



QUICK REFERENCE GUIDE (QRG)

PARENTAL LEAVE, PARTNER LEAVE AND MISCARRIAGE, STILLBIRTH OR DEATH OF A CHILD LEAVE

PROFESSIONAL & ACADEMIC STAFF

OVERVIEW OF THE SECTION

CLAUSE REFERENCES:

WESTERN SYDNEY UNIVERSITY ACADEMIC STAFF AGREEMENT 2022

Parental Leave (Clause 34), Partner Leave (Clause 35), Miscarriage, Stillbirth or Death of Child (Clause 36)

WESTERN SYDNEY UNIVERSITY PROFESSIONAL STAFF AGREEMENT 2022

Parental Leave (Clause 42), Partner Leave (Clause 43), Miscarriage, Stillbirth or Death of Child (Clause 44)

BRIEF DESCRIPTION:

Eligible employees, including casual staff, are entitled to paid and/or unpaid parental leave for birth-related, adoption-related, and foster placement-related situations. In addition to these entitlements, the Agreements provide for job protection, a phased return to work, and superannuation contributions for employees who take parental leave.

The Agreements also prescribe leave entitlements for partners, and leave in the event of a miscarriage or stillbirth.

INTERPRETATION AND APPLICATION

PARENTAL LEAVE

When can parental leave be taken?

Parental leave can be taken in the following circumstances:

- **Birth-related leave:** For an employee's pregnancy and the birth of their child.
- **Adoption-related leave:** For the placement of a child under the age of 16 years, who has not lived with the employee for more than 26 weeks.
- **Foster placement-related leave:** For long-term foster care placements.

Parental Leave Entitlement

Unpaid Parental Leave

Employees, including casual employees, are entitled to up to **52 weeks of unpaid parental leave** if they are, or will be, the primary carer of the child during the period of leave.

An employee who is entitled to parental leave may also apply for **an additional 52 weeks of unpaid parental leave** (i.e. up to a total period of 104 weeks), which the University will not unreasonably refuse. Such leave may be taken in separate periods during the total period of leave.

There is no qualifying period for unpaid parental leave.

Paid Parental Leave

Paid parental leave is available for full-time ongoing and fixed-term employees who have, or will have, completed at least 52 weeks of continuous service immediately prior to commencing the leave.

The entitlement to paid parental leave is pro-rated for part-time employees by reference their FTE at the commencement of the leave.

Full-time ongoing and fixed-term employees who have less than 52 weeks continuous service immediately prior to commencing parental leave will be entitled to paid parental leave on a pro-rated basis.

Birth-related and adoption-related leave

An eligible employee is entitled to be paid for up to **20 weeks** of the employee's birth-related or adoption-related leave at their base rate of pay. An employee can request that their leave be paid:

- at full-pay (for 20 weeks);
- at half-pay (for 40 weeks); or
- as a lump sum upon commencement of the leave.

Foster placement-related leave

An eligible employee is entitled to be paid foster placement-related leave at their base rate of pay as follows:

- 6 weeks if the child is younger than 5 years of age; or
- 3 weeks if the child is aged 5 years or older.

PARTNER LEAVE

When can partner leave be taken?

An eligible employee can take partner leave in connection with their spouse or de facto partner's pregnancy, or the birth or adoption of their child.

Partner leave entitlement

Paid partner leave

Paid partner leave is available to ongoing and fixed-term employees who are not eligible for parental leave and who have, or will have, completed at least 52 weeks of continuous service immediately prior to commencing the leave.

Paid partner leave is available for non-primary and primary carer partners as follows:

- **Non-primary carer partner leave:** 2 weeks of paid leave at the time of birth or adoption, and an additional 6 weeks of paid leave to be taken in one block within 52 weeks of the birth or adoption; or
- **Primary carer partner leave:** 2 weeks of paid leave at the time of birth or adoption, and an additional 18 weeks of paid leave to be taken in one block within 52 weeks of the birth or adoption.

Casual employees are not entitled to paid partner leave.

Unpaid partner leave

Casual employees, and ongoing and fixed-term employees who are not eligible for paid partner leave, are entitled to unpaid leave in accordance with the Fair Work Act.

MISCARRIAGE/STILLBIRTH LEAVE

When can miscarriage leave be taken?

Ongoing and fixed-term employees can access **5 days of paid miscarriage leave** if their pregnancy, or their current or former spouse or de facto partner's pregnancy, ceases before 20 weeks' gestation. An eligible employee can also use their accrued sick leave or personal leave (as appropriate) if they need to take a longer period of leave.

Casual employees are entitled to **5 days of unpaid leave** in these circumstances.

Miscarriage leave must be taken in one continuous block from the first working day after the miscarriage.

Stillbirth

If an employee is entitled to parental leave but their pregnancy ceases after 20 weeks' gestation, or their child is stillborn or dies shortly after the birth, the parental leave provisions will continue to apply.

If the Employee's child is stillborn before the expected date of birth, the Employee's entitlement to parental leave will be calculated based on the child's expected date of birth.

ADDITIONAL INTERPRETATION GUIDELINES

Commencement period	An Employee may commence parental leave or partner leave at any time from 12 weeks prior to the expected date of birth or placement of the child, but no later than the date of birth or placement of the child.
Notice period	Employees should provide 4 weeks' written notice for leave applications and any changes to approved leave, unless circumstances beyond their control prevent them from doing so.
Medical Requirements and Evidence	Pregnant employees may need to provide medical evidence if continuing to work within six weeks of the expected birth date (PSA Clause 42.12/ASA Clause 34.12).
Public Holidays	Paid public holidays occurring during <u>paid</u> parental or partner leave are in addition to the parental leave entitlement i.e. the paid parental leave period will be extended.
Superannuation	Contributions continue during paid and unpaid parental leave for up to 52 weeks for ongoing or fixed-term employees (PSA Clause 42.32/ASA Clause 34.32).
Partner Leave	Cross-references PSA Clause 43/ASA Clause 35 (Partner Leave) for partner-specific entitlements.
Phased Return to Work	In certain circumstances, an employee returning to work after parental leave is entitled to a phased return, which allows them to work up to <i>one day less per week</i> (or 20% of their ordinary hours) for the first 40 weeks after returning without loss of pay (pro-rated for part-time employees) (PSA Clause 40.20 to 40.22/ASA Clauses 34.20 to 34.22).
Couples Working at the University	If both partners are employed by the University, the maximum period of leave (combined between both parents) is 104 weeks.

FREQUENTLY ASKED QUESTIONS

QUESTION	ANSWER
Who is eligible for paid parental leave?	Ongoing or fixed-term employees with at least 52 weeks of continuous service when they commence the leave are eligible. If an employee has not completed 52 weeks of continuous service prior to commencing the leave, then their entitlement to paid parental leave will be pro-rated based on the amount of service they have completed.
Can casual employees access parental leave?	Casual employees are eligible for unpaid parental leave in accordance with legislation or the relevant agreement.
How much paid leave is available for foster placements?	Eligible employees are entitled to paid foster placement-related leave of 6 weeks if the child is under 5, and 3 weeks if the child older (pro-rated for part-time employees).
Can I extend my unpaid parental leave beyond 52 weeks, and what happens to my job if I do?	Yes, you can apply for additional unpaid parental leave beyond the initial 52 weeks, up to a total of 104 weeks' unpaid parental leave (PSA Clause 42.4/ASA Clause 34.4), which the University will not unreasonably refuse. An ongoing employee is entitled to return to their position after a period of parental leave, unless the position was discontinued or significantly changed while they were on parental leave, in which case they will be entitled to return to a position at the same level on the same campus. If such a position is not available, the redeployment and redundancy provisions prescribed by the relevant Agreement will apply (PSA Clause 42.16(b)/ASA Clause 34.16(b)).
If both my partner and I work at the University, can we each take 52 weeks of parental leave?	No, as parental leave is only available to the primary carer and the latest date on which such leave can commence is the date of birth or placement of the child. Additionally, if both parents are employees of the University, the total combined parental and partner leave that can be accessed by both employees is capped at 104 weeks (PSA Clause 42.24/ASA Clause 34.24). This combined limit includes both

What happens if my fixed-term contract expires while I'm on paid parental leave?	paid and unpaid leave. Additionally, any leave taken by one partner is considered when assessing the other partner's entitlement (PSA Clause 42.25/ASA Clause 34.25). If your fixed-term contract expires during your period of paid parental leave, you will receive the balance of your paid parental leave as a lump sum (PSA Clause 42.8/ASA Clause 34.8). However, this does not extend your contract beyond its original expiry date, meaning your employment with the University ends at the conclusion of the contract, even though you may still receive the remaining paid leave as a lump sum.
If I am eligible to take parental leave from the University, will I be eligible for Paid parental leave benefits from the Government?	Employees should check if they're eligible for any government support. Services Australia have a few Parental Pay Benefits option available. This is arranged with the Services Australia directly.
I have already taken parental leave at the University am I entitled to take it again?	Yes, however the rate of pay for any subsequent period of paid parental leave may be affected. An employee is entitled to be paid at their full-time Base Rate of Pay for subsequent periods of parental leave if they have worked full-time for a minimum 12 weeks immediately before commencing the subsequent period of leave. If the employee is not eligible for a subsequent period of leave at their full-time Base Rate of Pay, the rate of pay will be based on the average rate of pay received by the employee in the 52 weeks immediately prior. Phased return arrangements following a previous period of paid parental leave do not affect this entitlement.
When do I need to tell my supervisor that I am pregnant?	There is no requirement about when an employee must notify their workplace of their pregnancy, but you may wish to speak with your supervisor if you are experiencing pregnancy-related illness, need adjustments at work to continue

doing your job, and/or need time off for medical appointments. Whilst the enterprise agreements require an employee to apply for parental leave at least 4 weeks in advance, employees are generally encouraged to notify their supervisor about their pregnancy and plans for parental leave as early as possible so that appropriate arrangements can be made to cover their absence.

How do I apply for parental or partner leave?

Once you have decided on the dates for your parental or partner leave, please submit a [Request Leave](#) form on WesternNow. Once submitted, this will go to your direct Manager for approval.

If an employee has completed less than 10 years of continuous service at the commencement of unpaid parental or partner leave:

- **Unpaid leave will count as service only for the purposes of incremental progression.**
- **Unpaid leave will not count** as service for the accrual of other paid entitlements (e.g., annual leave, long service leave).

Do periods of unpaid parental or partner leave count as service?

If an employee has completed at least 10 years of continuous service at the commencement of unpaid parental or partner leave:

- If the period of unpaid leave is **26 weeks or less**, it will **count as service for all purposes**, including accrual of paid entitlements (e.g., annual leave, long service leave) and incremental progression.
- If the period of unpaid leave is **more than 26 weeks**, it will **not count as service** for paid entitlements but **will count for incremental progression**.

Does my casual service count towards continuous service?

Yes, your casual service will count towards continuous service accrual (if there is no break greater than 8 weeks) for the

What happens if my Phased Return Day falls on public holiday?	purposes of calculating parental leave eligibility. If your scheduled Phased Return Day falls on a public holiday, you may be eligible to swap this day within the impacted week, in consultation with your Supervisor.
How do I record my Phased Return Day if I am a professional employee?	On your phased return day in your flex timesheet, you will enter a start and finish time (with a 30 minute break) that is equivalent to the ordinary hours you would have worked on that day if not on your phased return arrangement.

EXAMPLES

EXAMPLE 1: PARTNER LEAVE FOR NON-PRIMARY CARER

Daniel, whose spouse is the primary carer, applies for non-primary carer partner leave. Because Daniel is a full-time ongoing employee, he is entitled to 2 weeks of paid leave immediately after the birth of the child, followed by 6 weeks of additional paid leave, to be taken in one block within 52 weeks of the birth.

EXAMPLE 2: PHASED RETURN TO WORK AFTER PARENTAL LEAVE

Anna takes 20 weeks of paid parental leave followed by 10 weeks of unpaid leave. Upon her return to work, she opts for a phased return, working 80% of her regular hours (4 days per week) without loss of pay for the first 40 weeks, as per the phased return provisions.

EXAMPLE 3: BOTH PARENTS EMPLOYED AT WSU AND TAKING PARENTAL LEAVE

Mark and Sarah, both WSU employees, are expecting their first child. Sarah plans to take 20 weeks of paid parental leave as the primary carer, followed by 32 weeks of unpaid leave. Mark applies for 2 weeks of non-primary carer partner leave to coincide with the birth of their child, followed by 6 weeks of additional partner leave later in the year. Out of the 104 weeks' of parental leave, there are only 44 weeks of parental leave remaining that can be used between both Mark and Sarah.

EXAMPLE 4: PAID PARENTAL LEAVE FOR FOSTER CARE PLACEMENT

Emily is a full-time professional staff member who has completed 2 years of continuous service at WSU. She becomes the primary carer for a foster child who is 6 years old. Emily applies for foster placement-related parental leave and is approved for 3 weeks (105 hours) of paid leave, based on the age of the child at the time of placement.

EXAMPLE 5: FIXED-TERM EMPLOYEE ON PAID PARENTAL LEAVE AND CONTRACT EXPIRY

Tom is a fixed-term academic staff member whose contract is set to expire 4 months into his 20-weeks of paid parental leave. At the time his contract expires, he has completed 12 weeks of paid leave. Tom is entitled to receive the remaining 8 weeks of his paid parental leave as a lump sum when his contract ends.

EXAMPLE 6: EARLY COMMENCEMENT OF PARENTAL LEAVE DUE TO HEALTH RISKS

Lydia is a professional staff member who is 30 weeks pregnant. Due to medical complications, her doctor recommends that she commence her parental leave earlier than planned. Lydia applies to start her paid parental leave 10 weeks before her expected due date, instead of 6 weeks as originally scheduled. The University requests Lydia to provide medical evidence, which confirms that starting leave early is necessary for her health. Lydia may also be eligible to use accrued sick leave prior to commencing parental leave, with appropriate medical evidence provided.

INFORMATION IN THIS GUIDE IS A SUMMARY ONLY

This document provides a general summary to assist staff understand the rights and processes related to this entitlement. To avoid doubt, this document:

- does not contain a complete account of the rights, entitlements, conditions, or obligations that may be available;
- does not replace or override the terms of the relevant enterprise agreement or under legislation, or the Western Sydney University's policies or procedures; or
- does not constitute legal or financial advice.

FURTHER INFORMATION

For details on Parental Leave, Partner Leave and/or Miscarriage, Stillbirth, or Death of Child Leave, please refer to the relevant provisions of the Professional or Academic [Enterprise Agreement](#), or legislation, as they may apply.

KEY CONTACTS FOR FURTHER ADVICE

If you have any questions or would like to discuss your Casual Pay Rate options, please contact the People Services Team (previously known as the HR Operations Team) or the Workplace Relations Team.