

The Paraplegic & Quadriplegic Association of South Australia Ltd



Leave Policy

STATEMENT

The Paraplegic & Quadriplegic Association of South Australia Ltd (PQSA) is committed to strict compliance with the National Employment Standards whilst supporting all workers to access appropriate leave entitlements to enjoy a healthy work/life balance, meet their personal and public commitments and/or recover from personal illness or injury.

<p>Approved by:</p>  <p>Chief Executive Officer</p>	<p>Date: September 2021</p>
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In this policy, 'us' 'we' or 'our' refers to The Paraplegic & Quadriplegic Association of South Australia Ltd ACN 644 670 977, which is a Company Limited by Guarantee and conducts its business through Lifestyle Support and HomeCare+ services.

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SCOPE

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

DEFINITIONS

Refer to the PQSA Policy and Procedure Definition Glossary

RESPONSIBILITIES

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

Chief Executive Officer – is responsible for monitoring leave balances and ensuring leave entitlements are provided in line with this policy.

Directors – are responsible for monitoring all worker leave and ensuring leave entitlements are provided in line with this policy to support our workers to meet their emotional, physical and social well-being needs.

Director of People and Culture – is responsible for the ongoing review of all leave entitlements, making recommendations to the Chief Executive Officer and Leadership Team for leave usage to ensure the well-being of all workers, as well as reducing the liability of leave entitlements for PQSA.

Director of Payroll – is responsible for generating bi-monthly leave accrual reports for the Chief Executive Officer and Director of People of Culture, overseeing that a worker's leave entitlements are accrued correctly and approved leave applications processed in the applicable pay periods.

Managers - are responsible for the assessment of a worker's annual and personal leave applications and making necessary operational changes in line with that worker's leave.

Workers – are responsible for adhering to the required timeframes for leave applications and notifying their Supervisor as soon as practicable of their requirement to take leave.

POLICY

Minimum leave entitlements for workers are set by the National Employment Standards (NES). An award, registered agreement or contract of employment can provide for additional leave entitlements but not less than what is outlined in the NES.

PQSA acknowledges the importance of supporting all workers to access appropriate leave entitlements to enjoy a healthy work-life balance, meet their personal and public commitments and/or recover from personal illness and injury.

Approval of leave should not be refused without good reason. However the following factors will need to be considered:

- the notice period provided by the worker when applying for leave
- our operational requirements during the proposed period of leave
- any concurrent leave applications for workers in the same work area
- the worker's leave entitlements cover the requested leave period
- the worker's circumstances surrounding the reason for the request for leave.

If an application for leave is not approved, a reasonable explanation as to why approval has been withheld must be given to the worker requesting the leave.

Annual Leave

All full-time and part-time workers (i.e. permanent but excludes casual workers) are entitled to paid annual leave. Full-time and part-time workers accumulate four (4) weeks of annual leave per year, based on their ordinary hours worked. Workers who are considered to be shift workers and those employed under certain awards are entitled to five (5) weeks per year and this will be stipulated in their contract of employment.

Annual leave accumulates from the first day of employment (including within any probationary period). Leave accumulates gradually during the year and any unused annual leave will roll over from year to year. Annual leave does not accumulate during any type of unpaid leave granted to a worker.

A requirement to take paid annual leave may be reasonable if, for example:

- the worker has accrued an excessive amount of paid annual leave
- there is an organisational need such as reducing the number of workers over a quieter period.

PQSA reserves the right to decline annual leave in lieu of personal leave where it is detrimental to the organisation due to operational or financial reasons.

Leave Loading

Workers who are paid by PQSA under an award will be entitled to leave loading at the stipulated rate. (unless another amount applies).

Personal Leave (Sick/Carer's leave)

All full-time and part-time workers are entitled to paid personal leave and casual workers are entitled to unpaid personal leave. Sick and carer's leave are the two components of personal leave, and therefore within the same annual entitlement. This entitlement is based on hours worked and calculated on a pro-rata basis, up to ten (10) days for full-time workers.

A worker can access personal leave when they are unfit for work due to personal illness or injury (including pregnancy-related illness), or to provide care or support to a member of their immediate family or household, because of a personal illness, injury or unexpected emergency affecting the member. Personal leave accumulates from the first day of employment (including within any probationary period). Personal leave accumulates gradually during the year and any unused personal leave will roll over from year to year. Personal leave does not accumulate during any type of unpaid leave granted to a worker.

During a period of paid personal leave, a worker is entitled to their base rate of pay which excludes all allowances, shift loadings and any regular or rostered overtime the worker would have been entitled to if they had worked. A worker who is rostered for duty on a public holiday and requires personal leave is not entitled to any of the usual monetary benefits associated with public holidays; the entitlement to personal leave will be the same as on an ordinary workday.

If a worker takes three (3) or more consecutive days of personal leave, a medical certificate or completed statutory declaration is to be provided to their Supervisor upon their return to work (or as soon as practicable in the case of long-term personal leave) to ensure they are paid for that period of leave.

A medical certificate or completed statutory declaration may also be requested by a Supervisor if a worker takes personal leave on a day:

- before or after a Public Holiday
- before or after a rostered day off
- on a weekend rostered shift.

A medical certificate must be issued by a registered Practitioner and must relate to the medical field in which they practice. A statutory declaration must be signed by an approved witness as listed by the SA Government (please click this link - ["Who Can Witness Statutory Declarations?"](#) for further information).

Where a worker is requesting personal or carer's leave in advance, they are required to provide medical evidence from a registered Practitioner stating that they will be unfit for work or required to care for a member of their immediate family or household for the period requested.

If a worker has taken excessive amounts of personal leave or a clear pattern of leave has been identified, a written request may be made for the worker to supply a medical certificate on each occasion personal leave is applied for. Directors have the authority to make a reasonable direction for a worker to provide a medical certificate for any period of personal leave. As per legislative requirements, leave balances are recorded on a worker's payslip. When all personal leave entitlement has been used, any request for another type of leave in lieu of personal leave will be considered on a case-by-case basis. Paid personal leave will not be approved where it would result in the worker's leave balance being in arrears.

Upon termination of employment, unused personal leave will not be paid out as an entitlement irrespective of whether the worker was terminated by PQSA or the worker resigned from their employment.

Sickness during Annual Leave

If a worker suffers an illness or injury during a period of annual leave, management may approve the period of incapacity to be credited against personal leave provisions subject to the following:

- a medical certificate being provided
- the worker has adequate personal leave entitlements.

Compassionate and bereavement leave

All full and part time workers who have completed six (6) months of service are entitled to two (2) days of paid compassionate leave for each occasion that a member of the worker's immediate family or household has an illness or injury that poses a serious threat to his or her life, or there is a death in the household or immediate family. If there is a death in the immediate family or household, one (1) day additional compassionate leave will be granted to attend the funeral.

Workers can apply for one (1) day of compassionate leave to attend the funeral of any other person where the Manager/Supervisor accepts that the worker has suffered bereavement.

When determining whether a worker is entitled to compassionate leave, the following will be considered:

- the relationship between the worker and the deceased person i.e., whether they were a member of the immediate family or household
- whether the worker has significant responsibility for the funeral or similar ceremonies.

Ceremonial Leave

A worker who is legitimately required by indigenous tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer.

Parental leave

Parental leave is leave that can be taken after:

- a worker gives birth
- a worker's spouse or de facto partner gives birth
- a worker adopts a child under 16 years of age.

Parental leave entitlements include:

- parental leave
- paternity and partner leave
- adoption leave
- special maternity leave
- a safe job and no safe job leave
- a right to return to old job.

Workers are entitled to parental leave if they:

- have worked with PQSA for at least twelve (12) months
 - before the date or expected date of birth if the worker is pregnant
 - before the date of the adoption, or
 - when the leave starts (if the leave is taken after another person cares for the child or takes parental leave)
- have or will have responsibility for the care of a child.

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

- been working with PQSA on a regular and systematic basis for at least twelve (12) months
- a reasonable expectation of continuing work on a regular and systematic basis, had it not been for the birth or adoption of a child.

Workers are entitled to up to twelve (12) months of unpaid parental leave. They can also request up to an additional twelve (12) months of leave.

For further information about Parental Leave entitlements please refer to the Fair Work website, www.fairwork.gov.au/leave.

Parental leave does not break a worker's 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. The Australian Government's Paid Parental Leave Scheme is not considered to be paid leave.

Pregnant employee entitlements

There are a range of entitlements for pregnant employees. For further information about entitlements please refer to the Fair Work website - [Pregnant employee entitlements](#)

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 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.

Birth-related parental leave may begin up to six (6) weeks before the expected birth of the child and will not begin any later than the date of birth of the child. The worker may negotiate 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 confirming the worker is fit to perform the duties required of their role.

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
- provides a certificate stating that they are not fit for work .

Parental leave should include a six (6) week period after the 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.

Government Parental Leave Payment

It is the responsibility of the worker to contact the relevant Government Department and to lodge a claim for the Paid Parental Leave payment. Information can be found by clicking this link - [Families - Services Australia](#) . Once a claim has been approved, the Department will assess the claim and contact PQSA to notify of the obligations to pay.

If PQSA is nominated to facilitate 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.

PQSA will not pay superannuation contributions on Paid Parental Leave.

For further information about Parental Leave entitlements please refer to the Fair Work website, www.fairwork.gov.au/leave.

Paid leave whilst on unpaid parental leave

Whilst on parental leave, a worker may access their paid annual leave or long service leave entitlements; however, this cannot extend beyond fifty-two (52) weeks. However, a worker cannot take paid personal leave, compassionate leave or community service leave whilst on parental leave.

TOIL- Time off in Lieu

In circumstances when workers are required to undertake additional hours than those specified in their employment contract, they are entitled to take paid time off, this is known as Time off in Lieu (TOIL). TOIL can be taken instead of being paid overtime and can only be taken at a mutually agreed time with the written agreement of the worker and their Manager/Supervisor. For each pay period, workers and their Manager/Supervisor need to make a separate written agreement for any overtime the worker has worked and wants to take TOIL for. An email exchange is considered to be a written agreement.

Any additional hours worked should be sporadic or required for a limited period of time only. If additional hours are required for an extended or ongoing period, the manager should review the overall staffing needs for the department and/or worker's workload to ensure working practices are effective. It is not expected that TOIL will be a standard or regular occurrence.

If a worker works additional hours on a voluntary basis, or without the prior approval of their Manager/Supervisor, this cannot be recorded and taken as TOIL.

If a worker has accumulated TOIL instead of being paid overtime and their employment ends before they take it, the employer will pay the worker the overtime at the rate the worker's current pay rate.

Long Service Leave

Long service leave entitlements are determined by long service leave laws in each state and territory in Australia. In South Australia, a worker who has completed ten (10) years of continuous service is entitled to thirteen (13) weeks long service leave. A further 1.3 weeks leave is granted for each completed year of service thereafter.

Part-time and casual workers accrue their entitlements just like full-time workers. The payment for a period of leave is based on the ordinary hours worked per week or the average weekly hours over the previous three (3) years of service. Long service leave does not accrue while a worker is on unpaid leave.

Resignation or termination of employment ceases continuous service. Any unused long service leave entitlement will be paid out at the end of employment. If a worker has completed seven (7) years of service but less than ten (10) years of service, they will be paid out of their long service leave entitlement known as pro-rata long service leave, only upon termination of their employment.

Taking long service leave should occur as soon as practicable. Whole weeks of long service leave are to be taken when taking long service leave. A minimum of 2 weeks notice must be given to allow for rostering and calculations.

Community Service Leave

Workers can take community service leave for certain activities such as:

- voluntary emergency management activities
- jury duty (including attendance for jury selection).

A worker is entitled to take community service leave while they are engaged in the activity and for reasonable travel and rest time. There is no limit on the amount of community service leave a worker can take. Except for jury duty, community service leave is unpaid.

A worker who takes community service leave must give their employer:

- notice of the absence as soon as possible (this may be after the leave starts)
- the period or expected period of absence.

A worker engages in a voluntary emergency management activity if:

- the activity involves dealing with an emergency or natural disaster
- the worker engages in the activity on a voluntary basis
- the worker was either requested to engage in an activity, or it would be reasonable to expect that such a request would have been made if circumstances had permitted
- the worker is a member of or has a member-like association with a recognised emergency management body.

A recognised emergency management body is:

- a body that has a role or function under a plan that is for coping with emergencies/natural disasters (prepared by the Commonwealth or a state or territory)
- a firefighting, civil defence, or rescue body
- any other body which is involved in responding to an emergency or natural disaster.

This includes bodies such as:

- the State Emergency Service (SES)
- Country Fire Authority (CFA)
- the RSPCA (in respect of animal rescue during emergencies or natural disasters).

An employer may request a worker who has given notice, to provide evidence that they are entitled to community service leave.

Jury Duty

Jury duty, also known as jury service, is a type of community service leave. Workers, including casual workers, can take leave to attend jury selection and jury duty.

Workers must advise their employers of the period or expected period of leave as soon as possible. If a worker requests community service leave for the purpose of jury duty, they need to provide evidence showing they attended jury selection or jury duty. If the worker cannot provide evidence, they will not be entitled to make-up pay.

Full-time and part-time workers will be paid 'make-up pay' for the first 10 days of jury selection and jury duty. Make-up pay is the difference between any jury duty payment the worker receives (excluding any expense-related allowances) from the court and the worker's base pay rate for the ordinary hours they would have worked.

Before paying make-up pay, an employer may request evidence from the worker to show:

- that the worker has taken all necessary steps to obtain jury duty pay
- the total amount of jury duty pay that has been paid or will be payable to the worker for the period.

Casual workers do not get paid for jury duty under the National Employment Standards, but they may be entitled to payment for monetary loss incurred as a direct result of jury duty. Claims for these payments are to be made to the Sheriff's Office.

A worker who attends jury duty and is required for only part of a day should, if practicable, return to normal work duties for the remainder of the working day.

For full-time and part-time workers, leave entitlements will continue to accrue while on community service leave, including jury duty.

For more information about Jury Duty in South Australia please visit courts.sa.gov.au.

Family and Domestic Violence Leave

All workers including part-time and casual workers, are entitled to two (2) days of paid leave (for permanent employees) and five (5) days of unpaid family and domestic leave each year. Workers are entitled to the five (5) days from their commencement date. This leave is renewed each year and does not accumulate from year to year if it is not used.

Family or domestic violence leave will be available if a worker requires leave to take actions to deal with the impact of the family and domestic violence. This is when it is impractical for them to do it outside their ordinary hours of work. This could include, for example, making arrangements for their safety or the safety of a close relative (including relocation), attending urgent court hearings, or accessing police services.

A worker who requires unpaid family and domestic violence leave, must provide notice to PQSA as soon as is practicable and must advise of the period or expected period of the leave.

A worker who has provided notice of the taking of leave may be asked to provide reasonable evidence that the leave is taken for the purposes of unpaid family and domestic violence leave. Evidence may include a document issued by the police, a court, a family violence support service or via a statutory declaration; providing evidence might not always be possible.

Unpaid Leave

Unpaid leave will be granted to a worker at the discretion of their Director. The approval of unpaid leave for a period greater than four (4) weeks is subject to the operational requirements of PQSA at the time of making the application and may be refused based on reasonable business grounds.

Each application for unpaid leave will be assessed based on how the operations of the work area will be affected by the workers absence, e.g. impact on other workers, impact on clients, recruitment and training requirements.

Where a worker takes unpaid leave for a period of greater than two (2) weeks, leave entitlements will cease to accrue for the period of unpaid leave taken. Unpaid leave will not count as service but will not break a worker's continuity of service.

For workers employed on a contractual basis, the period of unpaid leave will not exceed the contract period. Unpaid leave will not be granted for the purposes of undertaking further paid employment with another employer.

Extended unpaid leave of one (1) month up to a maximum of one (1) year must have prior approval with a minimum of four (4) weeks notice. The worker will be required to have worked a minimum of one (1) year of continuous service with PQSA to be eligible.

The maximum amount of unpaid leave granted to a worker will be one (1) year with prior approval required from the Chief Executive Officer and the worker's direct Manager/Supervisor.

Special Leave

In special circumstances, a worker may be granted paid or unpaid leave for reasons, which are approved because of compassionate or emergency circumstances, which precludes attendance at work.

This leave will only be granted in circumstances where the Chief Executive Officer is satisfied that no practical or reasonable alternative arrangements can be made, and no other appropriate leave is available.

Cashing out Leave

Workers are permitted to request to 'cash out' a portion of their paid annual or long service leave entitlement if their industry award permits this to occur. When requesting to cash out annual leave, workers must retain a balance of a minimum of four (4) weeks paid annual leave.

This must be applied for on the cash out of leave form and provide a minimum of 2 weeks notice. The Chief Executive Officer must approve all leave cash outs.

Leave whilst on Return to Work

If a worker is currently in receipt of income support payments related to a Return to Work claim and requires leave during that period then it may be determined that their entitlement to income support may cease for their period of leave. A worker can instead access their usual leave entitlements. A medical certificate should be provided to PQSA and the claims agent acting on behalf of Return to Work SA and the worker may need to sign a discontinuance form issued by the claims agent for the period of leave.

RELATED LEGISLATION

- Fair Work Act 2009
- Fair Work Amendment (Family and Domestic Violence Leave) Bill 2018
- Fair Work Regulations 2009
- Long Service Leave Act 1987
- National Employment Standards

SUPPORTING PQSA DOCUMENTATION

- Application for Leave Form
- Parental Leave Application Form
- Request to Cash Out Leave Form
- Request for Long Service Leave Form
- Support Worker Leave of Absence Form

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.