the base rate of pay (excluding casual loading) for the average number of hours they would otherwise have worked. Employees who are not entitled to unpaid parental leave are also not eligible to be paid 'no safe job' leave.

### 4.2 Special Maternity Leave

A pregnant employee who is eligible for unpaid parental leave (see Section 5.1 Eligibility) can take unpaid special maternity leave if they have a pregnancy-related illness, which will last for the duration of the illness or until the birth (whichever is earlier). Special maternity leave is not included in the employee's period of unpaid parental leave and therefore does not affect the period the employee is entitled to take.

An employee can also take unpaid special maternity leave if their pregnancy ends after twelve (12) weeks due to miscarriage, termination or stillbirth. In those circumstances, the special maternity leave will conclude when the employee is fit for work.

Employees who are taking special maternity leave should advise their manager as soon as possible that they need to take special maternity leave and the expected duration. The manager should request evidence (such as a medical certificate) to confirm that the employee is suffering from a pregnancy related illness or (if required) that their pregnancy has ended for one of the reasons outlined above.

## 4.3 Pregnant Employees Requesting a Flexible Working Arrangement

Under the NES and the Fair Work Act, an employee has the right to request a Flexible Working Arrangement (FWA) from their employer if they are pregnant. **This is different to circumstances in which the employee is unfit to continue in their substantive position due to their pregnancy (i.e. for 'safe job' and special maternity leave entitlements).** WorkPac's obligations with respect to considering an employee's request for a FWA are outlined in Section 8.

## 5. PARENTAL LEAVE

Parental leave is a type of leave that can be taken when an employee (or their spouse/de facto partner) gives birth or when an employee adopts a child under 16 years of age.

### 5.1 Eligibility

Employees who have or will have responsibility for the care of a child are entitled to unpaid parental leave. To be eligible for parental leave, permanent employees must have worked for a minimum of twelve (12) months before:

- The date or expected date of birth if the employee is pregnant;
- The date of the adoption (for a child under the age of 16); or
- The date the parental leave commences if the employee is not the primary carer and is taking leave after the birth.

Casual employees must have worked on a regular and systematic basis for a minimum of twelve (12) months and have a reasonable expectation that their work on a regular and systematic basis would have continued but for the birth/adoption of the child in order to be eligible for unpaid parental leave.

Employees who are having another child do not have to return to work for a minimum twelve (12) months prior to commencing their new period of parental leave for the subsequent child.

### 5.2 Unpaid Parental Leave

Employees are entitled to take 12 months (52 weeks) of unpaid parental leave, with the ability to request an additional 12 months of leave (maximum 24 months or 104 weeks of unpaid parental leave can be taken). At the conclusion of parental leave, an employee is entitled to return to the job they held prior to commencing the period of leave. Where an employee's job is no longer available due to a restructure (or a client cannot take an employee back), WorkPac is obliged to find a comparable role for the employee to return to.

For employees who are pregnant, a minimum of six (6) weeks leave must be taken after the date of the birth of the child. Any parental leave the employee wishes to take associated with the birth of this child must form one continuous, unbroken period of parental leave.

WorkPac does not offer any entitlement to paid parental leave. Employees may choose to use any accrued leave entitlements (i.e. annual or long service leave) during their period of unpaid parental leave, with the exception of personal leave. Leave entitlements will not accrue during parental leave.

Employees must provide a minimum of ten (10) weeks notice in writing to their manager of their parental leave by completing the relevant *Parental Leave Notification Form - FTMs*. This includes the employee's expected start and finish dates of parental leave.

### 5.3 Flexible Unpaid Parental Leave

An employee can flexibly take up to one hundred (100) days of their 12-month unpaid parental leave entitlement upon returning to work and within the first two (2) years of the child's date of birth or day

of placement. The flexible unpaid parental leave can be taken on a single-day basis or separate periods of one or more days.

Any period of 'continuous' unpaid parental leave an employee wishes to take in relation to the child must be taken first, before the first day of flexible unpaid parental leave. Once an employee accesses flexible unpaid parental leave, they will have forfeited their right to any further entitlement to unpaid parental leave.

Employees must provide a minimum of ten (10) weeks' notice of their intent to take flexible unpaid parental leave and how many days they intend to take. The employee must further provide four (4) weeks' notice for each specific date of flexible unpaid parental leave.

## 5.4 Adoption Leave

Adoption leave must commence on the day the child comes into the employee's care, unless the employee's spouse or de facto partner has the primary responsibility for the care of the child from that date, in which circumstances the employee may commence leave any time within 12 months for the purpose of caring for the child.

Employees who are taking parental leave relative to a child they are adopting are also entitled to two (2) days of unpaid pre-adoption leave. These days can be used to attend relevant interviews or examinations connected with the adoption of the child.

This leave cannot be used in conjunction with another type of leave (such as annual leave).

## 5.5 Paid Parental Leave

Employees may be eligible to receive paid parental leave entitlements under the Federal Government funded scheme. From 1 July 2023 the scheme entitles eligible employees to twenty (20) weeks of paid parental leave or 100 days parental leave, with the amount payable equivalent to the federal minimum wage. Eligible employees can apply for these payments up to three (3) months before the birth or adoption of the child.

For further information on government funded paid parental leave entitlements, eligibility or to apply for the same, employees should refer to the Department of Human Services.

# 6. DURING PARENTAL LEAVE

## 6.1 Keeping in Touch Days

Keeping in Touch days allow an employee who is still on unpaid parental leave to go back to work for a few days whilst still on leave so they can assist their impending return to work by staying up to date with their workplace and refreshing their skills. Keeping in touch days do not affect the employee's entitlement to unpaid parental leave. An employee should not be engaging in their usual work on a keeping in touch day, rather, the work on these days may include:

- (i) Participating in a planning day;
- (ii) Training; or
- (iii) Attending a conference.

Employees can take up to ten (10) keeping in touch days per 12 months of unpaid parental leave. These days can be worked all at once, a few days at a time, one (1) day at a time, or as a part day(s), however, they cannot be taken in the 14 days immediately after the birth or adoption and must be at the employee's request if within the 42 days following the birth or adoption. Employees are paid their normal wage for each keeping in touch day.

Keeping in touch days are not mandatory; the employer and employee both need to agree to the keeping in touch day.

## 7. RETURN TO WORK

Employees who meet the eligibility conditions in Section 5.1 are entitled to return to work after a period of parental leave and resume their substantive role:

- (i) The employee is entitled to return to the position they previously held. Any business requirement to backfill their position should be on a 'fixed-term' basis, with the contract end date coinciding with the employee's expected return to work date.
- (ii) If the employee's role no longer exists (i.e. due to a restructure), they are entitled to a position that is at a minimum equal in status and remuneration to their previous role. The employee can be offered a role that is superior to their prior role in terms of status and/or remuneration;
- (iii) If the employee had transferred to a safe job prior to their parental leave, they are entitled to return to the position they held prior to transferring to the safe job;
- (iv) The employee can only return to a role that is of a lesser status and/or remuneration value if they have made such a request in writing and have subsequently accepted the company's offer of the role.

The employee must give WorkPac a minimum four (4) weeks' notice in writing of the day they intend to return to work. Written notice should be provided to the employee's direct manager.

### 7.1 Extending Parental Leave

Employees who are entitled to Parental Leave under Section 5.1 Eligibility can extend their initial 12 month period of parental leave for a further 12 months (52 weeks). Such a request is to be made in writing to the employee's manager at least four (4) weeks prior to their initial end of parental leave date.

### 7.2 No Return from Parental Leave

If an employee decides during their parental leave that they no longer wish to return to their position with WorkPac, they should tender their resignation in writing to their manager. This should be provided no less than four (4) weeks prior to their expected return to work date.

If an employee resigns during parental leave, their statutory entitlements on termination are withstanding. Therefore, any accrued but untaken annual leave and long service leave entitlements (where applicable) will be paid out on termination.

## 8. FLEXIBLE WORKING ARRANGEMENTS

An employee may request a FWA from their employer whilst pregnant, or when returning to work after a period of parental leave. For example, a pregnant employee may request a reduction to their working hours, to work day shifts only, or to work from home. Similarly, an employee returning from parental leave may request to return in an alternative capacity to that which they worked prior to commencing parental leave, including reducing to part-time, changed days or hours of work, or work-from-home arrangements.

Requests for FWA should be made to the employee's WorkPac manager (not the Client) in writing and must include the specific details of the working arrangements the employee is proposing. The manager then has 21 days to respond to the request.

**If Accepted:** Where a request for FWA is approved, the manager should provide written confirmation to the employee of the new arrangements, including outline of any remuneration that will now reflect a pro rata amount of the employee's previous conditions.

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**If Refused:** Before an employee's request for a FWA may be refused, the manager must take the following steps:

- discuss the request with the employee; and
- make a genuine effort to reach an agreement or to find alternative arrangements to accommodate the employee's circumstances; and
- consider the consequences of refusal for the employee; and
- provide a written response to the employee within 21 days that includes an explanation of the reasonable business grounds for refusing the request and how these grounds apply to the request.

Should an employee wish to dispute WorkPac's decision to refuse their request for FWA, the employee is encouraged to escalate the matter to WorkPac's Employment Relations Team.



## 9. PARENTAL LEAVE CHECKLIST - MANAGER

14 Weeks Prior to Commencing Parental Leave	
Action by:	Action Item:
Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Has the employee provided notice of taking unpaid parental leave? (Have you provided the employee with a copy of the <i>Parental Leave Notification Form</i>)</li> <li><input type="checkbox"/> Has the employee provided you with confirmation of intended start and end dates for his or her leave?</li> <li><input type="checkbox"/> Has the employee provided you with a medical certificate or verification of the dates?</li> <li><input type="checkbox"/> Have you saved the employee’s notice of taking unpaid parental leave to the employee’s personnel file?</li> </ul>
6 Weeks Prior to Due Date (Pregnant Employees)	
Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Has the employee provided you with a medical certificate confirming fitness for work to continue working during the final 6 weeks of pregnancy (medical certificate must be provided weekly past 34 weeks)?</li> <li><input type="checkbox"/> If the employee has not provided a medical certificate at the 34 week mark the employee must commence unpaid parental leave.</li> </ul>
On Commencement of Parental Leave	
Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you set up calendar reminders periodically throughout employee’s parental leave to keep in contact and re-confirm their intentions to return?</li> </ul>
4 Weeks Prior to End of Parental Leave	
Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you contacted the employee if no written notice received by 4 weeks prior to end of parental leave to confirm intentions?</li> <li><input type="checkbox"/> If the employee has requested flexible working arrangements, has the employee provided this request in writing specifying the flexible working arrangements they are seeking?</li> <li><input type="checkbox"/> If the employee has requested flexible working arrangements have you responded to this request in writing within 21 days of the request?</li> </ul>
2 weeks Prior to End of Parental Leave	
Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you checked whether the employee’s tickets, licenses and/or inductions are still current?</li> <li><input type="checkbox"/> Have you contacted the employee to renew any tickets, licenses and/or inductions that require renewal?</li> </ul>

## 10. PARENTAL LEAVE CHECKLIST - FTM

At least 10 weeks prior to commencing Parental Leave	
Action by:	Action Item:
Employee	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you provided written notice to your manager of intention to take parental leave, including the expected start and end dates of the leave?</li> <li><input type="checkbox"/> Have you completed the <i>Parental Leave - Notification Form</i>?</li> <li><input type="checkbox"/> Have you provided your manager with a medical certificate confirming your pregnancy and expected due date (where appropriate)?</li> </ul>
6 Weeks Prior to Due Date (Pregnant Employees)	
Employee	<ul style="list-style-type: none"> <li><input type="checkbox"/> If you wish to continue working in the final six (6) weeks of your pregnancy, have you provided a medical certificate containing information about your fitness for work, or, if you are fit for work, whether you should continue in your present position to your manager?</li> <li><input type="checkbox"/> If you are certified as fit for work, does the medical certificate establish whether it is advisable to continue in your current role because of illness or risks related to your pregnancy or hazards connected with your usual job role. You can speak to your manager in relation to this.</li> </ul>
4 Weeks Prior to End of Parental Leave	
Employee	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you confirmed in writing to your manager your intention to return from parental leave and the date? or</li> <li><input type="checkbox"/> Have you confirmed in writing to your manager your intention to return from parental leave and the date, along with any specific requests for flexible working arrangements? or</li> <li><input type="checkbox"/> Have you requested in writing to manager an extension to parental leave and the proposed new end date? or</li> <li><input type="checkbox"/> Have you tendered your resignation in writing to your manager?</li> </ul>
2 Weeks Prior to End of Parental Leave	
Employee	<ul style="list-style-type: none"> <li><input type="checkbox"/> Have you checked that your tickets, licenses and/or inductions are still current?</li> <li><input type="checkbox"/> If your tickets, licenses and/or inductions have lapsed have you started the renewal process?</li> <li><input type="checkbox"/> Have you checked that your details (including back account details, contact details, next of kin) are still current in myWorkPac.</li> </ul>