



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

Dear [REDACTED]

On 11 April 2019, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, parental leave policies, procedures and arrangements for the Ministry of Social Development, including parental leave payments and 'top-ups', leave for partners' or secondary carers, pay review while on leave, any payments on leave accrued while on parental leave, flexible work arrangements, KiwiSaver contributions, and any contributions towards childcare.

Parental leave is the umbrella term used by the Ministry that includes maternity leave, paternity/partner leave and extended leave.

The Ministry's parental leave provisions reflect, and are in accordance with the Parental Leave and Employment Protection Act 1987. The provisions have been updated as changes have occurred in the legislation, including the Holidays Act 2003. The Ministry has enhanced the provisions in some areas, for example in relation to ex-gratia payments.

Please note that these policies are meant to be read in conjunction with the parental leave provisions in each employee's employment agreement.

Also note that the Ministry is currently in the process of revising and refreshing our parental leave policies. Maternity leave is now referred to as Primary Carer leave and this will be amended in our refreshed parental leave policy. In the refreshed parental leave policy and current procedure, the Ministry no longer requires employees to take all of their annual leave before starting parental leave.

Please find enclosed the following policies and procedures, which are available to all Ministry employees through the Ministry's intranet:

- *Parental Leave Provisions*

As noted above, parental leave is the umbrella term used by the Ministry that includes maternity leave, paternity/partner leave and extended leave. Primary Carer leave may be transferred to a spouse/partner, and extended leave may be shared with a spouse/partner. These provisions also include information on annual leave which can be accrued while on parental leave.

Please note the section titled 'Retirement savings scheme deductions'. The Ministry does not make employer contributions to KiwiSaver while employees are on parental leave. The Ministry may make employer contributions to other retirement savings schemes for eligible employees under specific circumstances.

- *Returning to Work when parental leave ends*

The Ministry has not agreed to parental leave payments or top-ups beyond our standard parental leave provisions outlined in the enclosed documents. The Ministry's employees may be eligible for government funded paid parental leave which is administered by Inland Revenue.

A small amount of information in this document is withheld under section 9(2)(k) of the Act in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the Act may end up in the public domain, for example, on websites including the Ministry's own website.

- *Flexible Working Arrangements*

The Ministry is currently in the process of developing additional guidelines to support Managers and employees to take up flexible working.

Please note that pay reviews are not completed for employees while they are on parental leave.

Please also note that the Ministry does not make contributions towards childcare costs for employees. Ministry employees who are eligible for childcare assistance with Work and Income can apply through the Work and Income Staff Assistance Unit.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter and attachments on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



Penny Rounthwaite
General Manager, Human Resources

Parental leave provisions

Parental leave has a number of important provisions that staff need to know about. Parental leave is the umbrella term that includes maternity leave, paternity/partner leave and extended leave. For the purposes of the Ministry's policy and procedures, all three leave types are referred to as parental leave. It is leave without pay*. Read this policy in conjunction with the parental leave provisions in your employment agreement.

*Note you may also be eligible for government-funded paid parental leave. Contact the Ministry of Business, Innovation and Employment on 0800 20 90 20 for more information.

Types of Leave

You are entitled to parental leave under the Parental Leave and Employment Protection Act 1987. The Ministry has enhanced these provisions in some areas.

You may take parental leave for each child born to you, or adopted by you or your partner. In the case of adoption, children must be under five years of age.

There are different entitlements to leave depending on whether you have worked for MSD for an average of at least 10 hours per week (including 1 hour every week or 40 hours every month) for either the immediate preceding 6 or 12 months before the expected date of birth or the expected date of adoption.

Maternity leave

Maternity leave may start up to six weeks before the expected date of delivery or date of assuming care. If you are pregnant you may:

start maternity leave earlier on the advice of your medical practitioner. Any leave taken before the six week period prior to the expected date of delivery is in addition to your entitlement to extended leave

Paternity/partner's leave

You may take up to two weeks unpaid leave if your partner is going to give birth or assume the care of a child (under five years) whom you wish to adopt. This leave may be taken at any time in the three weeks prior to, or three weeks following, the expected date of delivery or adoption. This leave is not counted as part of your maximum extended leave entitlement, that is, the maximum extended leave is up to 6 or 12 months, depending on length of service.

Extended leave

The maximum amount of extended leave available depends on your service and/or employment agreement. Service is calculated as at the expected date of delivery (in the case of birth) or the date of assuming care (in the case of adoption).

Provided the hours and service criteria above have been met, the amount of extended leave you are entitled to is as follows:

6 months service you may take up to 26 weeks extended leave

12 months service you may take up to 52 weeks extended leave.

The amount of leave available is the same for one child as it is for multiple births or adoptions.

If you are on a fixed term agreement, parental leave will not extend beyond the expiry date of that agreement.

You may take the maximum period of parental leave exclusively or share it with your partner.

Leave can be taken for second and subsequent children provided the eligibility criteria are met. However, you cannot be eligible for another period of parental leave unless the expected date of delivery or adoption is at least six months after your return to work from a previous period of parental leave.

Special Leave

Pregnant employees may take an additional 10 days leave without pay for pregnancy related reasons. This leave is only available before maternity leave begins.

Parental leave is 'service'

Parental leave is counted towards your continuous service with the Ministry.

Your job is protected while you are on parental leave

Your position is protected under sections 40 and 41 of the Parental Leave and Employment Protection Act. You are entitled to return to the same (or similar) position you held prior to starting parental leave. A similar position is one that:

is at the equivalent salary and job sizing
is at the same or other location within reasonable traveling distance
involves responsibilities broadly comparable to the previous position.

The exception would be if your position was affected by an organisation change. Your manager would contact you to discuss the process and options available to you.

When you take parental leave the Ministry will as a preference keep your position open with a temporary replacement. The temporary replacement will be provided through a secondment or a fixed-term agreement for the expected duration of the parental leave period.

Annual leave can be accrued while you are on parental leave

The Holidays Act allows you to accrue annual leave while you are on parental leave. This leave is available to you following your return to work and paid at your daily pay rate when you take it. However if you resign from the Ministry while on parental leave, your leave will be paid out at the average of your previous 12 months earnings at the date you resign.

Any outstanding leave entitlement or accrued leave that you have at the time you begin parental leave will be paid at the beginning of your leave period. Your term of parental leave without pay will begin once your annual leave is used.

If you have applied for parental leave of less than three months duration you can ask to retain any annual leave entitlement accrued prior to taking parental leave, that is, it will not be paid out as described above. When you take this leave on your return, it will be paid at the rate applying at the time you started your parental leave.

Retirement savings scheme deductions

If you have deductions from your salary, you will need to make alternative arrangements to ensure these continue.

You may be a member of the State Sector Retirement Savings Scheme (SSRSS) or Individual Retirement Plan (IRP), previously managed by the Global Retirement Trust (GRT). If so, contributions from your salary will be suspended for the period of leave. If you want to keep contributing while on leave you will need to make private arrangements directly with the company managing your scheme.

If you joined the IRP before October 1998 and you provide evidence that you contributed a minimum of \$10 per week to IRP during your period of leave the Ministry will pay the employer contribution arrears for the same period once you have been back at work for six months.

If you stop your contributions you will need to restart them when you return to work. If you wish you can then buy back the employer contributions you missed. You have up to seven months to do this and your ex-gratia payment can be used for this purpose. The Ministry will then:

match your SSRSS contributions for the period, up to the maximum levels (3% from 1 July 2005)
pay the employer contribution arrears to your IRP account for the same period if you joined the IRP fund before October 1998.

Union membership

If you are a union member, your union fees will stop while you are on parental leave. When you return to work, your fees will recommence automatically.

The PSA and NUPE continue to regard you as a member while you are on parental leave, and cover you as if you were at work.

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Returning to work when parental leave ends

You must write to your manager at least one month before your parental leave ends to confirm whether you intend to return to work or not. The date of your return is expected to be no later than the end of your parental leave period.

On this Page:

It is very important that you let your manager know in advance when you intend to return to work to ensure that the same (or similar) position you held before you left can be made available to you.

If you do not tell your manager that you plan to return to work and your parental leave period ends, your job will not continue to be held open.

If you shift house while on leave and you are not within commuting distance of the office you worked in, contact your manager to discuss the situation. Options for an alternative placement on your return to work may be considered.

You may apply for vacancies during your absence. Keep in touch with the office to find out about positions of interest and have this information sent to you.

Coming back to work early

You may end your parental leave early and return to work if your manager agrees to your early return. You may be required to provide a medical certificate to confirm that you are fit for work.

You are also entitled to end your parental leave early if:

- your child is miscarried
- your child is stillborn or dies
- you or your partner decides to adopt a child and the child is no longer with you
- you do not have care of their child.

In any of the above circumstances, you need to write to your manager giving at least one month's notice of when you intend to return to work.

If you either return to work or resign while receiving paid parental leave payments you should call IRD on 0800 377 777 and advise them of the date you are returning to work or resigning. Your entitlement to payment will end on that date.

[Parental Leave and Employment Protection Act 1987 \[http://www.legislation.govt.nz/act/public/1987/0129/latest/DLM120104.html?search=ts_act%40bill%40regulation%40deemedreg_parental+leave_resel_25_a&p=1\]](http://www.legislation.govt.nz/act/public/1987/0129/latest/DLM120104.html?search=ts_act%40bill%40regulation%40deemedreg_parental+leave_resel_25_a&p=1)

Payment on return from leave (ex-gratia)

On your return to work from a period of maternity and/or extended leave you may be eligible for an ex-gratia lump sum payment. The value of the ex-gratia payment is described in your employment agreement, but is normally up to either 30 or 32 working days. This payment is based on your annual rate of pay and hours of work before you went on leave.

To qualify for this payment you must have:

- been on maternity and/or extended leave from a position in the Ministry and have taken at least six weeks leave without pay
- had care of your child in terms of the Parental Leave and Employment Protection Act 1987
- completed six months service since your return or elected to take the payment in instalments (see below).

If you take less than six weeks leave without pay the payment will be calculated on a pro rata basis. If you take paternity/partner's leave then you are not entitled to the ex-gratia payment.

If you qualify for this payment you can choose to:

- have it paid either as one lump sum after being back at work for six months; or
- receive the equivalent payment in pro-rata instalments for six months from your date of return to work.

If your partner also works in the public sector, and they share the parental leave and meet the criteria above, only one of you can claim an ex-gratia payment.

Prolonging parental leave

If you have applied for less than your full entitlement of parental leave and you are unable to return to work when you had planned, your manager may consider approving additional parental leave up to the maximum of your entitlement.

In this circumstance you write to your manager at least one month before your scheduled return to work date. You should ensure you outline reasons and specify a preferred return to work date in the letter.

Not returning to work

If you decide not to return to work, you are required to give your manager one month's notice of your resignation in writing.

If your reason for not returning is to continue caring for your child, you must include this fact in your resignation letter. This is important because if you resign to care for pre-school children you have preferential re-employment status if you reapply for a position within four years from the date you resign.

Annual leave accrued while on parental leave will be paid at the average of your previous 12 months earnings at the date of your resignation.

If you have a retained annual leave entitlement this will be paid at the date of your resignation. It will be paid at the rate that applied at the time you started your parental leave.

Casual work

Sometimes managers offer staff casual work while they are on parental leave. The staff member comes in for a short period to complete a specific task or they make themselves available to work from time to time on a "no fixed hours" basis. Casual work cannot be undertaken while they are receiving the statutory parental leave payments.

If you are offered casual work your manager will ask you to agree to a variation to your employment arrangements including:

stopping parental leave and going on to supported leave without pay for the remaining period through to the original end date of your parental leave term

protection, until the original end date of your parental leave term, of your right to return to the position you had prior to starting parental leave

continued accrual of your annual leave as though you had remained on parental leave

carrying over any entitlement you may have to an ex-gratia payment so that the six-month eligibility period starts from the day after your original parental leave term was due to cease

protection of your continuous service status.

Contact AskHR [§ 9\(2\)\(k\)](#)

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Flexible working arrangements

Staff with caring responsibilities are able to request a flexible working arrangement under Part 6AA of the Employment Relations Act 2000. The Ministry of Business, Innovation and Employment (MBIE) has developed resources and guidance to support the legislation. This guidance outlines the minimum requirements for carers requesting a flexible working arrangement under the Act and for managers in considering and responding to these requests.

Stage	Steps	Tools & Forms
Explore	<ol style="list-style-type: none"> 1. All employees can request a flexible working arrangement from their first day of employment. 2. There are no limits on the number of requests that the employee can make in a year. 3. An employee can request flexible working arrangements for any purpose or reason. 4. An employee does not have to provide a reason for the request for flexible working arrangements but it is good practice to provide as much information as possible. 5. A flexible working arrangement can include changes to hours of work, days of work and place of work. 6. The Employment Relations Act 2000, provides for an employee's right to a fair and timely consideration of a request for flexible working arrangements NOT a right of flexibility. 	<p><u>Definitions of flexible working arrangements</u> <u>[http://doogle/documents/resources/helping-staff/procedures-manuals/hr/definitions-of-flexible-working-arrangements.docx]</u></p>
Request	<ol style="list-style-type: none"> 7. The employee must make their request in writing and provide the request to their manager for consideration. 8. The request should cover all the components contained in the request checklist. 9. The request needs to explain the flexible working arrangement requested and how approving this request would work for both the employee and their workplace. 	<p><u>Request checklist</u> <u>[http://doogle/documents/resources/helping-staff/procedures-manuals/hr/request-checklist.docx]</u></p> <p><u>How to help your employer consider your request</u> <u>[http://doogle/documents/resources/helping-staff/procedures-manuals/hr/how-to-help-your-employer-with-your-request.docx]</u></p>
Consider	<ol style="list-style-type: none"> 10. The manager needs to consider all requests for flexible working arrangements in good faith (objectively). 11. The manager should acknowledge receipt of the request including confirmation of the date it was received. 12. If information is missing from the request the employee should be asked to resubmit their request with the missing information included. 13. The manager has up to one month to consider the request and to respond in writing. 14. The manager and the employee might want to meet to discuss the request. 15. The employee and their manager could agree to a trial period of the flexible working arrangements to ascertain if the new arrangements would work. 16. Details of the trial period need to be recoded in writing to ensure both the manager and employee are clear on timeframes and what happens when the trial period finishes. 17. The employee and their manager could agree to a temporary period for the flexible working arrangements to apply. 	<p><u>Meeting checklist</u> <u>[http://doogle/documents/resources/helping-staff/procedures-manuals/hr/meeting-checklist.docx]</u></p>

	<p>18. Details of the temporary period need to be recorded in writing to ensure both the manager and the employee are clear on the timeframes that apply and what happens when the temporary arrangements expires.</p>	
<p>Result</p>	<p>19. The manager must notify the employee in writing of the outcome of their request and if the request is declined the reason for this.</p> <p>20. Requests for the flexible working arrangements can be declined because:</p> <ul style="list-style-type: none"> • The employee is not eligible to make a request; • One of more of the "Recognised Business Groups" applies; • If approving the flexible working hours would conflict with a collective agreement. <p>21. Manager contacts AskHR for support in the process.</p> <p>22. The manager follows the process in MyHR to change the working arrangement. For help with this process please refer to the MyHR E-learn module.</p>	<p><u>Recognised business grounds</u> [http://doogle/documents/resources/helping-staff/procedures-manuals/hr/recognised-business-grounds.docx]</p> <p><u>Change in work hours flexible working arrangements MyHR E-learn module</u> [http://doogle.ssi.govt.nz/working-here/myhr/change-in-work-hours-flexible-working-arrangements/story.html]</p>
<p>Review</p>	<p>23. If the employee is not satisfied with the outcome of their flexible hours' request, options for resolution are attached.</p>	<p><u>Dealing with unresolved request outcome</u> [http://doogle/documents/resources/helping-staff/procedures-manuals/hr/dealing-with-an-unresolved-request-outcome.docx]</p>

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