

# Paid parental leave

Providing greater access to paid parental leave to eligible public sector employees, regardless of gender.

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The NSW Government is committed to ensuring NSW is the best place in the country for women to live, work and raise a family.

Strong parental leave entitlements play a major role in supporting women's economic opportunity and career progression. Paid parental leave created with gender equality at its core will contribute to increased participation in the workforce, improved economic opportunities and greater financial wellbeing for women.

NSW Government recognises Australia's diverse parenting and family experiences and caring arrangements, and ensures parental leave entitlements are inclusive and equitable.

## Overview of the scheme

In the NSW public sector parents can take up to 14 weeks paid parental leave. This is also now available to employees who become parents or guardians to a child under an ongoing placement arrangement.

Parents will also receive an additional two weeks' 'bonus leave' where paid parental leave entitlements are more equally shared between partners. For single parents, or where a partner does not have access to employer provided paid parental leave, the full two weeks of bonus leave will be automatically received.

The paid parental leave entitlements came into effect for eligible NSW Government sector employees who have babies born on or after 1 October 2022 (regardless of the expected date of birth). In the event of adoption or permanent out of home care arrangements, the scheme applies where the date of the adoption, surrogacy or out of home care order is on or after 1 October 2022. For other ongoing placement arrangements, including authorised relative or kinship care, the scheme will come into effect on 2 August 2024.

Paid parental leave can be taken within the first 24 months from the date of birth, adoption, surrogacy or ongoing placement arrangement.

Public sector workers also have access to 5 days' fertility leave, recognising the time demands of IVF and other reproductive treatments.

## Scheme details

### Benefits of this scheme

Parental leave is available for all eligible employees in the NSW Government Sector who take parental leave or stop working to care for their newborn baby, or a child in their care through adoption, surrogacy, or ongoing placement arrangements.

The changes provide increased support for NSW Government Sector employees by providing greater flexibility to both parents in managing paid parental leave provisions and caring arrangements to encourage care to be more equally shared by parents.

Paid fertility treatment leave is available to eligible NSW Government Sector employees, to enable them to take the time they need to undergo and recover from IVF fertility treatments.

These leave provisions apply to:

- Public Service departments and agencies
- Government Sector agencies
- Statutory Authorities/Bodies
- State-Owned Corporations
- Subsidiaries of the NSW Government established under the Corporations Act.

### Who is eligible

Employees entitled to apply for the paid parental leave enhancements include full time, part time, ongoing and temporary employees who have completed 40 weeks continuous service at the expected date of birth, adoption, surrogacy or ongoing placement arrangement.

Paid fertility treatment leave is available to full time, part time, ongoing and temporary employees.

The arrangements will apply to children born on or after 1 October 2022 (regardless of the expected date of birth). In the event of adoption, the above arrangements will apply where the date of the adoption order is on or after 1 October 2022. In the event of permanent out-of-home care, the above arrangements will apply where the date of the guardianship or permanent placement order is on or after 1 October 2022. In the event of other ongoing placement arrangements, the above arrangements will apply where the date of the order is on or after 2 August 2024.

The paid fertility leave arrangements will apply for IVF fertility treatments that occur on or after 1 October 2022.

## Accessing this leave

The 'primary' and 'secondary' carer distinctions have now been removed to provide greater flexibility in caring arrangements. Employees with caring responsibilities can take paid parental leave within the first 24 months of the date of birth, adoption, surrogacy or permanent out-of-home care placement irrespective of whether their partner has returned to work or study.

## How it works when both parents work in the NSW public sector

When both employees work in the NSW Government Sector, paid parental leave is available to be taken any time within the first 24 months from the date of birth, adoption, surrogacy, or permanent out-of-home care placement, except in circumstances where both parents are employed in the same NSW Government Sector workplace and operational requirements may prevent concurrent leave.

Where both parents are employed at the same NSW Government Sector workplace, employees can take up to four weeks paid parental leave concurrently with their partner. Employees may request to take more than four weeks of paid parental leave concurrently with their partner, and the employer will consider their request taking into account the employees personal and family circumstances and the employer's operational requirements.

## Taking the leave flexibly

Paid Parental Leave may be taken within the first 24 months of the date of birth, adoption, surrogacy or permanent out-of-home care placement to meet the needs of the employee's family, and the employer's operational requirements.

Employees may request to take parental leave other than in one single continuous period.

## Who is eligible to take bonus paid parental leave

Two weeks' bonus paid parental leave is available to each employee where each parent has exhausted any paid parental leave offered and funded by their employer. This does not include the Commonwealth paid parental leave scheme. For NSW Government Sector employees, eligible employees are required to exhaust 14 weeks of paid parental leave in accordance with the Determination and Premiers Memorandum.

Employees who are single parents or where an employee's partner does not have access to employer provided paid parental leave will automatically receive the full two weeks of bonus paid parental leave.

Bonus paid parental leave must be taken within the first 24 months from the date of birth, adoption, surrogacy, or permanent out-of-home care placement. Bonus paid parental leave should be treated in the same way as paid parental leave for the purposes of determining payment including the ability to take leave at half pay.

## Employees providing ongoing placement arrangements

In addition to unpaid parental leave, employees providing ongoing placement arrangements will have access to paid parental leave. This arrangement will apply where the date of the guardianship or ongoing placement order is on or after 2 August 2024. For permanent out-of-home care parental leave arrangements can be accessed provided the order was on or after 1 October 2022.

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. This also applies to employees providing care to a child or children placed in their care on an ongoing basis through a relative or kinship care arrangement.

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

Where an employee takes paid parental leave in respect of an ongoing placement arrangement and later adopts the child (or children), the employee is not entitled to access a further period of paid parental leave in connection with the adoption.

**[For detailed information on eligibility, requirements and entitlements when accessing paid parental leave when providing ongoing placement arrangements, read through these frequently asked questions.](#)**

## Accessing paid special fertility treatment leave

Five days paid special fertility treatment leave is available to employees undergoing assisted reproductive treatments. Assisted reproductive treatment means intrauterine insemination (IUI), in vitro fertilisation (IVF) and Intracytoplasmic sperm injection (ICSI). Leave can be accessed where an employee is undergoing treatments including medical appointments which is associated with such treatments. Leave can be taken in part-days, single days, or consecutive days.

Paid special fertility treatment leave may also be utilised for reasonable travel to enable an employee to access treatment.

Temporary and part-time employees will be entitled to the leave on a pro-rata basis. Paid special fertility treatment leave is not available to a partner of a person undergoing fertility treatment.

## Why the changes commence on 1 October 2022

New policy initiatives inevitably commence on a specified date. On 12 June 2022 the NSW Government announced paid parental leave enhancements from October 2022. The October commencement date provided time following this announcement to work with various stakeholders including NSW Public Sector agencies and unions in order to implement the enhanced provisions.

Employees who became parents prior to 1 October 2022 remain eligible for the parental leave arrangements set out Premier's Memorandum M2021-12 Paid Parental Leave.

## How these changes will be implemented



The changes have been implemented through Industrial Relations Secretary Determinations to apply the arrangements to Public Service employees and Premier's Memoranda for the remainder of the NSW Government Sector.

## 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 Employee Relations via **[psir@industrialrelations.nsw.gov.au](mailto:psir@industrialrelations.nsw.gov.au)** .

## What the changes mean for other provisions



For other provisions such as the payment of parental leave, unpaid parental leave and leave entitlements in the case of a stillbirth, reference should be made to the applicable industrial instrument such as an Award or Enterprise Agreement to determine the relevant provisions. This includes whether paid leave must be exhausted prior to leave without pay and whether leave is available at half pay.

**Determination outlining the paid parental leave scheme**

Section 52(1) Determination No 4 of 2022 outlines the new paid parental leave policy.

**[View the Determination](#)** →

**Determination outlining the miscarriage, pre-term birth and fertility treatment policy**

Section 52(1) Determination No 3 of 2022 outlines the new paid miscarriage, pre-term birth and fertility treatment policy.

**[View the Determination](#)** →