

# The Paraplegic and Quadriplegic Association of SA Inc




## Leave – Parental Policy and Procedure

### STATEMENT

The Paraplegic and Quadriplegic Association of South Australia Incorporated (PQSA) is committed to creating and maintaining a workplace environment conducive to accommodating the needs of workers with family responsibilities.

PQSA recognises that parenting may be a shared responsibility. This Policy specifies entitlements and provides a means for the workers and their partners to care for children following birth or adoption.

Approved by: 	Date: January 2016
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**The Paraplegic and Quadriplegic Association of SA Inc.(PQSA) is incorporated under the *Association Incorporation Act 1985 (SA)* and conducts its business through operating Divisions, namely Support Services and HomeCare+.**

*Please note that printed copies are not able to be controlled and the Shared Drive should always be referred to for the most current version.*

## **SCOPE**

Compliance with this policy is a condition of appointment for all workers engaged to provide services on behalf of PQSA.

This policy covers all divisions of PQSA and applies to all workers who are employed on a full time, part time or casual basis and who require parental leave.

## **DEFINITIONS**

**Adoption Related Leave** – Unpaid parental leave taken in association with the placement of a child for adoption.

**Birth Related Leave** – Unpaid parental leave taken in association with the birth of a child; or unpaid special maternity leave.

**Casual Worker** – A worker who, for the purpose of this policy, works irregular and informal hours or who is defined as being a casual worker under the terms of their employment.

**Child** – For the purpose of parental leave, 'child' means a person to whom the worker or worker's spouse has given birth and who is under the age of one (1) year. 'Child' also covers two (2) or more children in circumstances where a multiple birth results from a single pregnancy. For the purpose of adoption, child means a person under the age of sixteen (16) years who is placed with the worker for the purposes of adoption.

**Dad and Partner Pay** – Parental leave pay for working dads and partners.

**Day of Placement** – The day on which the worker first takes custody of the child for the adoption; or the day on which the worker starts any travel that is reasonably necessary to take custody of the child for the adoption.

**Duty of Care** - The obligation of a person not to be careless or negligent and to exercise reasonable care in the conduct of an activity.

**Employee Couple** – Two (2) people employed under a contract of employment who are in a spousal or defacto relationship.

**Keeping in Touch Day** – When a worker performs work on a day or part of a day while on a period of approved leave.

**Manager** – A person who is charged with the management or direction of The Paraplegic and Quadriplegic Association of SA Inc and its divisions.

**Must** – Indicates a mandatory action required by law, industrial instrument, or PQSA's policy or procedure.

**No Safe Job Leave** – Leave that can be taken by a pregnant worker if it is not safe for her to continue in her current job due to illness or risk arising from her pregnancy and there are no other appropriate jobs available.

**Paid Parental Leave** - Eligible workers who are the primary carer of a newborn or adopted child get up to eighteen (18) weeks' leave paid at the national minimum wage.

**Parental Leave** – Is a male or female worker's entitlement to time off work to care for a child.

**Part-time** - Work of a lesser number of hours that constitutes full-time work under the relevant Award, but does not include casual or temporary work.

**Position** - The position held by the worker immediately before commencing leave or part-time employment.

**Primary Care Giver** – A person who assumes the principal role of providing care and attention to a child.

**Safe Job** – A job that a pregnant worker may perform on a temporary basis because it is no longer safe to continue working in her original role.

**Should** – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

**Special Maternity Leave** – Is where a worker is not already on Parental Leave and they suffer an illness directly related to the pregnancy or who is required to terminate after twenty eight (28) weeks other than by the birth of a living child.

**Worker** – Is a person who carries out work in any capacity for a person conducting a business or undertaking including work as an employee, contractor or subcontractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker, apprentice or trainee, or a student gaining work experience, or a volunteer.

**Workplace** – Is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.

## **RESPONSIBILITIES**

It is the responsibility of PQSA to communicate the contents of this Policy to all workers on a regular basis.

### **Managers/Supervisors must ensure that:**

- ◆ Workers are familiar with their obligations and entitlements in accordance with this Policy.

### **Workers:**

- ◆ On becoming aware that they are pregnant or that their spouse is pregnant or that they are adopting a child, a worker has a responsibility to inform PQSA and to ensure that they adhere to this Policy.

## **POLICY**

### **Eligibility**

An entitlement to Parental Leave is subject to the worker having at least twelve (12) months of continuous service with PQSA; however, if it has been less than twelve (12) months, it will be at the discretion of the Divisional Manager and Chief Executive Officer.

An eligible worker is:

- ◆ a permanent full-time or part-time worker who has completed twelve (12) months of continuous service, or
- ◆ casual workers in the following circumstances
  - if the worker is employed on a regular and systematic basis for a sequence of periods over at least twelve (12) months for the purposes of this Policy, and
  - If the worker has a reasonable expectation of continuing employment with PQSA after the birth of the child.

A worker will be entitled to parental leave associated with the birth of a child if:

- ◆ the child is a child of the worker or the worker's spouse or partner (same sex relationships are recognised within the parental leave system);
- ◆ The worker has or will have a responsibility for the care of a child.

PQSA will provide twelve (12) months unpaid parental leave, together with the right to request a further twelve (12) months unpaid leave. Parental leave must be taken in a single continuous period; it cannot be taken in instalments.

Parental leave does not break a workers continuity of service; however, it does not count as time in service for the purpose of Long Service Leave. This means that the worker is still considered to be employed with PQSA for the time they take unpaid parental leave but they do not accumulate leave entitlements for that period.

## **Sick Leave**

Workers who are pregnant will still receive their ordinary sick leave entitlements. Whilst pregnancy is not considered an illness or injury, if a pregnant worker experiences pregnancy-related illness or injury, sick leave may be taken.

## **Paid Leave whilst on Parental Leave**

Whilst on parental leave, a worker may take another form of paid leave at the same time, for example annual leave or long service leave; however, this cannot extend beyond fifty-two (52) weeks. A worker cannot, however, take paid personal/carer's leave or compassionate leave nor are they eligible for community service leave whilst on parental leave.

## **Notification Requirements**

A worker is required to inform PQSA of their intention to take parental leave by providing ten (10) weeks' written notice and specify the start and end dates of the parental leave, prior to leave commencing. A worker is required to confirm parental leave start and end dates in writing four (4) weeks prior to the start of parental leave. If there are any changes to the dates, the worker is required to inform PQSA in writing as soon as is reasonably practicable.

If members of an employee couple intend to take unpaid parental leave, then:

- ◆ The workers are entitled to no more than twenty-four (24) months of leave between them, which must be taken separately in a single continuous period.

This leave would begin on the date of the child's birth or on or after the placement of the child.

The employee couple must advise PQSA if they are intending to take up to twenty-four (24) months of unpaid parental leave between the both of them. A Statutory Declaration needs to be completed to advise PQSA of this.

Both workers of an employee couple can take up to eight (8) weeks unpaid parental leave at the same time. Both workers are then considered to be taking concurrent leave.

Concurrent leave can be taken in separate periods. Each period should be at least two (2) weeks long; however, PQSA may agree to shorter periods with approval of the Divisional Manager and Chief Executive Officer.

## **Commencement of Parental Leave**

Birth-related parental leave may begin up to six (6) weeks before the expected date of the birth of the child and will not begin any later than the date of birth of the child. The worker may negotiate with the Manager, Human Resources to remain at work until no later than two (2) weeks before the expected birth, subject to the provision of a medical certificate from a registered medical practitioner or certified midwife containing the following information:

- ◆ a statement of whether the worker is fit for work
- ◆ If the worker is fit for work, a statement of whether it is advisable for the worker to continue in her present position.

Adoption-related leave will begin on the day of placement of the child.

PQSA will require the worker to take a period of unpaid parental leave as soon as possible if the worker:

- ◆ fails to provide the requested medical certificate within seven (7) days of the request; or
- ◆ provides a certificate within seven (7) days stating that they are not fit for work or
- ◆ Provides a certificate stating they are fit for work, however the worker is unable to continue in the present position due to illness, risk to the pregnancy or job related hazards.

Parental leave must include a six (6) week period after the actual birth. However, if a medical certificate is provided by a registered medical practitioner, the worker may return to work within six (6) weeks of giving birth.

### **Keeping in Touch Days**

The worker should 'keep in touch' with the workplace. This means that the worker can participate in activities at PQSA up to ten (10) days during the parental leave period.

The days a worker is allowed to attend work for the purposes of 'keeping in touch' cannot be within the first six (6) weeks of the birth or placement of a child.

These days do not need to be used all at once and the worker will be paid their usual wages or salary in addition to any paid parental leave for the time attended at work. The keep in touch days are voluntary and work may include, but would not be limited to, meetings, planning days and training days.

A keeping in touch day will not break the single continuous period of unpaid parental leave.

### **Government Parental Leave Payment**

It is the responsibility of each worker to contact the Department of Human Services and to lodge a claim for the Paid Parental Leave payment. Once a claim has been approved, the Department of Human Services will assess the claim and contact PQSA to notify of the obligations to pay.

In accordance with the Department of Human Services, if PQSA facilitates the payment of the Government entitlement, a worker will still have access to:

- ◆ deductions of child support from the Paid Parental Leave
- ◆ Salary packaging of some or all of the Paid Parental Leave. For example, voluntary contributions to superannuation may be made, however these arrangements must be agreed to by the payroll office.
- ◆ Usual PAYG withholding arrangements.

**Note – PQSA will not make any Superannuation contributions on Paid Parental Leave.**

### **Dad and Partner Pay (DAPP)**

Dad and Partner Pay is available for eligible working dads or partners (including adopting parents and same-sex couples) and they may receive up to two (2) weeks' pay based on the rate of the National Minimum Wage. The dad and partner pay must start within fifty (50) weeks of the child's birth or adoption date. A worker must provide eight (8) weeks' notice in writing of the intention to take leave for the purposes of Dad and Partner Pay.

To be eligible for Dad and Partner Pay, the dad or partner must:

- ◆ meet a work and income test;
- ◆ be on unpaid leave or not working while receiving the payment;
- ◆ Make a claim within 52 weeks of the child's birth or adoption.

## **PROCEDURES**

### **Making an application for Parental Leave**

A worker must apply for parental leave using PQSA's Leave Application Form. The form must be submitted and approval given by their Manager/Supervisor for the leave to be taken.

### **Certifications required for Parental Leave**

A worker must, when applying for Parental Leave, provide PQSA with a medical certificate which:

- ◆ names the worker or the worker's spouse;
- ◆ states that the worker or the worker's spouse is pregnant; and outlines:
  - the expected date of birth;
  - the expected date of termination of pregnancy; or
  - The date, on which the birth took place (whichever is appropriate).

A worker is not in breach of any of the notice requirements if they were not able to comply due to one of the following unforeseen or other forceful circumstances:

- ◆ the birth occurring earlier than the expected date;
- ◆ the death of the mother of the child;
- ◆ the death of the worker's spouse; or

- ◆ The requirement that the worker accept earlier or later placement of the adopted child.

This applies as long as, where a living child is born, the notice is given no later than two (2) weeks after the birth.

### **Still birth or infant death**

A worker can reduce or cancel their period of parental leave if the pregnancy ends due to the child being stillborn or if the child dies after birth.

If the worker has not started their unpaid parental leave, the worker or PQSA can cancel the unpaid parental leave with notice. Where this happens, the worker is not entitled to take parental leave. If the worker cannot work, they may be entitled to use their personal leave or take special maternity leave.

If the worker has started unpaid parental leave and loses the child, the worker is still entitled to take unpaid parental leave.

If the worker chooses to return to work, the worker must provide PQSA four (4) weeks' notice in writing. After receipt of the notice, PQSA will provide the worker with written notice advising of the start date within the four (4) weeks. PQSA may request the worker to return to work on a specific day after the leave starts and will provide the worker with at least six (6) weeks' notice. The worker's entitlement to parental leave ends immediately before the day they are specified to return to work.

### **Special Maternity Leave**

A pregnant worker is entitled to take unpaid special maternity leave if the worker is not fit for work because of a pregnancy related illness or the pregnancy ends in the delivery of a non-living child within twenty eight (28) weeks of the expected date of birth.

To be entitled to special maternity leave, a worker must meet the twelve (12) months continuous service requirements.

To access special maternity leave, workers will need to provide notice that they are taking special maternity leave as soon as is reasonably practicable, setting out the period or expected period of the leave. A worker must provide evidence in writing of the illness or that the pregnancy ended in the delivery of a non-living child. This may be in the form of a medical certificate.

Special maternity leave does not reduce the amount of unpaid parental leave a worker can take; a worker is still entitled to take the full twelve (12) months unpaid parental leave. Parental leave or other leave taken in relation to the birth of a child does not begin until the special maternity leave ends.

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

If, in the opinion of a legally qualified medical practitioner, the worker is suffering illness and is at risk arising out of the pregnancy or there are hazards connected with their work, the worker must be transferred to a safe position at the same rate and on the same conditions until the commencement of parental leave.

If there is no appropriate job available and the worker is entitled to take unpaid parental leave, then the worker is entitled to take paid No Safe Job Leave for the risk period and be paid at their base rate of pay for ordinary hours of work during the risk period. This leave does not affect the unpaid parental leave to which the worker is entitled.

If there is no appropriate safe job available for the worker and the worker is not entitled to unpaid parental leave, then the worker is entitled to take unpaid no safe job leave for the risk period six (6) weeks before the expected date of birth.

If the worker is on paid no safe job leave during the six (6) week period before the expected date of birth, PQSA will request a medical certificate stating whether the worker is fit for work.

The safe job leave ends when parental leave begins six (6) weeks before the expected date of birth.

If the transfer to a safe job is not considered reasonably practicable, the worker will be required to take leave for such period as is certified necessary by a General Practitioner. If this is the case this will be treated as part of their parental leave entitlement.

### **Unpaid Pre-Adoption Leave**

Every worker, regardless of their length of service, is entitled to up to two (2) days of unpaid pre-adoption leave to attend any interviews or examinations for the adoption of a child. A worker is not entitled to take pre-adoption leave if there is some other form of leave they could take instead; for example, annual leave or personal leave.

A worker must provide PQSA notice that they are taking unpaid pre-adoption leave and the expected duration as is reasonably practicable and provide evidence to support the adoption process.

### **Changing leave within the initial twelve (12) months Parental Leave**

A worker may extend their parental leave once if they did not initially plan to take twelve (12) months parental leave.

To extend their leave, the worker is required to inform PQSA in writing at least four (4) weeks prior to returning to work, including the new date they will be returning to work. The new end date of parental leave cannot be more than twelve (12) months from the date they began their parental leave.

### **Extension of Parental Leave**

A worker taking twelve (12) months parental leave for the birth or adoption of a child, may request an extension of a further twelve (12) months leave, up to twenty four (24) months in total, unless they are a member of an employee couple and the other member has already taken twelve (12) months of leave.

The request must be made in writing and provided to the worker's Manager/Supervisor at least four (4) weeks before the end of the worker's initial period of parental leave. PQSA will endeavour to respond to the request within twenty one (21) days advising of whether this request is granted or whether it is refused. It may be refused on reasonable business grounds.

### **Return to Work after Parental Leave**

A worker must confirm their intention to return to work by notice in writing to PQSA, providing at least four (4) weeks' notice prior to the completion of the parental leave. If the worker returns to work, the Parental Leave will stop.

If the worker gave birth via Caesarian Section and wishes to return to work within ten (10) weeks after the birth, PQSA will require a Capacity for Work Form to be completed by a Medical Practitioner to ensure that the worker is fit to return to her duties and any restrictions that she may have as a result of the birth.

On returning to work after parental leave, the worker is entitled to return to the position, which the worker held immediately before commencing parental leave or in the case of a worker who was transferred to a safe job, to the position which they held immediately before the transfer.

If the worker's previous position no longer exists, but there is a comparable position available for which the worker is qualified and is capable of performing, the worker is entitled to that position.

### **Post Natal Arrangements**

Workers who are breastfeeding will be entitled to reasonable breaks, where reasonably practicable and at the discretion of their Manager/Supervisor, for the purpose of expressing milk, in a designated private space.

### **Return to former Position**

If the worker was working on a full-time basis prior to commencing parental leave, PQSA has the right to request the worker to return to the same position at full time hours. PQSA is

under no obligation to change the job or decrease the hours, if it does not suit organisational requirements.

PQSA may agree to the worker returning to their former position at part time hours, but for a specified time frame with the expectation that the worker will return to full time hours.

### **Part-Time Work Contract**

If a worker wishes to return to work on a part time basis, a new contract of employment must be completed.

The terms of the contract or any variation must be in writing and retained by the Manager, Human Resources and a copy of the contract or any variation must be provided to the worker by the Manager, Human Resources.

### **Casual Support Worker Training Requirement**

Where a Casual Support Worker is absent from shifts for a period of six (6) months or more due to parental leave, they will be required to undertake refresher training in Manual Handling, Medication, Work, Health and Safety or hold current training certificates acquired through a recognized organization or Registered Training facility.

Where a Casual Support Worker has been absent from shifts for a period of twelve (12) months or more, they will be required to complete the full pre-employment training.

### **Termination of Employment**

A worker on parental leave may terminate their employment at any time during the period of leave by giving the required notice as outlined in their contract of employment.

PQSA cannot terminate the employment of a worker on the ground of pregnancy or absence from work during parental leave.

## **RELATED LEGISLATION**

- ◆ Fair Work Act 2009
- ◆ Paid Parental Leave Act 2010
- ◆ National Employment Standards

## **SUPPORTING PQSA DOCUMENTATION**

- ◆ Employee Checklist for Parental Leave
- ◆ Employer Checklist for Parental Leave
- ◆ Equal Opportunity Policy
- ◆ Form – Application for Leave
- ◆ HC+ Support Worker Training Policy
- ◆ Leave – Annual Policy and Procedures
- ◆ Leave – Sick/Carers Policy and Procedures
- ◆ Support Worker Leave Policy and Procedures

## **BREACHES OF THIS POLICY**

A **breach** of this policy is grounds for disciplinary action, up to and including termination of employment. Ignorance of these procedures will not generally be accepted as an excuse for non-compliance. Only in extreme circumstances and where such ignorance can be demonstrated to have occurred through no fault of the individual concerned will PQSA accept such an argument.

## **DISTRIBUTION AND REVIEW**

PQSA will ensure all persons engaged to provide services either paid or unpaid will be aware of this policy and will have easy access to it in an appropriate format. All policies are to be reviewed on a periodic basis or when legislation or government policy determines.