

Parental Leave Policy

1. Purpose

Inala Community House (ICH) recognises and understands that the birth or adoption of a child is a special time in an employee's life and that leave will usually be required during this period.

This policy provides guidance relating to parental leave for employees.

Parental leave is unpaid by ICH; however, employees may be entitled to paid parental leave under the government Paid Parental Leave Scheme (PPLS).

This policy operates in accordance with the National Employment Standards within the *Fair Work Act 2009 (Cth)* and the *Paid Parental Leave Act 2010*.

2. Scope

This policy shall apply to all employees of Inala Community House.

3. Policy

Parental leave encompasses several entitlements including:

- Maternity leave
- Paternity and partner leave
- Adoption leave
- Special maternity leave
- A right to transfer to a safe job (where appropriate) and no safe job leave
- A right to return to their old job

Parental leave can be taken when:

- An employee gives birth
- An employee's spouse or partner gives birth
- An employee adopts a child under 16 years of age

3.1 Entitlement to Parental Leave

Employees are eligible to take parental leave if they:

- Have worked for ICH for at least 12 months:
 - Before the date or expected date of birth if the employee is pregnant
 - Before the date of adoption, or
 - When the leave starts
- Have or will have the responsibility for caring for a child.

For casual employees to be eligible for unpaid parental leave they need to have:

- Been working for ICH on a regular and systematic basis for at least 12 months

- A reasonable expectation of continuing work with ICH on a regular and systematic basis, had it not been for the birth or adoption of a child.

Employees are not required to work for another period of 12 months at ICH before they can take another period of parental leave.

3.2 Taking Parental Leave

Employees are entitled to 12 months of unpaid parental leave and may request an additional 12 months of parental leave. This can be taken as:

- A single continuous period
- Flexible parental leave for up to 100 days
- A combination of a continuous period and flexible days

Where both members of a couple are taking unpaid parental leave, the entitlement is no more than 24 months of leave between them. There are different requirements for when leave can start:

- If an employee is pregnant, they can take parental leave
 - Up to 6 weeks prior to the expected date of birth or earlier by agreement with ICH, or
 - Within 24 months of the birth of the child
- Where the employee is the partner of a pregnant person, the leave must start and end within 24 months of the birth of the child. The leave can start after the birth of the child if they have or will have responsibility for the care of the child
- For an adoptive parent, if the leave is adoption related, parental leave must start on the date of the child's placement or after the date of placement if they have or will have the responsibility for the care of the child

Parental leave must end within 24 months of the birth of the child.

All employees (regardless of their length of service) are entitled to 2 days unpaid preadoption leave to attend relevant interviews and examinations. However, this pre-adoption leave cannot be used where ICH directs the employee to use another form of leave (e.g. paid annual leave). This can be taken as a continuous period or separate periods by agreement with ICH.

Employees can choose to use paid leave at the same time as unpaid parental leave. Leave that cannot be taken while on parental leave includes paid sick or carer's or community services leave. An employee may also be able to access compassionate leave depending upon the circumstances.

3.2.1 Flexible Parental Leave

Flexible parental leave is unpaid leave that can be taken flexibly by an employee (e.g. single or combination of multiple days). This leave allows parents to take part of their 12 months of parental leave (unless extended) flexibly up to their child's second birthday or the second anniversary of the placement.

The amount of parental leave that can be taken as flexible parental leave depends on when the child is born or placed for adoption:

- Between 1 July 2024 and 30 June 2025 – up to 110 days
- Between 1 July 2025 and 30 June 2026 – up to 120 days
- On or after 1 July 2026 – up to 130 days

If the employee is still working in the 6 weeks prior to the birth of a child they can utilise flexible parenting leave during this time.

3.2.2 Notice

An employee is not entitled to take parental leave unless they:

- Inform ICH of their intention to take unpaid parental leave by giving at least 10 weeks written notice (except where it is not possible to do so). Written notice must include:
 - How much leave will be taken
 - The start and end dates (if continuous leave is intended to be taken)
 - The number of days the employee intends to take (if flexible leave is intended to be taken)
- If the employee cannot give 10 weeks notice, they need to provide notice as soon as possible, which may occur after leave has started
- An employee can provide less notice with ICH's agreement if they are only using flexible parental leave or using flexible leave before a period of continuous leave

At least 4 weeks before the employee is due to start their continuous unpaid leave, they must:

- Confirm the intended start and end dates or
- Advise ICH of any changes to the intended start and end dates (except where it is not possible to do so).

An employee should also provide notice as soon as possible if they can't provide 4 weeks notice.

An employee who wishes to use flexible leave must give at least 4 weeks notice of the specific days of leave they will be taking.

For pre-adoption leave, notice must be provided to ICH as soon as possible. Notice must include how long they expect the leave to be.

3.2.3 Request for Extension of Leave

An employee who wishes to extend their leave must provide 4 weeks' notice in writing prior to the end of their leave. An employee can request a further extension (up to a total of period of 24 months). This notice must include the new leave end date (which can't be more than 24 months from the date of birth or placement of a child). Requests to extend leave (including those occurring within the first 12 months) need to be agreed between the employee and ICH.

ICH will respond to requests to extend parental leave beyond the first 12 months in writing and within 21 days of receiving the request. The response can:

- Agree to the request
- Agree to a varied extended leave period following a discussion with the employee, or

- Refuse the request

ICH will only refuse a request if:

- A genuine discussion has been held with the employee to try and reach an agreement about an extension
- The consequences of refusing the extension for the employee have been genuinely considered
- The refusal is on reasonable business grounds

When refusing a request, ICH will provide in writing:

- The details of the reasons for refusing the request
- An alternative extension period ICH can agree to or that there is no extension period that ICH is willing to agree to
- Details of the dispute resolution and arbitration process with the Fair Work Commission

Reasonable business grounds can include:

- Cost
- Inability to change other employees' working arrangements
- Where it is impractical to change other employees' working arrangements or hire new employees
- Where the request is likely to result in significant loss in efficiency or productivity, or if it would have a significant negative impact on customer service

3.2.4 Evidence

ICH may require evidence of the actual or expected date of birth (e.g. medical certificate), the date of placement and age of an adopted child. ICH may also request evidence related to the taking of pre-adoption leave.

If evidence is not provided when requested, the employee will not be entitled to the leave.

3.3 Fitness for Work

A pregnant employee wanting to work in the 6 weeks before birth may be asked by ICH to provide a medical certificate confirming the employee is fit for work, and whether it is inadvisable for the employee to continue in their present position due to illness or risk arising from the pregnancy or hazards associated with the position.

ICH may require the employee to take a continuous period of unpaid parental leave as soon as possible if:

- The employee does not provide a medical certificate within 7 days of the request
- Upon receiving a certificate which states they are not fit for work
- The provided certificate states that the employee is fit for work but it is not recommended they continue in their current position and the employee has not provided the required notice and evidence for taking parental leave

Leave starts upon the direction to take unpaid parental leave and counts as part of the total unpaid parental leave entitlement.

3.4 Special Circumstances

3.4.1 *Stillbirth or Infant Death*

If an employee's baby is stillborn or their child dies in the first 24 months of life, they can take up to 12 months unpaid parental leave (giving notice as soon as possible). ICH will not call the employee back to work or cancel their leave during this time.

An employee can choose to reduce or cancel their period of unpaid parental leave. If leave hasn't started, the employee needs to give written notice of their decision to cancel their leave. If leave has started, the employee need to give ICH 4 weeks written notice before they return.

ICH and the employee may agree to an earlier return.

3.4.2 *Premature Birth and Birth-Related Complications*

An employee can agree with ICH to have their unpaid parental leave put on hold if:

- They have a premature birth or gestational/other birth-related conditions
- Their newborn has to stay in hospital or be hospitalised immediately after birth

While the newborn is in hospital, the employee can return to work. The employee can then resume their leave:

- At a time agreed with ICH
- At the end of the day when the newborn is discharged from the hospital, or
- At the end of the day in the scenario that the newborn dies

3.4.3 *Special Maternity Leave*

An eligible pregnant employee is entitled to take unpaid special maternity leave if they are not fit for work because they:

- Are pregnant and have a pregnancy-related illness, or
- Have a pregnancy loss after 12 weeks and their baby isn't stillborn

If an employee takes unpaid special maternity leave, the leave will end when:

- The pregnancy ends, or
- The employee is fit to return to their job, whichever is earlier

If the employee takes leave because of a miscarriage or termination, the leave can continue until they are fit for work.

If the baby is stillborn, the employee cannot take unpaid special parental leave but can take parental leave and compassionate leave.

An employee must give ICH notice as soon as possible and the expected period of leave. ICH may request evidence related to the taking of this leave. The unpaid parental leave entitlement is not reduced by the taking of unpaid special maternity leave while they are pregnant.

3.4.4 *Transfer to a Safe Job or 'No Safe Job' Leave*

All pregnant employees have an entitlement to be transferred to an appropriate safe job (regardless of their parental leave eligibility). The entitlement applies if the employee has provided evidence that they are fit for work, but that it is inadvisable for them to continue in their present position due to illness or risks arising from the pregnancy or hazards associated with the position.

The employee must provide evidence that demonstrates that they are entitled to be transferred to a safe job. ICH may request that a medical certificate is provided.

If a safe job is available, it must have the same ordinary hours of work unless agreed by the employee. The employee will stay in that role until it is safe for them to return to their normal role or if the pregnancy ends.

If no safe job is available, they are entitled to 'no safe job' leave for the risk period. No safe job leave, can be paid or unpaid:

- Paid 'no safe job' leave is available if the employee:
 - Is entitled to unpaid parental leave, and
 - Has complied with notice and evidence requirements for taking unpaid parental leave.
- Unpaid 'no safe job' leave is available to employees who aren't entitled to unpaid parental leave. ICH can request that the employee provide evidence.

Employees who aren't entitled to unpaid parental leave can take unpaid 'no safe job' leave. ICH can request that the employee provide evidence.

3.5 Consultation

Employees on unpaid parental leave are entitled to be kept informed of decisions by ICH that will have a significant effect on the status, pay or location of the pre-parental leave position. ICH will take all reasonable steps to give the employee information about and an opportunity to discuss the effect of such decisions upon their position.

3.6 Keeping in Touch

Under the *Paid Parental Leave Act 2010*, employees may have keeping in touch days where they perform work for ICH on a day, part of a day, a few days or all at once while on a period of approved leave. This will be considered a keeping in touch day where:

- The purpose of performing work is to enable the employee to keep in touch with their employment (e.g. attending training, planning days or refreshing their skills)
- Both the employee and ICH consent to the employee performing specific work on that day
- The day is not within 42 days of the birth or placement of the child (to which the leave relates) if requested by ICH or within 14 days if requested by the employee
- The employee has not already performed 10 days of work during the period of leave that were keeping in touch days.

An employee who performs work on a keeping in touch day is entitled to payment from ICH in accordance with their Award and Employment Agreement. A keeping in touch day does not break the single continuous period of unpaid parental leave.

3.7 Replacement Employees and Returning to Work

An employee that has been on unpaid parental leave is entitled to return to their pre-parental position or if that position no longer exists, they must be offered an available position for which they are qualified and suited, which is nearest in status and pay to their pre-parental leave position.

If an employee is on a fixed term contract and it ends while they are on unpaid parental leave, they are not entitled to return to the same position.

While an employee is on leave, ICH may recruit or transfer someone to cover that position. Where this occurs, ICH will inform the person:

- That the position is temporary
- The employee taking leave has the right to return to their job
- There are situations where ICH or the employee taking parental leave can end the leave which may affect their employment.

3.8 Paid Parental Leave

In addition to the entitlements under the National Employment Standards, employees may also have an entitlement to paid parental leave. The Australian Government Paid Parental Leave Scheme provides government-funded parental leave pay at the national minimum wage to employees who meet the eligibility criteria. This may be paid to the employee or to ICH and passed onto the employee. More information can be obtained from Services Australia.

4. Review

This policy shall be reviewed every 3 years.

This policy remains in effect unless otherwise determined by resolution of the Board of Directors.

5. Related Documents

Policies

ICH Leave Policy
ICH Flexible Work Policy
ICH Anti-Discrimination Policy

References

Fair Work Act 2009 (Cth)
Paid Parental Leave Act 2010 (Cth)
Workplace Health and Safety Act 2011 (Qld)