

Parental Leave

How to navigate parental leave and return-to-work arrangements

Why best practice parental leave works – in a nutshell

Employers retain valued and experienced employees leading to lower staff turnover and less money spent on hiring and training. With an effective parental leave program in place, employers can attract new employees and increase their pool of talent.

Employees feel appreciated and accommodated, boosting morale and loyalty. Given ample parental leave, employees are able to return to work with increased life experience, enhanced wellbeing, a renewed interest in professional work and increased ability to manage multiple tasks.

What the *Fair Work Act 2009* says

- All employees, including long term casuals, can take unpaid parental leave on completing at least 12 months' continuous service with an employer. Employees can request a further 12 months, provided a couple's combined period of leave does not exceed 24 months. An employer can only refuse the request on reasonable business grounds.
- It is unlawful for employers to discriminate or take adverse action against employees by reason of pregnancy or the taking of leave.
- Employers and employees can negotiate paid keeping-in-touch days during the leave period (see also the *Paid Leave Act 2010*).
- Employees are entitled to return to their pre-leave position, and employers must inform them of decisions significantly affecting their pre-leave status, pay or work location. If the pre-leave position no longer exists, the employee can be transferred to a job nearest in status and pay to their pre-leave position. Employees, including long term casuals, with at least 12 months' continuous service can make a formal flexible work request if they require flexibility because they are caring for a child.
- Check any employer-specific industrial instruments, as well as policies or procedures applicable to the workplace, for further information on parental leave and return-to-work entitlements.

Details of 'Dad and Partner Pay' are available on the Department of Human Services website. Specific legislation may apply in cases of adoption, pregnancy related illness, still birth or infant death, or where a pregnancy ends.

The above overview is not intended to, and does not, constitute legal advice that may be relied upon. Parties should make their own enquiries.

Tips for managers and employees

This is the optimal time for an employer and an employee to tailor a practical, flexible parental leave plan and establish a shared commitment to a positive, ongoing work relationship based on excellent communication.

Preparing for leave

- Begin discussion of possible return-to-work options prior to the leave commencing.
- The employee and management should agree on and arrange for file management and handover for the period of leave, whether by delegation to other lawyers or appointment of a temporary replacement.
- The employee taking leave will need to be given adequate time to provide detailed memoranda to the lawyer who will manage their files in their absence.
- Clients of an employee taking leave should be informed well beforehand of the arrangements that will apply to their matters.
- The employee and management should discuss important upcoming dates and milestones in relation to existing client matters.
- The employee and management should arrange contact times to review the leave arrangements.
- Employees should set up an out of office email notification advising of leave, the anticipated return date and an alternative point of contact.
- Employees should inform any relevant professional bodies they will be on leave – see below.

Practising certificate and LIV membership

- Employees should contact the Law Institute of Victoria before commencing leave. Keep the LIV informed of any changes to the leave start and end dates – employees may be eligible for reduced membership fees or a different category of membership during leave.
- Employees should ensure they renew their practising certificate while on leave. Concession rates may apply.
- Employees should seek pro-rata relief from Continuing Professional Development (CPD)

requirements for the year(s) they will be on leave. Applications should be sent to the Delegate of the Legal Services Board, CPD Regulation & Compliance at the LIV.

Accredited specialists

- Currently accredited specialists must write to the LIV Accreditation Board requesting a leave of absence, provide their expected leave start and end dates, and keep the Board updated of any change.
- Accredited specialists should ensure their annual CPD requirements are met and if possible, complete the requirements for the relevant year before taking leave to minimise compliance difficulties. A CPD report must be provided to the Board upon return from leave.
- If required to re-apply for accreditation during leave, complete all necessary forms to do so and arrange referees.
- If possible, write to the Board prior to the last Board meeting before returning to work, requesting permission to return, reinstatement on the register of accredited specialists and inclusion in the next LIV directory.

Keeping in touch

- Employers should facilitate keeping-in-touch arrangements for employees on leave, including providing employees with professional development and other important workplace updates, and inviting them to work events.
- Employees on leave should try to stay in touch with the employer and other contacts via periodic emails, telephone calls, office visits (where possible) etc.
- Employers should arrange a meeting with the employee towards the end of the leave period to clarify arrangements and expectations for their return to work.

Returning to work after leave

- For employers flexibility is key – recognise that employees may be unable to predict their return date with absolute certainty due to reasons outside their control. Time spent on parental leave will also vary depending on an employee's particular wishes, needs and circumstances.
- Ideally, employers should provide a private room with fridge to assist new parents to continue to breast feed, bottle feed or express milk upon return to work.
- As far as possible, employees and management should mutually agree on a suitable number of work days/hours to accommodate the employee's parenting and work duties. New parents may wish to gradually increase their work hours as their confidence to leave a child in care increases.