



**New South Wales  
Police Force**

# **Parental leave for Administrative Officers – Policy and Procedures**

**HR Policy / Human Resources Command**

## **Essential Summary**

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The NSW Police Force has a range of long established leave provisions in awards and policy designed to assist employees to balance work and family while maintaining service delivery. The provision of parental leave is one way in which eligible employees are able to take both paid and/or unpaid leave to meet their parenting responsibilities.

This policy outlines the nature and purpose of parental leave, setting out entitlements, eligibility criteria and other conditions that apply. It also provides the framework for commanders and managers to implement parental leave in a consistent and fair manner.

## Document Control Sheet

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| 1.0       | 10 September 2012     | HR Policy   | Original document.   |
| 2.0       | 11 December 2013      | HR Policy   | Amend Index<br>Amend Section: 2; 3; 4.1.3(a) & (b); 4.6.2; 4.8.3; 4.8.4; 4.9.1; 4.9.2; 4.9.3, 4.10.3; 4.11.1; 4.13.1; 5.2; 5.2.1; 5.2.2; 6<br>Delete: Section 5.3<br>Inclusion: 4.6.6; Section 7 |
| 4.0       | December 2015         | HR Policy   | Include new section 4.8.2  |
| 5.0       | July 2016             | HR Policy   | Amend document order<br>Amendment to Section: 2; 4.1.1; 4.1.2; 4.2; 4.3; 4.4; 4.5;4.5.1; 4.5.3; 4.5.4; 4.6; 4.7; 4.8; 4.9; 4.10; 4.11; 5.1; 6.   |
| 6.0       | March 2017            | HR Policy   | Section 4.9 amended to clarify compensation on recall to duty.   |

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## 1. Introduction

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Parenting is an important responsibility and one that may be shared between partners. NSW Police Force recognises that balancing work and family commitments can at times be challenging and that flexibility in working arrangements and a healthy, supportive workplace culture play a key role in meeting those challenges.

The NSW Police Force has a range of long established leave provisions in awards and policy designed to assist employees to balance work and family while maintaining service delivery. The provision of parental leave is one way in which eligible employees are able to take both paid and/or unpaid leave to meet their parenting responsibilities.

This policy outlines the nature and purpose of parental leave, setting out entitlements, eligibility criteria and other conditions that apply. It also provides the framework for commanders and managers to implement parental leave in a consistent and fair manner.

## 2. Definitions

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|                        |   |
|------------------------|---|
| Employee               | administrative officer (this includes temporary employees), Special Constable (Security) and Special Constable (police band)  |
| Parental Leave         | is a reference to maternity, adoption and “other parent” leave as defined in the Crown Employees (NSW Police Force Administrative Officers and Temporary Employees) Award 2009 (as replaced from time to time).   |
| Primary care giver     | is the parent who assumes primary responsibility for the care of the child.   |
| Expected date of birth | means the day certified by a medical practitioner to be the day on which the medical practitioner expects the employee or the employee’s partner, as the case may be, to give birth to a child.   |
| Continuous Service     | means a period during which the officer is employed by the NSW Police Force and includes all periods of paid leave, sick leave without pay and previous recognised service with another government agency which was unbroken when taking up employment with the NSWPF |

## 3. Delegations

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The Commissioner’s delegation to grant maternity, adoption and parental leave is held with the Manager/Commander.

## 4. The Policy

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Employees are entitled to parental leave in accordance with relevant award provisions and this Policy. Maternity/Adoption leave entitlements do not apply in foster or surrogacy situations.

### 4.1. Eligibility

#### 4.1.1. Parental Leave Entitlements

Employees will, subject to the conditions outlined in this policy, be entitled to parental leave as summarised below:

| Service                                   | Type of leave   |   |  |   |
|---|---|---|--|---|
|   | <i>Maternity Leave</i>  | <i>Adoption Leave</i>                         | <i>Other Parent Leave</i>                          | <i>Extended Parental Leave (Right to Request)</i> |
| <b>At least 40wks continuous service</b>  | 14 weeks paid leave   | 14 weeks paid leave                           | 1 week paid leave                                  | NIL paid leave                                    |
|   | 38 weeks unpaid leave   | 38 weeks unpaid leave                         | 8 weeks (short) + 43 weeks (extended) unpaid leave | 52 weeks unpaid leave                             |
|   | 52 weeks total combined paid and unpaid leave   | 52 weeks total combined paid and unpaid leave | 52 weeks combined paid and unpaid leave            | 52 weeks combined paid and unpaid leave           |
| <b>Less than 40wks continuous service</b> | NIL paid leave  | NIL paid leave                                | NIL paid leave                                     | NIL paid leave                                    |
|   | 52 weeks unpaid leave   | 52 weeks unpaid leave                         | 8 weeks (short) + 43 weeks (extended) unpaid leave | 52 weeks unpaid leave                             |
|   | 52 weeks total combined paid and unpaid leave   | 52 weeks total combined paid and unpaid leave | 52 weeks combined paid and unpaid leave            | 52 weeks combined paid and unpaid leave           |
| <b>Other terms</b>                        | <ul style="list-style-type: none"> <li>All leave summarised above is subject to the conditions outlined in this policy</li> <li>Maternity leave may commence up to 9 weeks prior to the birth of the child. Additional unpaid leave may then be taken to supplement a period of 52 weeks from the birth of the child</li> <li>Paid leave may be taken at half pay. It should be noted that this will reduce the supplement period of additional unpaid leave from 52 weeks to 24 weeks from the birth of the child.</li> <li>Maternity leave may be taken part time for a period of up to 2 years from the actual date of birth, or as a combination of full time and part time leave over a proportionate period of up to two years from the actual date of birth</li> <li>Unpaid leave may be supplemented with accrued recreation or extended leave and may be taken at full or half pay.</li> </ul> |   |  |   |

Except as provided for in section 4.5 parental leave is to be granted without pay.

#### **4.1.2. Commonwealth Paid Parental Leave**

Employees eligible for parental leave under this policy may also be eligible for the Commonwealth Paid Parental Leave Scheme (refer to [Commonwealth Paid Parental Leave – A guide for Commanders, Managers and Employees](#))

#### **4.2. Maternity Leave**

Employees are entitled to take maternity leave as provided for in section 4.1.1.

An employee who is planning their maternity leave arrangements should be aware that maternity leave must commence no later than the day of birth of the child.

#### **4.3. Adoption Leave**

Adoption leave is applicable when a child is placed in the care of an employee as part of the process of adoption, which means that either an adoption has occurred at the time of placement, or the adoption process has commenced and is expected to occur in the future if the arrangement proves suitable.

Adoption leave commences on the date an employee takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child.

An employee who adopts a child and is the primary care giver will, subject to conditions outlined in this policy, be entitled to adoption leave as follows:

- a) if the child has not commenced school at the date of the taking of custody, for a period of up to 12 months; or
- b) if the child has commenced school at the date of the taking of custody, for a period as determined by the manager/commander, not exceeding 12 months on a full time basis; or
- c) part-time for a period of up to 2 years in relation to paragraphs (a) and (b) above; or
- d) as a combination of full-time and part-time over a proportionate period up to two years.

In the case of an Australian adoption an employee is to provide written confirmation of adoption and the date of custody.

In the case of an overseas adoption, for adoption leave to be granted, the adoption must be legally recognised by the Department of Immigration and Border Protection and written proof provided.

An employee is entitled to 2 days special adoption leave (without pay) to attend interviews and examinations for the purposes of adoption. Special adoption leave may be taken as a debit against recreation/annual leave, extended leave, flex time or family and community service leave.

#### **4.4. Other Parent Leave**

Where an employee is not entitled to maternity or adoption leave as defined within this policy, other parent leave is available to male and female administrative officers who request leave to look after their child or children, or who have become primary care givers under exceptional circumstances. Other parent leave includes:

- a) Short other parent leave - an unbroken period of up to eight weeks leave at the time of the birth of the child or other termination of the spouse's or de facto partner's pregnancy, or in the case of adoption, from the date of taking custody of the child or children.
- b) Extended other parent leave - unpaid leave for a primary carer for a period not exceeding 12 months less any short other parental leave already taken by the employee. A request for further parental leave may be made and assessed in accordance with section 4.8. Extended other parent leave may commence at any time up to two years from the date of the birth of the child or taking custody of the child.

#### **4.5. Payment of Parental Leave**

##### **4.5.1. Paid leave entitlement**

An employee who is granted maternity or adoption leave will be paid at the ordinary rate of pay for a period not exceeding 14 weeks provided the employee:

- a) applied for parental leave within the time and in the manner outlined in section 5 of this policy; and
- b) has completed no less than 40 weeks continuous service prior to the commencement of maternity leave.

An employee who is granted short other parent leave is entitled to payment at the ordinary rate of pay for a period of up to one week, provided the employee:

- a) applied for parental leave within the time and in the manner outlined in section 5 of this policy; and
- b) prior to the commencement of maternity leave, completed not less than 40 weeks continuous service.

The paid component of parental leave must be taken at the commencement of leave.

Parental leave is paid at the rate applicable when the leave is taken. An employee working full time is paid at the full time rate whereas a permanent part time employee is paid at their contracted part time rate.

A full time employee who is on part time leave without pay when they commence parental leave (other than where section 4.5.4 applies) is paid:

- a) at the full time rate if they commenced part time leave without pay 40 weeks or less before starting parental leave.
- b) at the part time rate if they commenced part time leave without pay more than 40 weeks before starting parental leave and the part time leave without pay arrangement was not changed for the 40 weeks before commencing such leave.
- c) at the rate based on the average number of weekly hours worked during the 40 week period if they have been on part time leave without pay for more than 40 weeks but have changed their part time leave without pay arrangements during that period.

An employee who has been on a part time leave without pay basis for more than 40 weeks and subsequently applies for maternity leave should not be reverted to full time status for a short period immediately prior to the commencement of leave, for the purpose of obtaining payment for maternity leave at the full time rate.

Where an employee has a genuine reason to return to full time employment, and there are meaningful duties to be performed, the Manager / Commander has the discretion to revert the employee to full time employment. In such circumstances, the employee must be on full time hours for a minimum of one full flex cycle (or two full 6 week roster periods where applicable) prior to the date of commencement of leave.

#### **4.5.2. Pay arrangements**

An employee may have their parental leave paid in advance as a lump sum; or fortnightly at full or half pay; or a combination of full and half pay.

#### **4.5.3. Higher duties allowance**

Paid parental leave entitlements include a higher duties allowance if:

- a) The employee has continuously acted in the higher position for more than a year; and
- b) The period of relief continues up to the day before the start of maternity leave; and
- c) The higher duties allowance is the full difference in salary

#### **4.5.4. Second or subsequent period of maternity or adoption leave**

An employee who commences a subsequent period of maternity or adoption leave for another child within 24 months of commencing an initial period of such leave will be paid at the rate (full time or part time) they were paid at the time of commencing the initial leave.

An employee who commences a subsequent period of maternity or adoption leave for another child more than 24 months after commencing the initial period of such leave will be paid in accordance with section 4.5.1 of this policy.

Tools are available to assist employees with part time maternity leave without pay calculations on the [Payroll Service Forms](#) intranet site. It is important to note that these calculations are indicative only, with final calculations performed by Payroll Service at the time of the child's birth.

## **4.6. Use of Other Leave**

Where paid and unpaid leave is available to be granted, paid leave is to be taken before unpaid leave.

### **4.6.1. Recreation leave, extended leave or leave without pay**

An employee may apply for accrued recreation leave, extended leave or leave without pay before taking maternity leave. Any such leave should cease the day prior to the employee commencing their nominated period of maternity leave, or the day before the date of birth of the child, whichever occurs first.

An employee may elect to take available recreation or extended leave following the period of paid parental leave. This period of leave will be treated as an extension of the parental leave period.

Available recreation leave may be taken at half pay following the period of paid parental leave as long as all recreation leave (accrued at the date leave commences) is exhausted within the period of parental leave.

### **4.6.2. Sick leave**

Sick leave prior to parental leave is available to all employees who are ill and includes a "pregnancy related illness". It is not however available where an employee is not ill but is experiencing the normal physical effects of late pregnancy such as tiredness. In such circumstances an employee may access maternity leave up to 9 weeks prior to the date of birth or other paid or unpaid leave such as recreation leave or extended leave.

An employee who is on parental leave, or who has elected to take available recreation or extended leave following parental leave in line with the above (including annual leave at a part time rate), has no entitlement to sick leave during this period.

An employee who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.

An employee who has a miscarriage should have access to available sick leave for any absence from work. For the purposes of this policy a miscarriage is a pregnancy that ends within the first 19 weeks.

## **4.7. Leave accrual and incremental progression**

### **4.7.1. Leave accrual**

Any period of maternity leave or adoption leave paid at the full time rate is to be counted as service, and half of any period of maternity leave or adoption leave paid at the rate of half pay is to be counted as service.

Any period of parental leave taken as full time leave without pay is not to be counted as service.

### **4.7.2. Incremental progression**

A period of maternity leave or adoption leave paid at the full time rate or at half pay is to be counted as service for the purposes of incremental progression.

Any period of full time parental leave without pay is not to be counted as service for the purposes of incremental progression.

## **4.8. Right to request additional parental leave**

An employee who has been granted parental leave may make a request in writing to the manager/commander to:

- a) extend the period of unpaid parental leave for a further continuous period of full-time leave not exceeding 12 months;
- b) return from a period of full time parental leave on a part-time basis until the child reaches school age.

All requests for additional parental leave should be made at least 4 weeks prior to the end of the original period of leave. Such requests must be made on Part D of the Parental Leave Form.

The Manager/Commander will consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the officer's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or operational grounds. Such grounds may include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

The decision of a Manager/Commander whether to approve an additional period of leave must be recorded on Part D of the Parental Leave Form.

## **4.9. Recall to duty during paid portion of parental leave**

There may be exceptional circumstances where an employee is required to return to duty for a short period within the overall period of parental leave to attend to work requirements, for example, finalising a criminal matter, or to attend court.

A recall from maternity leave should not occur within the first 6 weeks after the birth of the child, unless a medical practitioner certifies that the employee is fit to do so.

An employee who is recalled for duty during the paid portion of parental leave will receive one additional day for each day or part day of the recall.

An employee who is on maternity leave or adoption leave at half pay and is recalled from duty will:

- a) be paid at the full time ordinary rate of pay for all time actually worked on any such recall with a minimum of 3 hours (i.e. half pay topped up to full time rate), and
- b) have a leave adjustment of one day at half pay maternity or adoption leave for each day or part of a day involved in such recall, added to the period of leave.

Any incidental expenses such as child care which arise as a consequence of the recall will not be reimbursed.

Employees on the Commonwealth Paid Parental Leave Scheme should make independent inquiries with the appropriate body regarding the impact recall to duty may have on the scheme's Keep in Touch days, and any subsequent notifications that may be required of the employee.

#### **4.10. Early return to work**

An employee may return to full time duty from parental leave earlier than the leave dates originally indicated. The intention to return to work early must be notified to the Manager/Commander in writing. A minimum of 4 weeks' notice must be given wherever practicable.

An employee who has returned to full time duty without exhausting their entitlement to 12 months unpaid parental leave is entitled to return to such leave once only, provided that it occurs within the overall 12 month period. A minimum of 4 weeks' notice must be given wherever practicable.

#### **4.11. Right of return to former role**

An employee has a right of return to their former role if they have taken approved leave or part-time work in accordance with Section 4.8 of this policy, and they resume duty on a full time basis immediately after this period (or immediately after leave as per section 4.6).

An employee does not have a right to their former role during a period of return to work on a part time basis. If the Manager/Commander approves a return to work on

a part time basis then the role occupied is to be at the same grade as their former role as available within the NSWPF.

An employee who is provided with alternative duties for a temporary period during pregnancy in accordance with the Pregnancy and Work Policy and Procedures has the right of return to the role occupied immediately before the placement.

If the role occupied by an employee ceases to exist while they are on a period of approved parental leave, they cannot be declared excess while they are on leave. On return to work at the end of the period of approved leave the employee will be managed in accordance with the Public Service Commission Managing Excess Employees policy.

#### **4.12. Communication during parental leave**

Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Manager/Commander will take reasonable steps to:

- a) make information available in relation to any significant effect the change will have on the status or level of responsibility of the role the employee held before commencing parental leave; and
- b) provide an opportunity for the employee to discuss any significant effect the change will have on the status or level of responsibility of the role the employee held before commencing parental leave.

To support their continual engagement with Command activities, an employee can request that all Command-wide emails are forwarded to their home email address during their absence on parental leave.

An employee will take reasonable steps to inform his or her Manager/Commander:

- a) of any significant matter that will affect their decision regarding the duration of parental leave to be taken,
- b) whether they intend to return to work on a full time or part time basis.

An employee is required to notify their Manager/Commander of changes of address or other contact details which might affect the capacity of a Manager/Commander to comply with this section of this policy.

#### **4.13. Effect of parental leave on superannuation**

Employer contributions to superannuation, consistent with full-time or part-time leave being taken, will continue during any period of paid parental leave.

An employee should make independent inquiries with the appropriate superannuation fund regarding the impact parental leave may have on their contributions and/or entitlements.

#### 4.14. Workers Compensation

At least 4 weeks prior to the commencement of a period of maternity leave an employee with an ongoing workers compensation claim is required to advise the Workers Compensation Claim Processing Unit, Shared Services (in a report via chain of command) of the nominated start date for maternity leave and their particular circumstances so that their entitlement to ongoing workers compensation can be reviewed by the NSW Police Insurer (EML).

On advice regarding pregnancy and the commencement of maternity leave the NSWPF Insurer (EML) will review an employee's particular circumstances and determine any eligibility to ongoing workers compensation payments during the period of maternity leave.

## 5. Procedures for applying and granting of leave

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### 5.1 Employee responsibilities

At least 8 weeks (or as soon as practicable) before the expected commencement of parental leave an employee must advise their manager/commander.

- a) that they intend to take maternity, adoption or other parental leave, and
- b) the expected date of birth or the expected date of placement.

Notification should be recorded under **Part A** of the [Parental Leave Form](#).

At least 4 weeks before an employee's expected date of commencing parental leave they must notify the manager/commander:

- a) of the date parental leave is to commence, and
- b) the total period of leave to be taken, including parental leave, other leave and any leave without pay.

Notification should be recorded under **Part B** of the [Parental Leave Form](#).

An employee must notify their commander as soon as practicable of any change in their intentions as a result of premature delivery or miscarriage.

An employee on maternity leave must notify her manager/commander of the date on which she gave birth as soon as practicable to do so.

Within the first 12 months of maternity or adoption leave (full time or part time) an employee may change the period of leave once without the consent of their manager/commander, and any number of times with consent. In each case the

employee must give their manager/commander at least 2 weeks' notice of the proposed change. Any change in leave should be recorded under **Part C** of the [Parental Leave Form](#).

An employee intending to request to return from parental leave on a part time basis or seek an additional period of leave of up to 12 months must notify the manager or commander as soon as practicable and preferably before starting parental leave. If the notification is not given before commencing such leave, it may be given at any time up to 4 weeks before the proposed return on a part time basis or later if the manager/commander agrees. Notification should be recorded under **Part D** of the [Parental Leave Form](#).

Employees intending to return from full time parental leave should contact their commander/manager prior to returning to work, to discuss future business requirements that may help to inform their decisions regarding child care options.

## **5.2 Manager/Commander responsibilities**

Once a manager/commander has been advised of an employee's intention to take parental leave they should ensure that the employee is:

- a) advised of her/his entitlements and responsibilities under this Policy; and
- b) referred to the following policy documents to assist them with decisions they may need to make around balancing work and family:
  - Breastfeeding Policy
  - Flexible work practices and family friendly information package
  - Carers' responsibilities guidelines

Prior to an employee going on parental leave the managers/commanders should discuss any service delivery and/or business requirements that may impact on the provision of any part time work request following a period of parental leave.

To assist with any negotiations around requests for part time work following a period of parental leave, employees should also be encouraged to identify part time work options that balance work and family commitments.

## **6. Other**

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### **Commonwealth Paid Parental Leave**

Refer to: *Commonwealth Paid Parental Leave Guide for Commanders, Managers and Employees*.

## **Related Documents**

*Pregnancy procedures*

*Flexible work options and family friendly information package*

*Breastfeeding policy*

*Crown Employees (NSW Police Force Administrative and Temporary Employees) Award 2009*

Further information on payment and calculations can be found within the [Personnel Handbook](#) Chapter 6

## **References**

*Anti-Discrimination Act 1977 (NSW)*

*Work Health and Safety Act 2011 (NSW)*

*Industrial Relations Act 1996 (NSW)*

## **7. Further Information**

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|-----------------------------|---|
| HR Policy:                  | Ph: (02) 8835 8195 or Eaglenet: 28195<br>or #HRPOLICY                   |
| Employee Relations          | Ph: (02) 8835 9553 or Eaglenet 29553<br>or #IRB                         |
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