**Q&As - PAID PARENTAL LEAVE SCHEME**

1. **What are the changes that have been made to the existing paid parental leave and related leave provisions?**

The changes apply to employees working in in the NSW Government Sector and will take effect from 2 August 2024. The changes include:

* Expansion of paid parental leave eligibility for permanent out-of-home care arrangements to include all ongoing placement arrangements.
* Amendment to the evidentiary requirements relating to ongoing placement arrangements to allow a confirmation of placement letter from the Department of Communities and Justice (DCJ) or their accredited designated agency to support employees to take leave at a time closer to the placement while a legal order is obtained.
* A copy of the legal order would also be provided to DCJ once obtained.

1. **Who will benefit from these changes?**

Parental leave is available for all eligible employees in the NSW Government Sector who take parental leave or who stop working to care for a child in their care through an ongoing placement arrangement.

The previous arrangements provided parental leave for employees who had a child placed in their care through a permanent out-home-care arrangement. The new changes provide support to ongoing placement arrangements, including permanent out-of-home care, kinship, foster and relative care, and where a child or young person is placed in the care of the employee on an ongoing basis.

1. **Who is eligible to apply?**

Paid parental leave enhancements for ongoing placement arrangements apply to NSW Public Sector full time, part time, ongoing and temporary employees, who have completed 40 weeks continuous service, at the time the ongoing placement occurs, and the employee has or will have care of the child (or children).

1. **What is an ongoing placement arrangement?**

An ongoing placement arrangement refers to the placement of a child or young person who is subject to a legal order of the Children’s Court of NSW or Federal Circuit and Family Court of Australia with an authorised foster carer, authorised relative/kinship carer or suitable person on an ongoing basis.

Ongoing placement arrangements do not include informal arrangements or emergency, respite care or short-term care with a specified end date.

1. **When will the changes come into effect?**

The changes will come into effect from 2 August 2024.

1. **When will employees qualify for the leave under the new scheme?**

The above arrangements will apply to children coming into the care of the employee through an ongoing placement arrangement on or after 2 August 2024.

1. **How will these changes be implemented?**

The changes will be implemented through the issuing of an Industrial Relations Secretary Determination to apply to public service employees and a Premier’s Memorandum for the remainder of the Government Sector, similar to parental leave enhancements which were introduced in 2021 and 2022.

1. **What do these changes mean for other provisions?**

For other provisions such as the payment of parental leave, unpaid parental leave and other leave entitlements, reference should be made to the applicable industrial instrument, such as an Award or Enterprise Agreement, to determine the relevant provisions.

1. **What will a confirmation of placement letter from the Department of Communities and Justice, or accredited designated agency include?**

The confirmation of placement letter should confirm:

1. the employee is an authorised foster, relative/kinship carer who is or will be providing continuous care on an ongoing basis for a child or young person who is subject to a legal order allocating parental responsibility to the Minister; or
2. the employee is an authorised relative/kinship carer, authorised foster carer or guardian who is or will be providing continuous care on an ongoing basis for a child or young person for whom they hold parental responsibility under a legal order, including a guardianship order; and
3. the start date of the placement.
4. **What sorts of legal orders are provided in NSW?**

A legal order made by the Children’s Court of NSW under the *Children and Young Persons (Care and Protection) Act 1998* (NSW) includes:

1. Parental Responsibility to the Minister (PRM), Relative/Kin (PRR) or Non-Relative (PNR) Interim Orders,
2. Short Term Court Order (STCO) allocating parental responsibility to the Minister, Relative/Kin or Non-Relative for a period of at least 12 months,
3. Parental Responsibility to the Minister (PRM), Relative/Kin (PRR) or Non-Relative (PNR) Long Term Care to 18 years Final Order, or
4. Guardianship Order.

For the purposes of this definition, a legal order made by the Federal Circuit and Family Court of Australia under the *Family Law Act 1975* (Cth) includes a final order allocating parental responsibility to relative/kin or suitable person to 18 years provided that the Department of Communities and Justice intervened as a party to the proceedings and the employee is an authorised carer eligible for the out-of-home care carer allowance.

1. **What is the process like in getting the confirmation letter and legal order?**

Generally, a confirmation of placement letter is provided by the caseworker, Agency or the Department. You can also request this letter if you have not received it. It is provided at the commencement of the placement. The letter is also used for other purposes, such as applying for a Medicare card.

1. **Do these enhancements apply to employees providing relative/kinship care?**

Parental leave will now be made available to employees who, as authorised relative or kinship carers, are providing care to a child/children placed in their care on an ongoing basis, subject to the eligibility and evidence requirements.

Parental leave will not apply to informal caring arrangements or emergency, short term, or respite care arrangements.

1. **What are the entitlements where multiple children are placed in the care of an employee?**

In the event multiple children are placed in the care of an employee through an ongoing placement arrangement, an employee will be entitled to up to 16 weeks of parental leave, subject to the provisions of the Premier’s Memorandum and Industrial Relations Secretary Determination. This is similar to parental leave arrangements for multiple births or adoptions.

Where an employee subsequently has another child (or children) placed in their ongoing care, an employee would be entitled to a further period of parental leave, subject to the relevant eligibility criteria. For example, if a child was placed in ongoing care with the employee through a foster arrangement and then 1 month later has another child placed in their care through a kinship arrangement, the employee would be entitled to two periods of up to 16 weeks of parental leave.

1. **How will these arrangements better support employees providing care through ongoing placement arrangements?**

Authorised foster, relative and kinship carers and guardianship carers provide ongoing care to vulnerable children and young people. These leave arrangements allow the employee (carer) time to bond with and ‘settle in’ the child/children. This additional time can be used to help establish routines, build early attachment, attend psychological and medical care appointments, help settle a child into a new school or new routines.

Children and young people in out of home care often have complex needs and require extra support. This can mean additional appointments or activities related to their education, mental and physical health, dental needs e.g., physiotherapy, tutoring, therapy, etc.

1. **What other forms of support can be made available to employees providing care through ongoing placement arrangements?**

Foster, relative and kinship carers have challenging roles, welcoming a child or children into their home, and meeting their needs. Carers also need support and consideration about their wellbeing. This may be in the form of supporting flexibility for taking other types of leave, checking in more often about their wellbeing, reminding them about free counselling and other supports your agency may offer.

It is important to recognise the incredible contribution that carers make in NSW to the lives of vulnerable children and young people in care.

1. **Why do these changes commence on 2 August 2024?**

New policy initiatives inevitably commence on a specified date.

On 1 October 2022, the NSW Government announced paid parental leave enhancements for employees providing permanent out-of-home care. Following this announcement, further work will continue with agencies, unions and DCJ in order to implement the enhanced provisions to all ongoing placement arrangements.

1. **What if a child was placed in care prior to 2 August 2024?**

Where the date of the guardianship or permanent placement order is on or after 1 October 2022, the parental leave arrangements outlined in [*M2022-08 - Paid Parental Leave – Parent with responsibility for care associated with the birth, adoption, altruistic surrogacy or permanent out-of-home care placement of a child*](https://arp.nsw.gov.au/m2022-08-paid-parental-leave-parent-with-responsibility-for-care-associated-with-the-birth-adoption-altruistic-surrogacy-or-permanent-out-of-home-care-placement-of-a-child/) will apply.

For other types of ongoing placement arrangements, reference will need to be made to any arrangements which are set out in the industrial instrument or policies. Encouraging the use of the other types of leave available and discussing the level of flexibility will assist to support employees providing care.

1. **What if I am considering becoming a foster carer?**

All foster carers receive training, support, and a fortnightly allowance to support the care of the child, plus regular support from a caseworker and referrals to other types of supports and services, depending on the needs of the child or young person.

Accessing paid parental leave will depend on *what type* of care you do and the type of legal order in place.

Many people begin their caring journey with emergency or respite foster care and then transition to medium- or longer-term caring. Each fostering journey is different. To find out more visit the Department of Communities and Justice website at [www.dcj.nsw.gov.au](http://www.dcj.nsw.gov.au).

1. **Where to go for further advice?**

Employees seeking advice on employment entitlements under the National Fair Work System can access information and advice from the Fair Work Ombudsman.

For NSW Government Sector individual employees, managers and payroll seeking further information or clarification about the enhanced arrangements and their application, you should consult with your agency’s employee relations or human resources area.

For employee relations and human resources practitioners, please contact Public Sector Industrial Relations via [psir@industrialrelations.nsw.gov.au](mailto:psir@industrialrelations.nsw.gov.au).

For more information on becoming a carer, please contact the Department of Communities and Justice via carerlink@dcj.nsw.gov.au or see information available at <https://www.nsw.gov.au/community-services/foster-relative-and-kinship-care/become-a-foster-carer>.