

## HEALTH SERVICES UNION

### Leave Policy

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#### 1. Purpose

1.1. This policy covers the following types of leave: annual, personal/carer's, *Leave without Pay*, long service, accrued days off, family and community services, Family Domestic Violence, parental, jury duty, Birthday, Religious, Reproductive Health and Wellbeing and study. It applies to all full-time, part-time and casual employees. This policy replaces all other leave policies of the HSU which deal with the taking of leave.

#### 2. Application of the Policy

2.1 This Policy does not form part of any employee's contract of employment. The Policy is not intended to override the terms of any award, enterprise agreement or contract that applies to an employee.

2.2 This Policy reflects the National Employment Standards (**NES**) as set out in the *Fair Work Act 2009* (Cth) (**the Act**) on leave but does not override the NES.

#### 3. Definitions

3.1 "*Appropriate safe job*" is a job that has the same ordinary hours of work as the employee's present position, or a different number of hours, as agreed to by the employee.

3.2 "*Immediate family*" means:

- a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- b) a child, parent, grandparent, grandchild or sibling of a spouse of the employee.

3.3 "*Spouse*" includes a former spouse, a de facto spouse or a former de facto spouse.

3.4 "*De facto partner*" means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or difference sexes) and includes a former de facto partner of the employee.

3.5 "*Child*" includes an adopted child, stepchild, an ex-nuptial child and an adult child.

3.6 "*Employee couple*" means two employees who are spouses or de facto partners of each other.

3.7 "*Extended personal leave*" means personal leave in excess of four consecutive weeks.

3.8 “Excessive leave” means annual leave in excess of eight weeks.

## 4. Annual Leave

4.1 The HSU provides annual leave in accordance with the Act.

### **Amount of leave**

4.2 For each year of service, an employee (other than a casual employee), subject to their hours and employment status, accrues four (4) weeks of paid annual leave.

4.3 Annual leave accrues progressively from year to year.

4.4 Annual leave can accumulate during workers compensation.

4.5 Annual Leave does not accrue while on periods of leave without pay.

### **Taking annual leave**

4.6 Annual leave is to be taken for a period agreed between the employee and the HSU. The organisation will not unreasonably refuse a request for annual leave from the employee.

4.7 All leave is to be approved by the Manager, who will take into account current and projected workloads.

4.8 Employees will be notified through the HSU employee portal once leave has been approved.

4.9 Employees should not make travel/accommodation arrangements until the leave has been formally approved.

4.10 Annual leave will not be granted in advance of accrual except in exceptional circumstances.

4.11 Annual leave cannot be taken at half pay.

4.12 The HSU may require an employee to take annual leave as part of a close-down of its operations, by giving at least four weeks’ notice.

4.13 Employees may be directed to take annual leave where it is reasonable, with the HSU providing at least four weeks’ notice. This might include where the employee has accrued an amount of paid annual leave in excess of eight (8) weeks.

4.14 If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.

4.15 If the HSU has genuinely tried to reach agreement with an employee but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.

4.16 The direction to take excessive annual leave must not leave employee’s remaining accrued entitlement to paid annual leave being less than six (6) weeks.

4.17 Annual leave can be taken during workers compensation and may be used to cover the deficit between the workers compensation payment and the employee's usual pay.

***Payment on annual leave***

4.18 Annual leave will be paid at the employee's base rate of pay plus leave loading of 17.5% for the employee's ordinary hours of work in the period. The payment will be processed at the usual pay time or can be paid in advance on request.

***Cashing out annual leave***

4.19 Award covered and agreement covered employees may only cash out annual leave in accordance with the terms of the award or agreement that applies to them.

4.20 Award free and agreement free employees may request the HSU to cash out some of their accrued annual leave from time to time provided that:

- a) the employee maintains a minimum of 4 weeks annual leave after the cashing out;
- b) the HSU agrees; and
- c) the agreement to cash out is made in writing or in an electronic form.

***Payment of annual leave on termination***

4.21 Subject to the terms of any other agreement, contract or award, any accrued but untaken annual leave will be paid out on termination. Such payment will be the amount that would have been payable to the employee had the employee taken that period of leave.

## **5. Personal / Carer's Leave**

5.1 The HSU provides personal/carer's leave in accordance with the Act.

5.2 Casual employees have no entitlement to personal/carer's leave.

5.3 For each year of service with the HSU, an employee (other than a casual employee) will, subject to their hours and terms of employment, accrue ten (10) days of paid personal/carer's leave. Such leave accrues progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year.

5.4 Personal / carer's leave does not accrue during workers compensation or while on periods of leave without pay.

***Taking paid personal/carer's leave***

5.5 An employee may use their accrued paid personal/carer's leave for personal illness or personal injury affecting the employee. An employee may also use this leave to provide care and support

to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of a personal illness; or personal injury affecting the member; or an unexpected emergency affecting the immediate family/household member.

5.6 Working from home is not to be used as an alternative to sick leave.

5.7 Sick leave can be taken during workers compensation and may be used to cover the deficit between the workers compensation payment and the employee's usual pay.

#### ***Paid personal/carer's leave - notice and documentation requirements***

5.8 In order to access an entitlement to personal/carer's leave, an employee must inform the relevant manager of their inability to attend for duty within one hour of commencement time of normal duty on the day of the personal leave absence (except in exceptional circumstances). As far as practicable, the employee is to state the nature of the injury or illness and the estimated duration of the absence.

5.9 An employee taking personal / carer's leave to care for members of their immediate family or household who are sick and require care and support, or who require care due to an unexpected emergency, where reasonably practicable, is to advise their Manager with:

- a) notice prior to the absence of the intention to take leave;
- b) the name of the person requiring care and their relationship to the employee;
- c) the reasons for taking such leave; and
- d) the estimated length of absence.

The employee must also place an application for leave in the employee portal leave system.

5.10 If it is not practicable for the employee to give prior notice of the absence, the employee is to notify the employer within one (1) hour of commencement time of normal duty on the day of the absence and provide an estimation of the length of leave required.

#### **Carer's Leave Application**

5.11 As soon as is practicable following return from Carers Leave, the employee shall complete a leave application in the employee portal. Failure to provide a leave application may result in payment for days of absence being withheld.

#### **Notice of Absence**

5.12 The employee is to notify their relevant manager via phone where reasonably practicable to do so.

#### **Evidence Supporting Claim**

5.13 When an employee takes leave for;

- a) Personal illness or injury; or
- b) To care for members of their immediate family or household who are sick and require care and support; or
- c) To care for members of their immediate family or household who require care due to an unexpected emergency,

The employee is to prove to the satisfaction of the Secretary that the employee was unable to attend duty on the day or days on which personal leave is claimed. Where evidence is required by the Secretary, the employee is to provide a medical certificate from a registered medical officer, if it is reasonably practicable to do so.

If it is not reasonably practicable for the employee to give the Secretary a medical certificate, a statutory declaration made by the employee, stating the illness of the person concerned and where applicable that such illness requires care by the employee.

#### **Days without medical certificate for personal injury or illness**

- 5.14 Where leave is granted under this clause for personal leave for personal illness or injury for a period of two or more consecutive working days, the third and subsequent days are without pay unless the leave is supported by a certificate from a registered health practitioner.
- 5.15 A medical certificate from a registered medical officer is required for each personal leave absence for personal illness or injury after the employee has taken an aggregate of thirty-eight (38) hours (five working days) without a medical certificate in any personal leave year.

#### ***Payment for personal/carer's leave***

- 5.16 Paid personal/carer's leave for employees will be paid at the employee's base rate of pay for all ordinary hours of work in the period. This will not include payment for any allowance, loadings, penalties or the like. The payment will be processed at the usual pay time provided the employee has complied with the notice and documentation requirements.

#### ***Payment for personal/carer's leave on termination***

- 5.17 Subject to the terms of any other agreement, contract or award, any accrued but untaken personal/carer's leave will **not** be paid out on termination of employment.

## **6 Long Service Leave**

- 6.1 Long service leave will be granted to all employees in accordance with applicable long service leave legislation in New South Wales as varied from time to time.

#### ***Amount of leave***

- 6.2 Employees with at least seven (7) years' service and less than ten (10) years' service are entitled, proportional to their service, pro-rata long service leave of two (2) months long service leave for 10 years' service.

6.3 Employees shall be entitled to two months long service leave on full pay after ten years of service; thereafter long service shall accrue on the basis of five (5) months long service leave on full pay for each ten (10) years' service.

6.4 Service shall not include any period of leave without pay, except in the case of employees who have completed at least ten (10) years of service (any period of absence without pay being excluded from there), where the leave without pay does not exceed six (6) months.

#### ***Taking long service leave***

6.5 Long service leave is to be taken for a period agreed between the employee and the HSU. The organisation will not unreasonably refuse a request for long service leave from the employee.

6.6 All leave is to be approved by the Manager who will take into account current and projected workloads.

6.7 Employees will be notified through the HSU employee portal once leave has been approved.

6.8 Employees should not make travel/accommodation arrangements until the leave has been formally approved.

6.9 Long service leave will not be granted in advance of accrual.

#### ***Payment on long service leave***

6.10 Long service leave will be paid at the employee's base rate of pay for the period based on seven (7) days per week. The payment will be processed at the usual pay time or can be paid in advance on request.

6.11 Cashing out of long service leave is unlawful in New South Wales.

#### ***Payment of long service leave on termination***

6.12 Employees with at least five (5) years' service, and whose services are terminated by the employer for any reason other than the worker's serious and wilful misconduct, or by the worker on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the worker shall be eligible for payment of accrued long service leave upon termination.

6.13 Employees with more than seven (7) years' service shall have any accrued but untaken long service leave paid out on termination. Such payment will be the amount that would have been payable to the employee had the employee taken that period of leave.

#### ***Prior recognised service***

6.14 Employees who commenced employment with the Union and have prior service with:

- a) An employer that the Union has member coverage of; or
- b) The HSU or its predecessors within NSW, ACT or QLD

will have such prior service recognised as service with the HSU, for the purposes of accruing long service leave pursuant to clause 6.3, subject to the guidelines set down below.

#### ***Guidelines for recognised prior service***

- 6.15 Only continuous service with a member employer or prior service with the HSU will count as transferable service.
- 6.16 For previous service with an employer which the HSU has member coverage or previous service with the HSU, a break of no more than one (1) year between the end of employment with the member employer or the HSU and the commencement of employment with the Union will not constitute a break of service, but the period of such break will not count as service.
- 6.17 Employees must have at least five (5) years' continuous service with the Union before they can take long service leave or receive payment of such leave, including on termination.
- 6.18 Recognised prior service is used only for the purposes of calculating long service leave entitlements pursuant to clause 6.3. Any previous entitlement that an employee holds from a previous employer, will not be absorbed by the Union, regardless of whether the employee received a pay-out of leave entitlements on termination of their previous employment.

#### ***Procedures for recognised prior service***

- 6.19 Employees should request recognition of long service leave during the induction process.
- 6.20 Where an employee is eligible for recognition of service for long service leave, the Union will request verification of service dates from the member employer.
- 6.21 Once verified, the Union will amend the employee's record accordingly. Documentation of the prior recognised service will be retained on the employee's personnel file.

## **7 Accrued Days Off (ADO's)**

- 7.1 Full time employees can accumulate one Accrued Day Off (ADO) every four-week period.
- 7.2 The criteria for accruing ADO's is that the hours are accumulated on the additional ordinary hours worked.
- 7.3 ADO's are not accumulated on ADO's, annual leave, long service leave, leave without pay or extended personal leave.
- 7.4 Employees are discouraged from accumulating excess ADO's. Managers are expected to ensure that employees take their ADO's and are not excessively accumulated.
- 7.5 Where an employee is ill on an ADO, it will still be treated as an ADO not as a personal leave day.

#### ***Cashing out ADO's***

- 7.6 Cashing out ADO's is generally not agreed to. Where cashing out ADO's is to be considered, the opportunity is to be offered to all employees and a decision confirmed by the Union Committee.

### ***Payment of ADO's on termination***

7.7 Any accrued but untaken ADO's will be paid out on termination. Such payment will be the amount that would have been payable to the employee had the employee taken that period of leave.

## **8 Family and Community Services Leave (FACS)**

8.1 Employees may be granted Family and Community Services (FACS) Leave (of five (5) days in the first year of service and thereafter ten days in a period of two (2) years (pro rata for part-time employees) for the following reasons:

- a) to provide care and support for sick family members of the employee's family or household;
- b) for reasons related to the employee's family responsibilities (i.e. to arrange a funeral, accompany a relative to a medical appointment, attend a school function);
- c) in relation to the performance of voluntary emergency service by the employee;
- d) in case of pressing necessity (i.e., adverse weather conditions).

8.2 FACS leave incorporates employee entitlements to compassionate leave, and community service leave under the Fair Work Act 2009.

### ***Additional FACS leave for bereavement purposes***

8.3 Where FACS leave has been exhausted, additional FACS leave of up to two (2) days for bereavement may be granted on a discrete, "per occasion" basis to an employee on the death of a relative or member of a household.

### ***Voluntary emergency management activities***

8.4 An employee is entitled to be absent from work to undertake voluntary emergency management activities if:

- a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
- b) the employee engages in the activity on a voluntary basis (whether or not the employee is paid a gratuity); and
- c) the employee is a member of, or has a member-like association with, a recognised emergency body such as a firefighting, civil defence or rescue body; and either:
- d) is requested by or on behalf of the body to engage in the activity; or



- e) it is reasonable to expect that a such a request would have been made if circumstances permitted; and
- f) the employee's absence is reasonable in all the circumstances.

#### ***Notice and documentation for Family and Community Services Leave***

8.5 In order to access an entitlement to community service leave, an employee must:

- a) comply with any requirements in their award, agreement and contract;
- b) as soon as practicable, inform their manager that the employee will be absent from work due to the above reasons;
- c) inform the HSU of the period of the absence by entering the leave into the employee portal system. It is the employee's manager's responsibility to ensure this has been entered into the leave portal system by the employee; and
- d) provide evidence that would satisfy a reasonable person that the leave is taken for FACS as specified in this policy.

#### ***No accumulation***

8.6 As FACS leave is an event-based leave, it does not accrue and accordingly, will not be paid out on termination of employment.

## **9. Family Domestic Violence Leave**

9.1 Any employee experiencing family and domestic violence is entitled to 10 days of paid FDV leave each year. This includes part-time and casual employees.

9.2 FDV Leave is available to all employees in full immediately upon the commencement of employment and resets on the employee's work anniversary. FDV leave does not accumulate from year to year.

9.3 Any employee may access their FDV leave at any time without the provision of documentation or evidence if the purpose is to aid them in seeking support or recovering from the distressing circumstances which occur due to Family and Domestic Violence. The employee may take this leave without notifying the Union of the reason or circumstances around the leave.

## **10. Parental Leave**

10.1 'Parental leave' is a general term encompassing birth-related leave, surrogacy and adoption-related leave.

## **Paid Parental Leave**

- 10.2 Parental leave is only available to one parent at a time in a single unbroken period, except both parents are entitled to access simultaneous parental leave in an unbroken period of up to four weeks as follows:
- a) For birth or surrogacy related leave, at the time of the birth of the child;
  - b) For adoption related leave, at the time of placement of the child.
- 10.3 Periods of accrued annual, long service or other similar paid leave (other than compassionate, bereavement, community service or personal leave) may be taken in conjunction with parental leave without breaking the continuity of the period of parental leave provided for under the NES.
- 10.4 An employee with less than 12 months continuous service and has passed the 6-month probation period will be entitled to two (2) weeks paid leave.
- 10.5 Work from home arrangements for partners of primary care givers will be favourably considered where possible.
- 10.6 Where an employee on parental leave applies for annual leave or long service leave at any time after the expiration the parental leave, and is eligible for that leave, the application will be granted.

### **Parent with Primary Responsibility for care of child at the time of birth, adoption, or surrogacy:**

- 10.7 An Employee who has, or will have completed 12 months continuous service (at the time of the birth, adoption or surrogacy) is entitled to up to 14 weeks Paid Parental Leave if the leave is associated with:
- a) the birth of a child (or children from a multiple birth) of the Employee, the Employee's Spouse or the Employee's legal surrogate, or the adoption of a child (or children) by the Employee or the Employee's Spouse; and
  - b) the Employee has or will have Primary Responsibility for the care of the child at the time of the birth, adoption or surrogacy.
- 10.8 Paid Parental Leave must be taken within the first 12 months from the date of birth, adoption or surrogacy. For birth-related leave, Paid Parental Leave may commence prior to the time of birth.
- 10.9 On application in writing to the Secretary, the paid proportion of the leave referred to in sub-clause 10.7 above may be taken over twenty-eight (28) weeks at half pay.

### **Other Parent:**

- 10.10 An Employee who has, or will have, completed not less than 12 months continuous service (at the time of the birth, adoption or surrogacy) and who will not have Primary Responsibility for

the care of their child at the time of the birth, adoption or surrogacy is entitled to, within the first 12 months from the date of birth, adoption or surrogacy:

- a) up to 4 weeks Paid Parental Leave at the time of the birth, adoption or surrogacy; and
- b) up to 10 weeks additional Paid Parental Leave, subject to the conditions in subclause 10.11.

#### **Additional Paid Parental Leave for Other Parent**

10.11 An Employee who will not have Primary Responsibility for their child at the time of the birth, adoption or surrogacy is entitled to up to an additional 10 weeks paid leave within the first 12 months from the date of birth, adoption or surrogacy provided that:

- a) the Employee assumes Primary Responsibility for the care of the child during the 10 week period; and
- b) the Employee's Spouse is not concurrently (apart from the leave that is able to be taken concurrently under subclause 10.7) taking Primary Responsibility for the care of the child, including receiving Paid Parental Leave or a similar entitlement from their employer.

10.12 To access additional Paid Parental Leave, the Employee must have been eligible for the leave at the time of birth, adoption or surrogacy, irrespective of when the Employee elects to take the paid leave under this clause.

10.13 The Employee will be required to provide evidence which would satisfy the Employer:

- a) of the employment or education status of the Employee's Spouse and the length of parental leave taken or proposed to be taken by them (including without limitation, an employment certificate or letter from the employer or education institution).
- b) of the Employee's Spousal status (including without limitation a statutory declaration or marriage certificate).

#### **Unpaid Parental Leave**

10.14 After twelve (12) months continuous service parents are entitled to a combined period of up to 52 weeks unpaid parental leave on a shared basis in relation to the birth, surrogacy, or adoption of a child.

10.15 An employee, other than a casual employee, will be eligible to take unpaid parental leave if the employee has (or will have) completed at least twelve (12) months' continuous service with the HSU immediately before:

- a) the date of birth of the child, or expected date of birth (for birth or surrogacy-related leave); or
- b) the day of placement of the child or expected day of placement (for adoption-related leave).

10.16 With respect to periods of parental leave which exceed four (4) weeks, the employee must be the primary care giver for the child.

10.17 For employees accessing adoption-related leave, the child must, at the day of placement or expected day of placement:

- a) be under sixteen (16);
- b) not have lived continuously with the employee for at least six (6) months; and
- c) not be a child of the employee's spouse or de facto partner.

### **Casual employees**

10.18 A casual employee will be eligible to take unpaid parental leave if:

- a) the employee has been (or will be) employed by the HSU on a regular and systematic basis for a sequence of periods of employment during a period of at least twelve (12) months prior to the taking of parental leave; and
- b) would have a reasonable expectation of employment by the HSU on a regular and systematic basis but for the birth, the expected birth, the placement or the expected placement.

10.19 Eligibility for all employees is also subject to employees meeting the relevant documentation requirements outlined below.

### **Period of Parental Leave**

10.20 Except as noted below, the amount of parental leave that an eligible employee is entitled to take is twelve (12) months (***the Guarantee Period***), less any leave taken as outlined below:

- a) any period of leave that the employee has taken concurrently with the other member of the employee couple;
- b) any period of birth-related leave the employee has been required to take under the "Timing of Parental Leave" section of this Policy;
- c) any period of unpaid special maternity leave the employee has taken;
- d) any period of paid leave the employee has taken while taking unpaid parental leave (called the "**Deducted Leave**").

10.21 An employee may not take paid personal / carer's leave or be paid community service leave while taking unpaid parental leave.

### ***Continuous period***

- 10.22 With the exception of special maternity leave and concurrent leave, any parental leave taken must be taken in one continuous period.

### **Extending unpaid parental leave within the guarantee period**

- 10.23 An employee who initially applied for a period of less than the Guarantee Period may extend once, without requiring the consent of the HSU, the period of unpaid parental leave by notifying their manager with at least four (4) weeks before the end of the original leave period (***the First Extension***).
- 10.24 The notice must specify the new end date for the First Extension. The total period of leave, including the First Extension and all Deducted Leave, must not total more than 12 months.
- 10.25 During the Guarantee Period, if an employee wishes to extend their period of parental leave after the First Extension, they may do so only with the HSU's consent.

### **Extending unpaid parental leave for up to an additional 12 months after the expiration of the guarantee period**

- 10.26 An employee may request that their period of unpaid parental leave be extended for up to an additional twelve (12) months following the expiry of the Guarantee Period (***the Extended Leave Period***).
- 10.27 In order to request an extension past the Guarantee Period, the employee must confer with their manager and submit a leave application in the employee portal system at least four (4) weeks before the end of the Guarantee Period.
- 10.28 The HSU may refuse the request on reasonable business grounds. If it refuses the request, the HSU will write to the employee detailing the reasons for the refusal.
- 10.29 A member of an employee couple who wishes to request the Extended Leave Period must also specify in their request:
- a) the length of the proposed extension;
  - b) the amount of unpaid parental leave that the other member of the employee couple has taken up to the time of making the request;
  - c) the amount of time that the other member proposes to take after submission of the request;
  - d) that they will be the primary care giver of the child during the Extended Leave Period;
  - e) that the amount of Extended Leave Period for the couple will not exceed twelve (12) months.

### **Reducing Unpaid Parental Leave**

10.30 If the HSU agrees, an employee whose period of unpaid parental leave has started may reduce the period of unpaid parental leave he or she takes.

### **Timing of Parental Leave**

#### **Birth-related leave**

10.31 Birth-related leave for a female employee who is pregnant may start up to six (6) weeks before the expected date of birth of the child. Otherwise, the employee's leave must not start later than the day of the birth of the child, or immediately after the parental leave of their spouse.

10.32 The HSU may require a pregnant employee to commence birth-related leave as soon as practicable up to six (6) weeks before the expected date of birth once certain steps are followed.

These steps are:

- a) The HSU has asked the employee to provide a medical certificate or other evidence that would satisfy a reasonable person stating:
  - i. that the employee is fit for work, and
  - ii. that it is advisable for the employee to continue working, considering illnesses or risks arising out of the pregnancy or hazards connected with the position.
- b) Then:
  - i. the employee has not provided the medical evidence within seven (7) days after the request; or
  - ii. the employee has provided the medical evidence, but the evidence states that it is inadvisable for her to continue in her present position during the stated risk period, and there is no safe job available to transfer the employee to.

#### **Adoption-related leave**

10.33 Any employee who applies for and is granted unpaid adoption-related leave must, as a condition of the leave, start the leave on the day of the placement of the child. However, if the other member of the employee couple has responsibility for the care of the child from the day of the placement, the employee may take the unpaid adoption related leave from the date their partner's leave finishes.

10.34 An employee may also access up to two (2) days' unpaid pre-adoption leave if required to attend an interview or an examination in order to obtain approval for the adoption and the employee cannot take some other form of leave.

## Notice and Evidence

- 10.35 An employee who wishes to take parental leave must submit a request for parental leave through the employee portal system to provide notice of the intention to take parental leave and the intended start date and end dates of the leave:
- a) at least ten 10 weeks before starting the leave, or
  - b) if ten 10 weeks' notice is not practicable, as soon as is practicable.
- 10.36 An employee is also required to confirm the intended start and end dates of the leave at least 4 weeks before the intended start date, along with any changes to the dates.
- 10.37 The HSU will consider the request and whether the employee is eligible for leave and will, advise the employee whether the request is granted or declined.
- 10.38 At the time an employee submits a request for parental leave, they must, if requested by the HSU, give evidence of:
- a) the date of birth / expected date of birth - for birth-related leave; or
  - b) the day of placement / expected day of placement and that the child is or will be under 16 as at this day - for adoption-related leave.

## Ending Unpaid Parental Leave

- 10.39 An employee who takes parental leave should be aware that HSU may give the employee four (4) weeks' notice directing the employee to return to work if the employee ceases to be the primary care giver of the child.
- 10.40 A period of parental leave can also be ended in other circumstances, for example, where the pregnancy does not come to term.

## Unpaid Special Maternity Leave

- 10.41 Special Maternity Leave is leave taken by a female employee because she is suffering from a pregnancy related illness or whose pregnancy ended (other than by the birth of a living child) within twenty eight (28) weeks of the expected date of birth.
- 10.42 Special Maternity Leave can arise during pregnancy (in circumstances of pregnancy-related illness) or at the end of pregnancy if the pregnancy ends other than by the birth of a living child.
- 10.43 An employee who wishes to apply for unpaid special maternity leave should submit a request for leave form together with a medical certificate outlining the period of the absence.

## Transfer to a safe job

- 10.44 The HSU may direct a pregnant employee to provide medical information concerning her pregnancy to determine whether it is safe for the employee to perform her position and/or work during her pregnancy.

10.45 If an employee provides a medical certificate stating that she is unfit to work, she may be entitled to unpaid special maternity leave, as outlined above. Alternatively, the HSU will consider appropriate arrangements having regard to the particular circumstances.

10.46 If an employee provides a medical certificate stating that she is fit to work, but that it is inadvisable for her to continue in her present position because of illness, or risks arising out of her pregnancy, or hazards connected with that position, the HSU:

- a) may transfer the employee to a safe job if there is an appropriate safe job available. The employee's terms and conditions of employment will otherwise remain unchanged; or
- b) may require the employee go on paid no safe job leave. No safe job leave will cease at the end of the risk period in the medical certificate, when the employee gives birth, or when the pregnancy otherwise ends. This leave will be paid at the base rate of pay for the employee's ordinary hours in the risk period.
- c) If the pregnant employee is still on paid no safe job leave during the six (6) week period before the expected date of birth of the child, the employer may ask the employee to provide a medical certificate stating whether the employee is fit for work.
- d) If the employee does not provide a medical certificate to the employer within seven (7) days of the request or if, within seven (7) days of the request, the employee provides a medical certificate which states that the employee is not fit for work, the employer may require the employee to start her period of unpaid parental leave as soon as practicable. When the period of unpaid parental leave begins, the paid 'no safe job' leave period ends.

10.47 In order to be entitled to transfer to a safe job and/or paid leave in these circumstances, the employee must be eligible for parental leave and have complied with the documentation requirements for unpaid parental leave, outlined in this Policy.

### **Parental Leave and Service**

10.48 Any period of parental leave does not break an employee's continuity of service. However, a period of unpaid parental leave or government funded parental leave does not count as service for the calculation of entitlements and benefits.

### **Return to Work from Parental Leave**

10.49 Upon return to work from parental leave, the employee is entitled to:

- a) return to the position that they held immediately before going on parental leave; or
- b) if the employee was promoted or voluntarily transferred to a new position during the period of parental leave, be employed in the new position; or



- c) if, before commencing parental leave, the employee began working part time because of her pregnancy (or because of his spouse or de facto partner's pregnancy) or was transferred to a safe job because of her pregnancy, to the position the employee held immediately before working part time or being transferred to a safe job; or
- d) if that position no longer exists, an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position.

### **Flexible Working**

10.50 Employees who are the parent or have the responsibility for the care of a child are entitled to request a change in their working arrangements to assist in the care of the child. An application must be made with at least four (4) weeks' notice and may only be refused on reasonable business grounds.

### **Replacement Employees**

10.51 The HSU may engage a temporary replacement for an employee who is on parental leave. The replacement employee will be advised that the engagement to do that work is temporary and advised of the employee's right to return to their former position.

### **Contact During Leave**

10.52 The HSU may be required to consult with employees whilst they are on parental leave about significant work matters that directly impact on them. It is therefore important that an employee informs the HSU of their contact details no less than two (2) weeks before the commencement of leave and as and when those details change during the period of parental leave.

### **Obligations During Leave**

10.53 The employee must not engage in any conduct during the period of parental leave which is inconsistent with the employee's contract of employment or their general employee obligations to the HSU. This includes but is not limited to engaging in other employment and using or disclosing confidential information.

## **11. Leave without Pay**

- 11.1 Leave without pay (LWOP) may be granted by the Union for any purpose.
- 11.2 Normally, an employee will be expected to exhaust all other relevant leave entitlements before utilising periods of LWOP.
- 11.3 Where an employee intends on taking LWOP, the matter should be discussed with their manager prior to lodging an application.
- 11.4 LWOP applications are required to be placed in the employee leave portal system as soon as reasonably practicable.

- 11.5 Approval of LWOP applications will be made at the Unions discretion and will be based upon the needs of the employee and reasonable business needs of the Union.
- 11.6 LWOP shall not break the Employee's continuity of employment but will not count as service for leave accrual or other purposes.

## 12. Jury Duty

- 12.1 An employee who has received a summons to appear for jury duty by a court that impacts on the employee's ability to undertake their duties must advise the Secretary as soon as is practicable and discuss the circumstances of the summons including the impact on the union.
- 12.2 In the event that a full-time or part-time employee is required to serve on a jury, that employee will not be financially disadvantaged in terms of their wages, superannuation or accrued leave entitlements for serving as a Juror.
- 12.3 Any employee who receives payment for out of pocket wages from a court for serving on a jury, and wishes to take advantage of this policy, must produce to the Secretary documentation showing the amount the employee has received for compensation of loss of wages whilst serving as a Juror.
- 12.4 On production of the required documentation, the employee will receive their weekly gross wage minus the amount received by the Courts.
- 12.5 All superannuation normally paid by the employer in a normal pay period, including salary sacrifice and the Superannuation Guarantee Contribution will remain the same as if the employee had been at work.
- 12.6 Time served on a jury will be deemed to be time served in employment with HSU for the purpose of accruing leave entitlements.
- 12.7 Any taxation liability arising from the receipt of out of pocket wages from a court for serving on a jury is the sole responsibility of the employee.

## 13. Study Leave

- 13.1 Study leave may be granted by the Union for which an application must be provided by the employee demonstrating the appropriateness and how it directly relates to their role at the Union.
- 13.2 The maximum amount of study leave that may be granted is:
- a) Four (4) hours per week during the duration of the approved studies. Any additional time must be made up in ordinary hours of work; or
  - b) Five (5) days per calendar year for time to prepare and attend to exams or assignments during work hours. Any additional time must be made up in ordinary hours of work.
- 13.3 Study leave cannot be accrued.

- 13.4 Formal approval in writing will be provided by the Union to the employee.
- 13.5 Upon completion of studies, a copy of the qualification or transcript must be provided to the Union for placement on the employee's personal file.

#### **14. Reproductive Health and Wellbeing Leave**

- 14.1 For the purpose of this clause, reproductive health is defined as any condition relating to menstruation, perimenopause, menopause, poly-cystic ovarian syndrome and endometriosis, In Vitro Fertilization and other forms of assisted reproductive health services, vasectomy, hysterectomy and terminations.
- 14.2 An employee experiencing reproductive health issues is entitled to up to 5 days per year of paid reproductive health leave for the purpose of treatment and management of ill health/symptoms, in addition to any personal leave.
- 14.3 The employee shall give his or her employer notice as soon as reasonably practicable of their request to take leave under this clause.
- 14.4 If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in this clause. Such evidence may include a document issued by a doctor or other treating health professional (including a medical certificate) or a statutory declaration.

#### **15. Birthday Leave**

- 15.1 All permanent staff members are entitled to a half day (4 hours) of leave in the case that their birthday falls upon a normally scheduled working day.
- 15.2 This leave is optional, and staff are free to choose whether they wish to access this leave on their birthday.
- 15.3 If the staff members birthday does not fall on a scheduled workday, they are not entitled to an additional half day of birthday leave for use at a later date.
- 15.4 This half day of leave is to be taken either in the morning or in the afternoon and must be taken as one block.
- 15.5 Birthday Leave does not accrue and cannot be carried forward to the next year. This leave will also not be paid out upon termination.
- 15.6 Staff members that access this leave will accrue their usual entitlements and benefits.
- 15.7 HSU Staff are to provide notice of birthday leave as soon as practicable.
- 15.8 A birthday leave application is to be lodged by utilising the employee leave application process found within the staff portal.
- 15.9 Birthday Leave will be subject to the managers approval.

15.10 Birthday Leave may be used in conjunction with other forms of leave.

## 16. Religious Leave

- 16.1 The HSU is committed to accommodating the culturally diverse nature of its workforce by providing up to two (2) days leave for employees to observe days of religious significance.
- 16.2 Religious Leave does not accrue and cannot be carried forward to the new year. This leave will also not be paid out upon termination.
- 16.3 Staff members that access this leave will accrue their usual benefits and entitlements.
- 16.4 HSU staff are to provide notice of religious leave as soon as practicable.
- 16.5 Religious leave applications are forwarded to the relevant manager for approval.

## 17. Applications for Leave

- 17.1 Any employee who requests leave of a type specified by this Policy should submit a leave application through the employee portal system and comply with the other relevant notice and documentation requirements outlined in this Policy. All documents should be given to the payroll department.

## 18. Responsibilities

- 18.1 Managers  
Managers are to ensure that all leave taken by employees are accounted for in the employee portal system. Any approved arrangements made outside of this policy is to be in writing with a copy placed on the employee's personnel file.

## 19. Policy Version Control

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