



Parental Leave in Practice: A “How To” Guide for Lawyers

A / Before you go on parental leave

Working out your entitlements and other money matters

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| 1 Paid and unpaid parental leave, and how to structure it | <p>You have a right to take unpaid parental leave for 12 months and to extend unpaid parental leave by a further 12 months if you are caring for your child and have worked for your employer for at least 12 months</p> <p>.....</p> <p>This includes regular and systematic casual employees if they would reasonably have expected to continue working for their employer on a regular and systematic basis, had it not been for the birth (or expected birth) or adoption (or expected adoption) of a child.</p> <p>.....</p> <p>Check your eligibility for government paid parental leave for up to 20 weeks of paid parental leave. Following the 2022 Budget, this 20 weeks of paid parental leave can be split between parents as they choose.</p> <p>.....</p> <p>Check your employer's policies or EBA to find out if you can get employer paid parental leave. If you have a partner, check their leave entitlement and/or when they are able to take the government 2 weeks parental leave. Talk to your accountant or financial advisor about the best way to manage your finances (and tax consequences of different arrangements) when on leave and how to structure leave. For example, upfront lump sum payments, half pay over a period of time, payments starting from when you commence parental leave, or deferred payments and implications for timing of any pay rises.</p> |
| Understand the impact of parental leave on other leave | <p>You won't accrue annual leave and sick leave whilst on unpaid parental leave, but check your employer's policy regarding paid parental leave.</p> <p>Under the <i>Long Service Leave Act 2018 (Vic)</i> any period of unpaid parental leave up to 52 weeks will count as service for the purpose of calculating long service leave. Depending on the circumstances, a period of unpaid parental leave beyond 52 weeks will usually not count as service but will usually not break continuity of employment.</p> |
| 2 Be aware of your rights during your time on leave | <p>Get to know your employer's obligations when it comes to consultation, redundancy and termination if things at work change while you are on leave. There is also more detail below about your rights when you are on leave.</p> |
| 3 Insurance | <p>If you intend to take out health insurance for obstetrics (pregnancy) for the first time, most private health insurance policies have a waiting period of up to 12 months before you can claim.</p> |
| 4 Superannuation | <p>Unless provided by an employer parental leave scheme, superannuation is not paid when taking up the government parental leave scheme.</p> |

Timing & planning

- 5 When and what to tell your employer and when to begin leave**
- You need to tell your employer **at least 10 weeks before** you intend to take unpaid parental leave or as soon as practicable. Unpaid parental leave can start up to six weeks before the expected birth date, or earlier if agreed with your employer.
- If applicable, check your employer's policies or EBA to find out when you need to notify them that you intend to take **paid** parental leave.
- Generally, you do not have to tell your employer you are pregnant, unless there are health and safety reasons to do so. Talk to your employer about any necessary changes to your work arrangements so you can work safely during your pregnancy or consider "no safe job" leave.
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- 6 Medical matters**
- You do not have any general right to be absent from work to attend medical appointments, so you may consider informally discussing expectations with your employer.
- You are entitled to take personal/carer's leave if you have a pregnancy related illness. In addition, unpaid 'special' maternity leave may also be available if you have a pregnancy-related illness.
- Your employer can ask you for a medical certificate or statutory declaration with your expected date of birth and that you are fit to work during your pregnancy. If you travel for work, airlines may also require a medical certificate confirming that you are fit to fly in your final trimester.
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- 7 Plan child care arrangements early**
- As soon as possible, you should research private and public child care providers (1) in your local area and (2) near your/your partner's work. Your local council will generally have a list of local providers.
- Identify if your employer provides any tools or resources to assist with child care.
- Put your child down on **multiple waitlists** and plan for a fall-back option in case your preference is not available. Generally speaking:
- **private** child care centres accept waitlist applications before birth, so apply as early as possible during your pregnancy; and
 - **public** child care centres only accept waitlist applications after birth (see below).
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- 8 CPD points, your practising certificate, and professional memberships**
- Consider the timing of your parental leave against the CPD year/s you are on leave (1 April to 31 March) and whether you will satisfy your CPD requirements. Ask about seeking a partial exemption to reflect your time on leave.
- Notify the Legal Services Board of your intended leave period prior to taking parental leave.
- Make arrangements to renew your practising certificate whilst on leave, including confirming with your employer if it is to pay.
- If in doubt, the Legal Services Board can guide you through the process.
- If you want to continue professional organisation memberships whilst on leave (eg Law Institute of Victoria, Association of Corporate Counsel) notify accordingly and ensure your contact details are up to date.
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- 9 Return to work date**
- Some employers may ask for a provisional return date before you leave - so begin thinking early about your preferred period of parental leave. When on leave, you can apply to extend leave or return to work early and your employer can only refuse to extend your leave on 'reasonable business grounds'.
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Communication with your clients, stakeholders, colleagues and employer

- 10 Ensure your manager and colleagues know what contact you would like while on parental leave, if any.
- Do you want your employer to keep you updated on developments with your clients and your team?
 - Do you want to attend training and group retreats?
 - Would you like to attend key social events?
 - Would you prefer minimal contact?
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- 11 Discuss with your manager how your practice should be covered while on leave. This could include how you would like to communicate your leave arrangements with your key clients or external stakeholders, the nature of any handover and how any transition will be structured when you return to work.
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- 12 Create a network of colleagues who are also working parents, or find a mentor, to seek guidance and share ideas and tips. Ask these contacts if you can meet up before you return to work to gain an insight into how they made it work and the challenges they faced. *Circle In* is an online network to support working women, with free website content tailored for each stage of parental leave. Victorian Women Lawyers also offers a Professional Mentoring program, designed to provide junior and senior lawyers with access to senior mentors to provide guidance on their career development.
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- 13 Continue to pursue career opportunities and promotions before you commence parental leave.
- Request a performance review and a pay review before you begin parental leave, or let your employer know if you would like to participate in a review while on leave.
 - If you have worked part of a financial year before commencing parental leave, you may consider seeking a pro rata pay rise at the end of that financial year, and bonuses if applicable, **whether or not you are on leave** at that time.
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B / During parental leave

Logistics

- 14 **'MyGov' Account** Establish a 'MyGov' account (**MyGov**) to access government services from one place online, including Medicare, Centrelink and the ATO.
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- 15 **Accessing government paid parental leave and child care subsidies via Centrelink** If you are eligible for government paid parental leave entitlements, you and your child will each need to apply for a Centrelink Reference Number (**CRN**). If you intend to use child care, you will also need a CRN to apply for child care subsidies (if eligible). You can apply for a CRN and government entitlements and subsidies online here.
- It is important that you apply for a CRN as soon as possible after your child is born, to avoid any reduction in your government paid parental leave entitlements. This is because payments are cut off 52 weeks after your child is born, regardless of when you begin to receive the payments. You are also likely to need a CRN for child care enrolment.
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- 16 **Medicare Card and 'no job no play' laws** Apply to add your child to your Medicare Card or move to a family Medicare Card. Your doctor cannot register your child's immunisation details if your child does not have a Medicare Number, and it is likely that you will need to provide a copy of your child's immunisation details for child care enrolment (due to the 'No Job, No Play' laws).
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| 17 Consider child care arrangements (if applicable to your situation) | <p>Based on your earlier research, apply for the waitlist of preferred public child care centres. Think about:</p> <ul style="list-style-type: none"> • The best location of your child care centre - who will be doing drop offs and pick-ups and what will work best? • Pick-up times at the child care centre - this will have a significant impact on your working hours if you are responsible for pick-ups, particularly as your child care days will be fixed. • Commencing child care at least two weeks before your return date to ease the transition period for you and your child. |
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Keeping in touch, consultation about change, & clarifying expectations

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| 18 Changes to your role | <p>If you are on unpaid parental leave, your employer must consult with you on any changes to the status, pay and location of your pre-parental leave role.</p> |
| 19 'Keeping in Touch' days | <p>You have a right to request 10 'keeping in touch' days, paid at your normal wage, which you can utilise to refresh your skills, transition back to work, become familiar with new or updated processes, be involved in planning discussions or meetings or events that may affect your role.</p> |
| 20 Confirm return to work expectations | <p>Arrange to meet or have a conversation with your manager in the lead up to returning to work to discuss and set expectations around:</p> <ul style="list-style-type: none"> • How your role may have changed or remain the same. If you are entitled to unpaid parental leave, you are entitled to return to your pre-parental leave position or a position which is nearest in status and pay to your pre-parental leave position. • Work that may be available from day one, so you do not return to an empty desk. • Whether you can negotiate some form of relief from targets for the first few months after you return to work. For example, reduced billable hours or modified goals for employee incentives. It is often a slow process getting back into work, so a little leeway in this regard can have a positive impact on your return to work. • If you sign a new contract which provides for reduced hours you could lose your right to return to your previous number of hours. Consider including a contractual right to increase hours and return to the role you had before signing the new contract. In some cases reducing your hours can also reduce your long service leave entitlement. |
| 21 Consider child care arrangements (if applicable to your situation) | <p>As it gets nearer to the date you are returning to work, discuss with your employer the days of the week you are planning on working, your return date and the impact of any pick-up arrangements. Your days at work will need to tie in with your fixed child care days and opening hours.</p> <p>.....</p> <p>If you have been employed for 12 months with your employer, you have a right to request flexible working arrangements if your child is of school age or younger. Although you have a right to make this request, your employer can refuse the request if there are reasonable business grounds.</p> <p>.....</p> <p>Flexible work can take many forms. Consider suitable flexible working arrangements and investigate available options. For example, working a day or more from home, condensed working week, job share or flexible working hours.</p> |
| 22 Breastfeeding at work | <p>If you plan to breastfeed or express at work, ask your employer whether there is a private room available with a comfortable chair and refrigeration space. Does your workplace hold a Breastfeeding Friendly Workplace Accreditation?</p> |

C / Returning to work after parental leave

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| 23 Revisit your business / performance plan and personal development | <p>Revisit your strategic business or performance plan and modify as appropriate to meet your needs. Discuss your plan with your supervisor.</p> <hr/> <p>If applicable, what are your employer's expectations for you in terms of business development and personal development activities? If you are working flexibly, how will you and your employer ensure that you are included in development activities, so that you can continue to develop yourself, your network and your practice?</p> |
| 24 Re-establish connections | <p>Contact key clients, external stakeholders and internal contacts.</p> <hr/> <p>Update your professional memberships.</p> <hr/> <p>Continue to keep in touch with your network of colleagues who are also working parents.</p> |
| 25 Social events | <p>Discuss with your manager whether they can arrange key social events:</p> <ul data-bbox="502 846 1445 949" style="list-style-type: none">• when you are in the office - for example, a lunch event instead of evening drinks; and• in advance - so that you can make child care arrangements. <hr/> <p>Informal catch ups with your team, clients and key stakeholders are invaluable. It is important to find the time to continue these, even if less regularly than before.</p> |
| 26 If working flexibly, establish clear work protocols | <p>How will you, your employer, manager and team facilitate your flexible work arrangements?</p> <ul data-bbox="502 1151 1445 1617" style="list-style-type: none">• Keeping informed - How will your employer keep you fully informed about work-related matters? Will team meetings be scheduled on a day and at a time that you are working in the office or when you can dial in?• Contact on days off - When and how do you want to be contacted? When will you check emails? Will you divert your office phone to your mobile? Who will be the point of contact if you are not available?• Messaging on days off - To provide a clear message to work colleagues / clients / external stakeholders, think about:<ul data-bbox="534 1429 1445 1505" style="list-style-type: none">– Turning on your email 'out of office' on your days off.– Creating an electronic signature that notes the days that you are in the office.• Use of technology - Identify what tasks you can do remotely (eg dialling in to meetings, time recording, turning on your email 'out of office' etc).• If you have an assistant, consider how they might help you with the above. |
| 27 Setting up a home office | <p>Investigate whether your employer provides any useful technology or resources, including disused equipment.</p> <hr/> <p>You may wish to set up your home office in exactly the same format as your work office, to assist with a smooth transition between working in the office to working at home.</p> <hr/> <p>Don't forget ergonomics!</p> |

28 Sick child

You can take personal/carer's leave to provide care or support to a member of your immediate family (eg your child) or household who, due to personal illness, injury or an unexpected emergency, requires care or support.

If your child gets sick, ensure your child care provider knows who to contact and when. Consider what support networks you have available to call upon with short notice.

- 29** If you have any concerns about discrimination or poor treatment, raise your concerns with your manager or another trusted decision maker in your team or speak to your human resources department. See the [Victorian Equal Opportunity & Human Rights Commission](#) and [Fair Work Ombudsman](#) for additional information in the event that your employment is terminated or you are made redundant while on maternity leave.
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