



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2018-0264

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	19
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD.FOI](#)
Subject: Freedom of Information request
Date: Thursday, 27 September 2018 8:44:14 PM

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

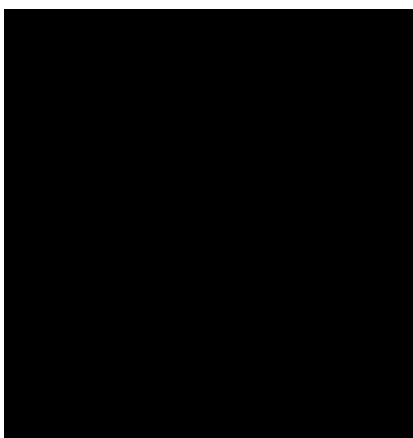
Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:



Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

1. Any policy documents explaining the circumstances and criteria for considering applications for primary care giver leave in the ACT public service, including any document giving reasons for particular requirements. 2. Any statistical reports on people accessing primary care giver leave, maternity leave and bonding leave under ACT public service enterprise agreements. Document timeframes: Please provide documents relevant to the current ACT public service enterprise agreements.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0264



via email: 

Dear 

FREEDOM OF INFORMATION REQUEST

I refer to your application received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 27 September 2018, in which you sought access to information under section 30 of the *Freedom of Information Act 2016* (the Act).

Specifically, you sought access to:

1. *“Any policy documents explaining the circumstances and criteria for considering applications for primary care giver leave in the ACT public service, including any document giving reasons for particular requirements.*
2. *Any statistical reports on people accessing primary care giver leave, maternity leave and bonding leave under ACT public service enterprise agreements. Document timeframes: Please provide documents relevant to the current ACT public service enterprise agreements.”*

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 26 October 2018.

Decision on access

A search of documents was conducted and resulted in 4 documents being identified that fall with the scope of your request. I have decided to refuse to deal with two documents that are publicly available and grant full access to the remaining two documents.

Refusal to deal with application in part

Please note that there is no specific policy prepared for the ‘primary care giver leave’. The applications for leave are considered and assessed in accordance with the Enterprise

Agreements which are publicly available on the ACT Government website at <https://www.cmtedd.act.gov.au/employment-framework/for-employees/agreements>.

To provide agencies with general information on the major leave provisions in the ACT Public Service, the Directorate has prepared a Leave Note which is also available on the Employment Portal website at <https://www.cmtedd.act.gov.au/employment-framework/for-employees/a-z>.

Noting these two documents are publicly available, I have decided to refuse to deal with them in accordance with section 43(d) of the Act. Section 43(d) provides the grounds for me to refuse to deal with an application if the government information is already available to the applicant. I am satisfied that the information you have sought meets the requirements of section 43(d) and section 45 of the Act.

Full release

I have decided to grant full access to the remaining two documents. I have included as Attachment A to this letter the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents. The documents to be released to you are provided as Attachment B to this letter.

Additional information

- Please note the Leave Note that has been provided will be updated and replaced by a new version. The updated version will be available for public access from the Employment Portal website. As the current version will be removed from the website, I have attached a copy of this document to this letter as Attachment C.
- One of the two documents released to you is costing data collated for Maternity and Primary Care Giver leave in January 2014 and this is the only document the Directorate holds that is in relation to point 2 of your request. This document was prepared to assist in considerations for the Commonwealth's proposed Paid Parental Leave scheme. Please note that there is no regular requirement for the Directorate to provide statistical reports on people accessing primary care giver leave, maternity leave and bonding leave under ACT public service enterprise agreements.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of folio's to be released to you is below the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents in

response to your access application will be published in the CMTEDD disclosure log after 30 October 2018. Your personal contact details will not be published. You may view the CMTEDD disclosure log at: <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

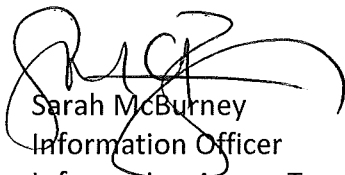
ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au

Yours sincerely,



Sarah McBurney
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

October 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	<ul style="list-style-type: none">Any policy documents explaining the circumstances and criteria for considering applications for primary care giver leave in the ACT public service, including any document giving reasons for particular requirements.Any statistical reports on people accessing primary care giver leave, maternity leave and bonding leave under ACT public service enterprise agreements. Document timeframes: Please provide documents relevant to the current ACT public service enterprise agreements.	CMTEDDFOI 2018-0264

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-7	Maternity and Primary Care Givers Leave Analysis	1/2014	Full	n/a	Yes
2	8	Maternity Leave Checklist	10/9/2018	Full	n/a	Yes
Total No of Docs						
2						

Value of Maternity Leave and Primary Care Givers Leave

Financial Year	Leave Value	Super Value	Total Value
2006-07	\$ 5,982,752.26	\$ 2,539,605.68	\$ 8,477,385.20
2007-08	\$ 6,274,998.50	\$ 2,102,477.30	\$ 8,293,924.88
2008-09	\$ 8,389,901.56	\$ 2,183,381.46	\$ 10,517,699.31
2009-10	\$ 11,245,034.23	\$ 2,614,597.76	\$ 13,735,473.65
2010-11	\$ 13,162,888.86	\$ 2,793,699.88	\$ 15,911,997.86
2011-12	\$ 13,262,403.42	\$ 2,721,768.52	\$ 15,974,512.92
2012-13	\$ 14,535,906.35	\$ 2,790,748.06	\$ 17,050,496.01
2013-14	\$ 9,857,692.54	\$ 1,609,908.45	\$ 11,131,736.00

Value of Maternity Leave

Financial Year	Leave Value	Super Value	Total Value
2006-07	\$ 5,836,440.33	\$ 2,488,082.59	\$ 8,279,550.18
2007-08	\$ 6,174,417.66	\$ 2,082,222.76	\$ 8,177,903.86
2008-09	\$ 8,218,736.61	\$ 2,137,870.87	\$ 10,301,023.78
2009-10	\$ 11,159,288.62	\$ 2,597,388.15	\$ 13,632,518.44
2010-11	\$ 12,800,390.08	\$ 2,729,156.45	\$ 15,484,955.65
2011-12	\$ 12,988,497.23	\$ 2,671,301.58	\$ 15,650,139.78
2012-13	\$ 14,263,460.78	\$ 2,746,461.41	\$ 16,733,763.79
2013-14	\$ 9,676,548.88	\$ 1,578,942.48	\$ 10,948,194.61

Value of Primary Care Givers Leave

Financial Year	Leave Value	Super Value	Total Value
2006-07	\$ 146,311.93	\$ 51,523.09	\$ 197,835.02
2007-08	\$ 100,580.84	\$ 20,254.55	\$ 116,021.03
2008-09	\$ 171,164.94	\$ 45,510.59	\$ 216,675.53
2009-10	\$ 85,745.61	\$ 17,209.61	\$ 102,955.21
2010-11	\$ 362,498.78	\$ 64,543.43	\$ 427,042.21
2011-12	\$ 273,906.19	\$ 50,466.94	\$ 324,373.13
2012-13	\$ 272,445.57	\$ 44,286.65	\$ 316,732.22
2013-14	\$ 181,143.66	\$ 30,965.97	\$ 183,541.40

Values by Leave Types

FinancialYear	Leave Code	Description	Leave Value	Super Value	Total Expense
2006-07	MAT	MATERNITY LEAVE	\$ 1,679,777.20	\$ 479,767.07	\$ 2,144,639.83
2006-07	MATH	MATERNITY LEAVE HALF PAY	\$ 4,156,663.13	\$ 1,698,665.10	\$ 5,825,259.93
2006-07	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 52,992.71	\$ 52,992.71
2006-07	PRIH	PRIMARY CARE GIVERS HALF	\$ 68,812.96	\$ 33,915.85	\$ 102,728.81
2006-07	PRIM	PRIMARY CARE GIVERS	\$ 77,498.97	\$ 17,607.24	\$ 95,106.21
2006-07	U-ML	MAT LEAVE - WOP	\$ -	\$ 256,657.71	\$ 256,657.71
2007-08	MAT	MATERNITY LEAVE	\$ 1,603,081.25	\$ 307,592.74	\$ 1,902,141.57
2007-08	MATH	MATERNITY LEAVE HALF PAY	\$ 4,571,336.41	\$ 1,496,287.69	\$ 5,997,419.96
2007-08	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 41,553.68	\$ 41,553.68
2007-08	PRIH	PRIMARY CARE GIVERS HALF	\$ 13,205.92	\$ 5,491.50	\$ 18,697.42
2007-08	PRIM	PRIMARY CARE GIVERS	\$ 87,374.92	\$ 14,763.05	\$ 97,323.61
2007-08	U-ML	MAT LEAVE - WOP	\$ -	\$ 236,788.65	\$ 236,788.65
2008-09	MAT	MATERNITY LEAVE	\$ 1,966,115.47	\$ 250,410.22	\$ 2,202,675.92
2008-09	MATH	MATERNITY LEAVE HALF PAY	\$ 6,252,621.14	\$ 1,651,441.87	\$ 7,862,329.07
2008-09	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 21,147.69	\$ 21,147.69
2008-09	PRIH	PRIMARY CARE GIVERS HALF	\$ 92,388.25	\$ 30,571.61	\$ 122,959.86
2008-09	PRIM	PRIMARY CARE GIVERS	\$ 78,776.69	\$ 14,938.98	\$ 93,715.67
2008-09	U-ML	MAT LEAVE - WOP	\$ -	\$ 214,871.09	\$ 214,871.09
2009-10	MAT	MATERNITY LEAVE	\$ 3,067,946.75	\$ 382,234.66	\$ 3,422,370.80
2009-10	MATH	MATERNITY LEAVE HALF PAY	\$ 8,091,341.87	\$ 2,099,220.12	\$ 10,094,214.26
2009-10	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 16,028.22	\$ 16,028.22
2009-10	PRIH	PRIMARY CARE GIVERS HALF	\$ 21,342.17	\$ 6,186.24	\$ 27,528.41
2009-10	PRIM	PRIMARY CARE GIVERS	\$ 64,403.44	\$ 11,023.36	\$ 75,426.80
2009-10	U-ML	MAT LEAVE - WOP	\$ -	\$ 99,905.15	\$ 99,905.15
2010-11	MAT	MATERNITY LEAVE	\$ 3,889,846.30	\$ 478,612.83	\$ 4,345,259.33
2010-11	MATH	MATERNITY LEAVE HALF PAY	\$ 8,910,543.79	\$ 2,135,410.30	\$ 11,024,563.01
2010-11	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 1,344.66	\$ 1,344.66
2010-11	PRIH	PRIMARY CARE GIVERS HALF	\$ 24,115.02	\$ 10,626.84	\$ 34,741.86
2010-11	PRIM	PRIMARY CARE GIVERS	\$ 338,383.76	\$ 53,916.59	\$ 392,300.35

2010-11	U-ML	MAT LEAVE - WOP	\$ -	\$ 113,788.65	\$ 113,788.65
2011-12	MAT	MATERNITY LEAVE	\$ 4,167,473.03	\$ 498,137.39	\$ 4,656,685.73
2011-12	MATH	MATERNITY LEAVE HALF PAY	\$ 8,821,024.21	\$ 1,919,823.27	\$ 10,740,113.13
2011-12	MATW	MAT LVE NO PAY TCAS	\$ -	\$ -	\$ -
2011-12	PRIH	PRIMARY CARE GIVERS HALF	\$ 38,938.47	\$ 12,931.68	\$ 51,870.14
2011-12	PRIM	PRIMARY CARE GIVERS	\$ 234,967.73	\$ 37,535.27	\$ 272,502.99
2011-12	U-ML	MAT LEAVE - WOP	\$ -	\$ 253,340.92	\$ 253,340.92
2012-13	MAT	MATERNITY LEAVE	\$ 4,503,692.67	\$ 541,746.30	\$ 4,978,115.31
2012-13	MATH	MATERNITY LEAVE HALF PAY	\$ 9,759,768.11	\$ 1,972,925.64	\$ 11,523,859.01
2012-13	MATW	MAT LVE NO PAY TCAS	\$ -	\$ 11,157.27	\$ 11,157.27
2012-13	PRIH	PRIMARY CARE GIVERS HALF	\$ 45,719.48	\$ 4,686.25	\$ 50,405.72
2012-13	PRIM	PRIMARY CARE GIVERS	\$ 226,726.10	\$ 39,600.40	\$ 266,326.50
2012-13	U-ML	MAT LEAVE - WOP	\$ -	\$ 220,632.20	\$ 220,632.20
2013-14	MAT	MATERNITY LEAVE	\$ 3,105,938.70	\$ 334,729.20	\$ 3,361,598.50
2013-14	MATH	MATERNITY LEAVE HALF PAY	\$ 6,570,610.18	\$ 1,069,294.29	\$ 7,411,677.11
2013-14	MATW	MAT LVE NO PAY TCAS	\$ -	\$ -	\$ -
2013-14	PRIH	PRIMARY CARE GIVERS HALF	\$ 51,854.54	\$ 2,386.85	\$ 25,673.15
2013-14	PRIM	PRIMARY CARE GIVERS	\$ 129,289.12	\$ 28,579.12	\$ 157,868.24
2013-14	U-ML	MAT LEAVE - WOP	\$ -	\$ 174,918.99	\$ 174,918.99

Total Instances of Paid Maternity (plus Primary Care Givers) by Salary Range

Financial Year	< \$20,000	\$20,000-\$30,000	\$30,000-\$40,000	\$40,000-\$50,000	\$50,000-\$60,000	\$60,000-\$70,000	\$70,000-\$80,000	\$80,000-\$90,000	\$90,000-\$100,000	\$100,000-\$110,000	\$110,000-\$120,000	\$120,000-\$130,000	\$130,000-\$140,000	\$140,000-\$150,000	\$150,000+	Total
2006-07	12	22	36	49	123	70	24	15	5	2		1	1		3	363
2007-08	7	25	33	52	75	108	37	37	8	6	3					391
2008-09	3	17	32	41	70	108	61	35	13	10	3	2	1		5	401
2009-10	3	20	37	46	62	99	87	49	8	11	10	1			4	437
2010-11	1	11	21	43	78	99	150	15	58	10	10	3			2	501
2011-12	6	11	23	32	63	90	119	51	60	10	6	5	2	1	3	482
2012-13	8	10	26	28	49	98	101	106	38	24	14	6	1		8	517
2013-14	3	6	17	19	34	66	55	54	21	11	10	5	1		8	310
Total	43	122	225	310	554	738	634	362	211	84	56	23	6	1	33	3402

Total Instances of Maternity Leave Without Pay by Salary Range

Financial Year	< \$20,000	\$20,000-\$30,000	\$30,000-\$40,000	\$40,000-\$50,000	\$50,000-\$60,000	\$60,000-\$70,000	\$70,000-\$80,000	\$80,000-\$90,000	\$90,000-\$100,000	\$100,000-\$110,000	\$110,000-\$120,000	\$120,000-\$130,000	\$130,000-\$140,000	\$140,000-\$150,000	\$150,000+	Total
2006-07	2	1		4	5	3										15
2007-08	1	2		7	8	5	2	1								26
2008-09		5	1	3	10	2	1									22
2009-10			2	6	8	5	4	1			1					27
2010-11		4	3	3	3			2	1							16
2011-12	1	2	1	2	4		3	1	2	1	1					18
2012-13	1		3	2	9	3	2		1							21
2013-14				2	1	2	1	1							1	8
Total	5	14	10	29	48	20	13	6	4	1	2	0	0	0	1	153

Total Paid Maternity Leave Instances by Super Scheme

Financial Year	CSSDB	PSSAP	PSSDB	SG 9.25%	SG 10.25%	Total
2006-07	5	22	326	10		363
2007-08	2	42	291	55	1	391
2008-09	3	41	247	110		401
2009-10	1	39	236	110	51	437
2010-11	2	29	223	168	79	501
2011-12		23	132	256	71	482
2012-13	1	19	84	325	88	517
2013-14		5	31	206	68	310
Total	14	220	1570	1240	358	3402

***Average Salaries by Financial Year and Super Scheme (Staff taking Maternity Leave)**

Financial Year	CSSDB	PSSAP	PSSDB	SG 10.25%	SG 9.25%	Average
2006-07	\$ 71,017.00	\$ 46,987.72	\$ 56,325.10		\$ 51,280.45	\$ 55,822.59
2007-08	\$ 60,039.09	\$ 53,205.66	\$ 59,343.99	\$ 78,627.00	\$ 58,339.71	\$ 58,596.24
2008-09	\$ 95,430.83	\$ 57,564.91	\$ 67,113.27		\$ 61,761.99	\$ 64,880.92
2009-10	\$ 68,005.00	\$ 64,091.14	\$ 68,072.48	\$ 61,232.81	\$ 61,191.41	\$ 65,186.71
2010-11	\$ 38,870.88	\$ 67,643.51	\$ 74,009.35	\$ 66,294.90	\$ 64,959.41	\$ 69,249.44
2011-12		\$ 64,494.15	\$ 76,941.37	\$ 64,462.62	\$ 70,851.26	\$ 71,274.68
2012-13	\$ 86,881.00	\$ 77,680.59	\$ 77,095.70	\$ 71,002.12	\$ 73,734.21	\$ 73,985.79
2013-14		\$ 56,650.85	\$ 88,099.69	\$ 74,638.40	\$ 73,012.12	\$ 74,613.72
Average	\$ 71,005.96	\$ 60,601.34	\$ 66,331.62	\$ 67,986.71	\$ 68,791.60	\$ 67,051.10

*Average Salaries are based on Actual Salary plus Allowances (pro-rata for Part-time Staff)

Total Paid Maternity Leave Instances by Attendance Type

Financial Year	Full-time	Part-time	Total
2006-07	257	106	363
2007-08	283	108	391
2008-09	308	93	401
2009-10	326	111	437
2010-11	404	97	501
2011-12	387	95	482
2012-13	395	122	517
2013-14	236	74	310
Total	2596	806	3402

Total Maternity Leave Instances by Classification Group (Paid and Unpaid)

Classification Group	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Grand Total
Administrative Officers	81	73	73	97	117	80	97	66	684
Ambulance Officers	3	3	5	4	6	3	2		26
Capital Linen Service Officers	2	1							3
Custodial-Correctional Officers	2	1		2	2		3		10
Dental					2	1	1	1	5
Disability Officers	6	6	4	8	9	5	3	2	43
Executive Officers			1		1	2	2	1	7
Fire Brigade Officers		5		1	5	3	5	1	20
General Service Officers & Equivalent	3	5	3	2	4	7	4	1	29
Govt Advisors		1	1	1	1		1		5
Health Assistants	4	3	4	1	1	5		2	20
Health Professional Officers	48	53	57	50	62	52	61	36	419
Information Technology Officers	1	1	1	1		1	2		7
Legal Officers	4	1	4	1	5	8	1	2	26
Legal Support					1			2	3
Medical Officers	12	16	21	16	14	18	27	25	149
Nursing Staff	58	75	83	92	88	101	105	66	668
Professional Officers	4	2	3	5	2	5	3	2	26
Prosecutors	2				2	1	2	1	8
Rangers	3	1	1	1		1		1	8
School Leaders	12	15	9	15	25	24	21	8	129
Senior Officers	25	37	32	40	37	41	47	24	283
Teacher	101	110	116	118	127	135	144	67	918
Technical Officers	2	4	3	3	4	4	6	7	33
Trainees and Apprentices	1			1		1			3
VET Teacher Managers	1		1						2
VET Teachers	3	4	1	5	2	2	1	3	21
Grand Total	378	417	423	464	517	500	538	318	3555

ACTPS Shared Services

Maternity Leave Checklist

Name:			
AGS Number:			
RITM / HR Number:			
Screen	Action	Preparer	Checker
	Check eligibility to paid Maternity leave - must have 12 months continuous service. Date of commencement of continuous employment / / Qualified Yes/No	<input type="checkbox"/>	<input type="checkbox"/>
	Expected Date of Confinement Certificate / /	<input type="checkbox"/>	<input type="checkbox"/>
	Fit to work certificates attached to application. From / / to / /	<input type="checkbox"/>	<input type="checkbox"/>
	Calculate dates of absence in accordance with eligibility, certificates and entitlement: 18 weeks full pay or 36 weeks half pay or other combination not exceeding payment equivalent to 36 weeks half pay Mandatory Period - 12 weeks: 6 weeks before the EDC and 6 weeks after Dates: Full Pay / / to / / Half Pay / / to / /	<input type="checkbox"/>	<input type="checkbox"/>
	Send copy of Maternity Letter to employee Maternity Leave Approval letter Send the "Breastfeeding Pack" to employees in the Health Directorate .	<input type="checkbox"/>	<input type="checkbox"/>
	Resubmit file for birth certificate and return to work PAY NO.	<input type="checkbox"/>	<input type="checkbox"/>
ALW	Cease allowances not payable on Mat/Rec/LSL or LWOP. If on half pay check to see if allowances have halved.	<input type="checkbox"/>	<input type="checkbox"/>
ZRH	Cease roster if full time shift worker.	<input type="checkbox"/>	<input type="checkbox"/>
LVE	Enter Maternity Leave dates in accordance with rate of pay Enter all other leave up to 52 weeks Maternity Entitlement. Any further leave following 52 weeks must be approved separately.	<input type="checkbox"/>	<input type="checkbox"/>
ADR	In work address change pay slip location code to Home Mailing and delete email address if receiving electronically.	<input type="checkbox"/>	<input type="checkbox"/>
SUP	CSS/PSS Wishes to contribute super on Maternity LWOP – Yes/No If Yes , complete S637 Leave Without Remittance Advice + Cheque from employee made out to Comsuper, needs to be sent Comsuper prior to the payday or paydays. Alternatively arrears may be deducted on return to work.	<input type="checkbox"/>	<input type="checkbox"/>
SUP	If not contributing to PSS/CSS whilst on Maternity Leave without pay close PSSP, PSS1 AND PSS. * PSSap: Employer contributions are payable on Maternity Leave with or without pay. * SG employer contributions are payable only on Maternity Leave with pay.	<input type="checkbox"/>	<input type="checkbox"/>
CPA	Use Recalc function to check that next pay is correct.	<input type="checkbox"/>	<input type="checkbox"/>
Processed		Date	
Checked		Date	



ACT
Government

Chief Minister and Treasury

Information Note 07/2006
Issued: August 2006

LEAVE

- **HR Directors/Managers**
- **Shared Services Centre**

Purpose

1. To provide agencies with general information on the major leave provisions in the ACT Public Service (ACTPS). Agencies should read this advice in conjunction with the legislative employment framework.

Employment Framework

2. Leave entitlements are derived from ACTPS employment framework. The main elements of the ACTPS employment legislative framework include:
 - [Public Sector Management Act 1994](#) and [Management Standards](#) (PDF file);
 - Agency Certified Agreements; and
 - Template Agreement comprising Part 1: Common Core Conditions and Part 2: Agency specific conditions;
 - Non Template Agreements (occupational specific agreements); and
 - Awards.
3. The following represents a basic view of the employment framework.
 - a) Workplace Agreements (including current Certified Agreements and Australian Workplace Agreements)
 - b) (*Fair Pay Commission Standards*)¹

¹ Until the first Fair Pay Commission determination, expected in Spring 2006, the full effect of the Fair Pay Commission Standards in relation to the legislative employment framework is unknown.

- c) Awards
 - d) *Public Sector Management Act 1994*
 - e) *Public Sector Management Standards*
4. The [PSM Act](#) and [Management Standards](#) (PDF file) are subordinate to Workplace Agreements and Awards. This is because Workplace Agreements and Awards are made under provisions of Commonwealth laws, which override inconsistent ACT laws. However, Awards are limited to minimum entitlements on a small number of allowable matters. If a condition is listed in the Award but more generous entitlements are available under the PSM Act or Standards, the more generous provisions in the PSM Act apply. Awards are not intended to reduce more beneficial entitlements.
 5. See [Recruitment in the ACT Public Service](#) for further information on the legislative employment framework.

Application

6. This note applies to conditions under the PSM Act, Standards and Template Agreement of Core Conditions. It does **not** deal with Part 2 (agency conditions) of the Template Agreement or occupational specific agreements.
7. For information on executive leave conditions, see the Executive Handbook.

LEAVE – GENERAL

8. There are many different forms of leave. All leave requires the approval of the Chief Executive or delegate. The approval of certain forms of leave is at the discretion of the Chief Executive. However in other circumstances, where conditions are fulfilled, the granting of leave is mandatory. This includes, for example, maternity leave and jury service leave.
9. There are provisions applying to the taking of unauthorised leave (see [paragraph 119](#)) and dealing with leave taken in excess of credits (see Standards, sections 368 and 370 (Part 4.15)). HR areas should ensure appropriate procedures are in place for leave management (see Governance Division Information Note: Leave Management). Managers, with support of agency HR areas, play a critical role in leave management.

RECREATION LEAVE (Annual leave)

10. The purpose of recreation leave is to provide employees with an opportunity to take a reasonable paid break from work. This is particularly important for occupational health and safety reasons, such that leave is taken reasonably close to the accrual of the leave and that leave scheduling forms part of work planning.

Application

11. Provisions for recreation leave apply equally to officers and employees². However, an employee that receives a loading in lieu of leave are not entitled to recreation leave. Shift workers accrue leave under the relevant award (Template Agreement, clause 50.3).

Entitlement

12. Employees are entitled to four weeks of recreation leave for each 12 month period worked. Leave accrues at this rate each day of work that counts as service (see paragraph 14). Recreation leave can be taken for the accrued period at full pay or for double the accrued period at half-pay (see Template Agreement clause 52 or Standards, section 374).
13. Employees are also entitled to an annual leave loading of 17.5% of salary, subject to the maximum payment of the Australian Bureau of Statistics (ABS) male average weekly total earnings (see Standards, section 389) for teachers and Employment Conditions Award 2000, clause 25 for staff covered by the Award (see also Template Agreement clause 51.2).

Accrual

14. Recreation leave accrues daily and is available for use once accrued. Leave can be granted up to an employee's available credit of recreation leave (see Standards, section 374 and Template Agreement clause 50.1-50.3).
15. Credit accrues based on an employee's normal working hours. Therefore when an employee changes their working hours, an employee will have a different credit for each different working period. The Standard provides that these leave credits are to be used in the order that they are accrued (see Standards, section 385).

² The term employee has been used in relation to recreation leave to cover officers and employees. Therefore in relation to recreation leave in this Information Note, the term employee will also cover an officer.

Granting of Recreation Leave

16. A Chief Executive should approve an employee's application for recreation leave if it will enable the officer to use the credit in the year that it accrues. If this approval is not possible due to operational requirements, the Chief Executive will need to agree another appropriate time with the employee for the taking of recreation leave (see Standards, section 375 and Template Agreement clause 50.4 and 50.5).
17. In certain circumstances, employees may be directed or deemed to be on recreation leave (see Standards, section 376 and 383).

Cancellation of Leave or Recall to Duty

18. If an employee is recalled to duty from recreation leave, or had their recreation leave cancelled, the employee is entitled to reimbursement of reasonable travel expenses and other incidental costs, where these costs are not covered under an insurance policy (see Standards, section 327 and Template Agreement clause 50.6).

Payment in Lieu of Recreation Leave

19. Employees who cease duty with the ACT Public Service are entitled to be paid an amount equivalent to the value of their recreation leave credits where their new employer will not accept their accrued recreation leave credits (see Standards, section 386).
20. Since 1 July 2005, daily leave accrual as described in paragraph 14 has been in place. This means an employee can be paid out for each day that counts towards the accrual of recreation leave.
21. Prior to 1 July 2005 employees accrued their recreation leave annually on 1 January of each year. Where a person commenced after the beginning of a month and concluded after the end of a month, the inclusion of the incomplete months of service in the payout depended on the rules in the Standards. The Standards continue to provide that where an employee commenced employment between 1 January 1978 and 1 July 2005, they are eligible for payment for any part of a month worked but not included in their recreation leave credit (see Standards, section 386). This provision has not been replicated for employment after 1 July 2005, as leave now accrues daily, there is no longer a need to calculate partial months of service.
22. There are separate rules again about the payout of recreation leave for employees who commence employment after 26 October 1966. This is because before 1 January 1967 officers were given a full recreation leave credit on the anniversary of their date of commencement. On 1 January 1967 all officers were given a further full recreation leave credit. Therefore, on leaving the ACTPS, the recreation leave credit must be adjusted to take

account of the over credit. The reduction is made at the 1967 rate of one-twelfth of 3 weeks (fifteen days) annual accrual for each completed month before the anniversary of the employee's commencement date (see Standards, section 388).

23. There are also rules governing the payment in lieu of recreation leave to an employee's dependants, where the employee has died (see Standards, section 387).

PERSONAL LEAVE

24. Personal leave provides access to paid leave due to illness, for caring and bereavement purposes, and to special leave in extraordinary and unforeseen circumstances. Personal leave is not available where it is due to the misconduct of the officer or employee or if there is not sufficient cause.

Application

25. There are different rules for personal leave applying to officers and temporary employees (see Standards, section 392).³ Further, certain employees receive a loading in lieu of accruing personal leave and are therefore not entitled to personal leave (see Standards, section 260).

Entitlement

26. The maximum continuous period of paid sick leave is 52 weeks and the maximum period of unpaid leave is 78 weeks, subject to availability of leave credits for paid leave (see Standards, section 395). However further personal leave without pay, beyond 78 weeks, may be granted where the continuing absence is on medical grounds.

Accrual – officers

27. Officers are entitled to 18 days full pay personal leave on appointment and every 12 months thereafter (Template Agreement clause 48.2 and Standards, section 392). In some circumstances, officers, on appointment, may bring a personal leave credit from their previous employer because of the recognition of their prior service (see Standards, section 403).

³ In relation to personal leave in this Information Note, the terms officer and employee have a distinct meaning. Personal leave is only applicable to employees where this is expressly indicated; noting that temporary employees who have 12 months continuous service are treated as officers for the purposes of personal leave.

28. Officers who work part-time accrue credit based on their working hours, and there are rules applying to the adjustment of personal leave credits, when an officer changes their working hours (see Standards, section 392).
29. There are additional personal leave entitlements for War Service sick leave (see Standards, section 394).

Accrual – Temporary Employees

30. In the first 12 months of service, temporary employees accrue leave differently from officers. The accrual rates are set out in the Standards. After 12 months of continuous service, temporary employees accrue personal leave as if they were an officer (see Standards, section 400).
31. There are also separate rules for personal leave for returned soldiers who are temporary employees (see Standards, section 401).

Granting of Personal Leave

32. Subject to available credit, personal leave may be granted without a medical certificate being produced for either illness or caring purposes, for up to three consecutive days, and up to a total of seven days in an accrual period (see Standards, section 395). The granting of all other personal leave for illness or to care for an officer's immediate family or household is subject to the provision of a medical certificate.
33. Medical certificates are accepted where they are issued by a medical service provider recognised by a registered health fund (see Standards, section 395 and Template Agreement clause 48.5).
34. Medical certificates do not normally specify the nature of the illness. However in certain circumstances, the employer will require an officer to undergo a medical examination to determine fitness for duty. The medical report is provided to the employer to allow for case management of the issue. \
35. The Chief Executive may require an officer to attend a medical exam to determine fitness for duty:
 - following a period of illness;
 - where an officer has been continuously ill for 13 weeks, and the granting of further personal leave is subject to a medical exam;
 - where there is doubt as to the cause of the illness or absence; or
 - if the officer's state of health (in the opinion of a Chief Executive) makes them a danger to other staff or the public.

36. The fee for the medical examination may be deducted from an officer's salary if the medical report is not favourable to the officer or the officer fails to attend the exam without reasonable cause (see Standards, section 405).
37. The Chief Executive may require officers to take personal leave where a medical report reveals they are a danger to others or that they have had contact with persons suffering an infectious disease (see Standards, sections 406 and 407).

Granting Leave at Half-Pay

38. Where special circumstances exist, the Chief Executive may allow an officer the use of full pay personal leave credits at half-pay provided the absence is at least one week. To access credits at half-pay the officer must have personal leave credits available, for instance the officer may have approval to anticipate the leave (see paragraph 40). Credits used at half-pay are deducted at the rate of 50% per day. The Chief Executive will have regard to all of the circumstances. This may be appropriate where a person does not have sufficient full pay personal leave to cover the absence, or where a person has an ongoing illness (see Standards, section 395).

Where Officers are Already on Other Leave

39. If an officer falls ill and requires personal leave, or bereavement leave, while they are on recreation or long service leave, that officer will be able to take personal or bereavement leave of a minimum of one day provided medical evidence is supplied. In these circumstances the officer will be entitled to have an equal period of the other recreation or long service leave re-credited. These re-crediting rules do not apply to personal leave for the purposes of caring for a member of officer's family or household. (See Standards, section 402).

Where Officers Have Exhausted Personal Leave Credits

40. In cases where an officer has exhausted their personal leave credits, a Chief Executive may:
- for officers with less than 10 years of service, allow the officer to anticipate one year of personal leave credit. This leave is then deducted from any future credit (see Standard, section 392);
 - for officers with more than 10 years of service, the officer may be granted additional personal leave on half-pay (see Standards, section 398).

41. Alternatively, personal leave without pay may be granted. This leave without pay does not count for service for any purpose (see Standards, section 399).
42. Alternatively, in exceptional circumstances a Chief Executive may approve the use of long service leave or recreation leave to the officer's available credit. This should only be considered after all of the other possibilities are exhausted. However, the agency should note that the approval of long service leave or recreation leave does break the continuity of the maximum period of paid leave.

Personal Leave in Special Circumstances (NOTE: The prescription and guidance relating to Personal Leave in Special Circumstances no longer applies with the repeal of that leave type.)

43. The purpose of the special leave entitlement is to assist staff by providing up to four days paid leave to enable them to manage extraordinary or unforeseen circumstances, where it is essential that the officer have leave from the workplace.
44. Personal leave, of up to four days, may be approved for an officer in special circumstances. Personal leave in special circumstances **cannot** be approved for personal illness or the illness of a member of the immediate family or household. The leave is in addition to the seven days personal leave without a medical certificate and must be deducted from an officer's personal leave credit.
45. Special leave does **not** apply to a temporary employee in the first 12 months of service but does apply after 12 months continuous service where the temporary employee is treated as an officer for the purposes of personal leave (see paragraph 30).

What are special circumstances?

46. Special circumstances cover extraordinary or unforeseen circumstances where it is essential that the officer have leave from the workplace. There are no express criteria for determining the circumstances where the approval of special leave would be appropriate. However, Chief Executives should exercise their authority equitably to reflect the purpose of the entitlement.
47. Examples of absences considered to be appropriate for special leave approval include (but are not limited to):
 - Moving house (while not normally unforeseen, for some people it is an extraordinary event);
 - Plumbing, electrical or other emergencies at home;

- Car problems; or
- Childcare/family problems that arise at short notice.

Evidence required

48. A Chief Executive may require reasonable evidence to approve personal leave in special circumstances. While personal leave in special circumstances does not require a medical certificate, a medical certificate may be a form of reasonable evidence provided to the Chief Executive when requesting this leave.

BEREAVEMENT LEAVE

49. Bereavement leave provides a period of paid leave to assist staff dealing with the death of a person in their household or immediate family.

Application⁴

50. Both officers and employees are eligible for bereavement leave (see clause 49 of the Template Agreement). However, employees that receive a loading in lieu of recreation and personal leave are not entitled to bereavement leave.

Entitlement

51. Officers and temporary employees are entitled to three days paid bereavement leave on each occasion of the death of a member of the person's household or immediate family. Clause 5 of the Template Agreement defines immediate family as:

Immediate family means:

- a) a domestic partner (including a former domestic partner);
- b) a child or an adult child (including an adopted child, a step child or an ex nuptial child), parent, grandparent, grandchild or sibling of the employee or domestic partner of the employee; and

⁴ For persons not covered by the Template Agreement (or any other agreement dealing with bereavement leave), the Standards also provide bereavement leave entitlements under section 393.

c) a person related to the employee by Aboriginal and/or Torres Strait Islander kinship structures.

52. Bereavement leave is also available on the death of a foster parent, step-parent, step-sibling, guardian or foster child.

Granting of Bereavement Leave

53. In addition to the three days paid leave, additional paid or unpaid bereavement leave may also be granted.

54. Personal leave for bereavement purposes counts for service for all purposes and is not deducted from the person's personal leave credit. Bereavement leave is available from the first day of service; therefore there is no qualifying period.

Where Staff Members are Already on Other Leave

55. If bereavement leave is granted while an officer is on another type of leave, the amount of leave equal to the bereavement leave should be re-credited. This only applies where there is leave that has a credit attached to it, for example if a person is on long term personal leave without pay beyond 78 weeks, there is no credit attached to the unpaid leave (see Standards, section 393 and Template Agreement clause 49).

LONG SERVICE LEAVE

56. Long Service Leave (LSL) provides employees with an additional period of paid absence from work for the purpose of rest and recreation. The leave is granted in recognition of lengthy continuous service and/or is based on recognition of prior service.

Application

57. Under the PSM Act, LSL provisions apply to officers, employees, statutory officer holders and persons employed by a Territory Instrumentality or by a statutory officer holder (section 148 of the PSM Act). While LSL provisions have been modified by the Template Agreement (clause 55 of the Template Agreement) where the PSM Act but not the Template Agreement covers a person, only the PSM Act provisions apply.

Accrual

58. Under section 158 of the PSM Act, an officer may be granted LSL once they have 10 years of service. This entitlement is calculated in accordance with section 160 of the PSM Act. However, under the Template Agreement an officer may be granted a pro-rata LSL credit after seven years eligible service (clause 55.1 of Template Agreement).
59. Prior service will contribute to the accrual of seven years service in the Territory. For further information on recognition of prior service for long service leave, see the Information Note: Prior Service Recognition and relevant sections of the PSM Act.

Entitlement

60. LSL entitlements are based on calendar months, for example one month of LSL, if commenced on 1 February would end on the last day of that month. Variations in the number of days in any month are disregarded. This means that public holidays and weekends are included in the LSL entitlements. Therefore:
- LSL cannot be granted for less than seven days or shifts (see clause 55.1 of Template Agreement);
 - Separate applications for periods of LSL separated by a weekend or public holiday only should not be approved;
 - Recreation leave applications resulting in continuous absence comprising LSL followed by recreation leave following by LSL should also not be approved; and
 - Recreation leave may be taken immediately before or immediately after LSL.

Granting of LSL

61. Employees are encouraged to take LSL as it falls due (clause 55.2 of Template Agreement). However, if a Chief Executive (or delegate) does not approve an application for LSL, then the delegate will consult with the employee to determine a mutually convenient time for the person to take the leave (see Template Agreement clause 55.4).
62. LSL can be granted under the PSM Act where a person has more than one year of service but less than 10 years service if they have reached the minimum retiring age or on redundancy (section 159 of the PSM Act). For staff covered by the Template Agreement, this provision is only relevant when a person has more than one and less than seven years service.

Payments in lieu of LSL

63. Under the Template Agreement, employees will receive payment on separation for any pro-rata entitlements after seven years of service. This modifies the application of the PSM Act, which generally provides that on separation (other than by death, reaching the minimum retiring age, on redundancy or cessation due to ill health), there is no payment in lieu of LSL unless the person has 10 years' service.

64. Section 159 (4) of the PSM Act provides for pro-rata LSL payments in lieu, in certain circumstances. If an officer has service between one year and 10 years, (note for staff covered by the Template Agreement this provision is only relevant where service is between one and seven years) the officer will receive payment in lieu for LSL on cessation:

- on reaching the minimum retirement age;
- due to redundancy; and
- due to ill health.

65. Section 159 (11) of the PSM Act provides that, where an officer has died, the agency may make a payment in lieu to dependents of the officer for the amount that would have been payable. If the payment has not been made to dependent(s) under section 159 (11) of the PSM Act, section 165 of the PSM Act sets in place additional rules for payment in lieu on the death of an officer.

Meaning of salary for the purposes of LSL

66. Section 151 of the PSM Act provides that the Standards may include allowances that are to be included as salary for the purposes of calculating LSL entitlements. The allowances included in salary are specified in Standards, section 410.

MATERNITY LEAVE

67. Maternity leave provides a period of leave to a mother following the birth of a child.

Application

68. Maternity leave provisions apply to pregnant women who are (see sections 167 and 168 of the PSM Act):

- a) officers (including employees, statutory office holders and a persons employed by a territory instrumentality or a statutory office holder); and
 - b) entitled to leave on account of illness (sick leave).
69. Maternity leave provisions are regulated by Part 8 of the PSM Act and Template Agreement clause 57).

Entitlement

70. Maternity leave includes a paid and unpaid component. Employees are entitled to 14 weeks paid maternity leave (Template Agreement clause 57.1) provided they have 12 months continuous service with the ACTPS (including any service recognised under prior service rules – see Information Note: Prior Service Recognition) and they are otherwise eligible as set out in paragraph 68.
71. If a woman has not completed 12 months of continuous service when she begins her confinement, but will complete it during her confinement, she is entitled to paid leave from the time she completes her 12 months of service. For example, if an employee's commencement date is 1 July 2006 (12 months service at 1 July 2007) and their expected date is 15 July 2007, the 12-week mandatory period commences on 5 June 2007. The period 5 June 2007 to 30 June 2007 (4 weeks) would be regarded as maternity leave without pay, and the remaining 10 weeks maternity leave would be with pay.

The Effect of Leave Without Pay

72. A person on leave without pay for less than six weeks retains the entitlement to paid maternity leave.
73. Where a person is on leave without pay for more than 6 weeks and becomes pregnant before or during the leave without pay, paid maternity leave is not available. However, if a person's leave without pay ceases (i.e. on the date it is to conclude), they would be entitled to any remaining period of paid maternity leave.

Granting of Maternity Leave

74. If an eligible employee is pregnant and confined, maternity leave must be granted (see section 169 of the PSM Act). An employee must apply for the leave, and should include medical certification which provides the date of confinement.

Granting Leave at Half Pay

75. Employees may spread the 14 weeks paid leave over 28 weeks at half-pay. All paid leave (including leave taken at half-pay) counts as service for all purposes (see Template Agreement clause 57.3).

Granting Unpaid Leave

76. Following paid leave, employees are able to access unpaid maternity leave, up to 54 weeks (see paragraphs 77 and 78). The length of unpaid leave that may be taken depends on the length of paid leave taken. The entitlement comprises:

- **Paid leave taken:** 14 weeks paid maternity leave
- **Unpaid leave available:** 38 weeks unpaid maternity leave
- **Additional leave available:** 2 weeks leave not provided for elsewhere (equivalent to unpaid maternity leave: does not count as service but does not break continuity of service)

OR

- **Paid leave taken:** 28 weeks half pay maternity leave
- **Unpaid leave available:** 24 weeks unpaid maternity leave
- **Additional leave available:** 2 weeks leave not provided for elsewhere (equivalent to unpaid maternity leave does not count as service but does not break continuity of service).

77. If an employee is not entitled to paid leave, they are eligible for 54 weeks unpaid leave (provided they are eligible for maternity leave). This includes 52 weeks unpaid maternity leave (section 169 of the PSM Act) and two weeks leave not provided for elsewhere. The unpaid leave after the first 12 weeks does not count as service but does not break continuity of service. This means a person on unpaid maternity leave, up to the first 12 weeks (mandatory period) will count for service for all purposes (see section 175(2) of PSM Act).

78. Usually, employees access 52 weeks leave (paid and unpaid), and therefore the use of leave not provided for elsewhere is not required. However, to ensure consistency with primary care giver leave arrangements, up to 54 weeks leave should be offered to the employee (see paragraph 97).

Mandatory Period of Maternity Leave and Resuming Duty

79. Under the PSM Act, the required period of maternity leave is 12 weeks. Generally, a person can return early to work, if they produce a medical

certificate which certifies that they are fit for duty (see section 173 of the PSM Act).

80. During the non-mandatory period of maternity leave, a person may resume duty before the conclusion of maternity leave subject to the approval of the leave officer (see section 174). A medical certificate, demonstrating fitness for duty, is not required during the non-mandatory period of maternity leave.

Non-Continuous Maternity Leave

81. Maternity leave may be taken in a non-continuous manner, subject to approval by the Chief Executive or delegate, and on the production of a medical certificate, which illustrates fitness for duty. The intent of the provision is to enable a person to return to work because they are not able to make use of their maternity leave, for example, if the new born is in hospital and there are limited visiting hours or they are not able to care for the child.
82. It is not intended that other paid leave be approved during the break in maternity leave. LSL and recreation leave must not be approved until the paid maternity leave entitlement is exhausted (see Template Agreement clause 57.2(b)).

Access to Other Paid Leave

LSL and recreation leave

83. Staff may not access LSL or recreation leave while on paid maternity leave.
84. Staff may access LSL and recreation leave entitlements during unpaid maternity leave (Template Agreement clause 57.4). However, under clause 57.5 of Template Agreement, accessing LSL and recreation leave does not extend the maximum period of maternity leave available (see paragraph 76 for the maximum period of maternity leave). These provisions allow staff to access paid leave during unpaid maternity leave.

Personal leave

85. Staff may not access personal leave during the mandatory period of maternity leave (see section 170(6) of PSM Act).

Unattachment

86. Where an officer agrees, the officer may be unattached from her office (current position), which will allow the position to be filled on a permanent basis. Unattachment can only occur after the birth of the child (confinement) and during unpaid maternity leave (section 176 of the PSM Act).

87. Under section 176(2) if an officer is unattached, at the end of the maternity leave, the officer must be returned to:

- that office - if the position she immediately occupied before unattachment is vacant; or
- A position similar in status and salary as to the position she immediately occupied before unattachment.

88. **Note:** if an officer returns to work before the 52 weeks maternity leave, compliance with section 176(2) is not necessary until the 52 week period of maternity leave has ended.

89. If an officer does not agree to unattachment and it is considered essential that the position be filled on a permanent basis, a parallel position could be created. However, a parallel position should only be created if the occupant can be placed in a different position, as the officer returning from maternity leave is entitled to return to her position.

Termination of Temporary Employment

90. A temporary employee cannot be terminated while on maternity leave. On return, if they are terminated or provided with a notice of termination, and apply for employment, then they are to be given preference for employment they are qualified for in the agency that terminated their temporary contract.

PAID PRIMARY CARE GIVERS LEAVE

91. Primary care givers leave provides a period of paid leave for caring purposes following the birth or adoption of a child.

Application

92. Paid primary care givers applies where:

- a) the staff member demonstrates they are the primary care giver of a new born or adopted child; and
- b) as the provisions of clause 57 apply (the maternity leave section), the staff member must also be:
 - a. employed by the Territory for 12 months continuously; and
 - b. entitled to personal leave.

93. Entitlements for primary care givers are found in clause 58 of the Template Agreement and Standards, section 447 (Division 4.20.3) (note: where clause 58.1 applies, the provisions of clause 57 of the Template Agreement apply).
94. A person entitled to maternity leave is not entitled to primary care givers leave (see Template Agreement clause 58.1 and Standards, section 447).

Who is a primary care giver?

95. A primary care giver is any person who demonstrates that they are the primary care giver of a newborn or adopted child. This could be a grandmother, father, a same sex partner, or a close friend.
96. A primary care giver should provide details in a statutory declaration outlining why they are the primary care giver for the child. For example, the mother has returned to work and they are now the primary care giver. The primary care giver may be required to provide reasonable further details (for example the contact details of the employer of the mother) to confirm the arrangements.

Entitlement

97. Primary care givers leave is paid leave of up to 14 weeks. This can be combined with unpaid parental leave of up to 40 weeks (see paragraph 108). This means primary care givers can access up to 54 weeks of leave in total.
98. Employees may spread the 14 weeks paid leave over 28 weeks at half-pay. All paid leave (including leave taken at half-pay) counts as service for all purposes.

Granting of leave

99. Where an employee is eligible for the leave and provides reasonable evidence, the leave must be granted.
100. A newborn must not be more than 14 weeks old before the commencement of the leave (i.e. the newborn could be 12 weeks old at the commencement of the 14 weeks leave). In the case of an adopted child, the leave must commence no later than 14 weeks after the staff member assumes responsibility for the child. The Chief Executive/Delegate can waive these time periods in extenuating circumstances (see Template Agreement clause 58.2, and Standards, section 447).

101. **Note:** where relevant, for instance where the mother is an ACTPS officer and has been on maternity leave and is to return to work, the mother must satisfy fitness for duty requirements through the production of a medical certificate. Without this medical certificate, primary care givers leave cannot be approved. If the mother is not fit for duty and is also unable to care for the child, the partner should access personal leave for caring purposes (see Template Agreement clause 58.4).

Sharing the leave between carers

102. A person cannot be granted primary care giver leave if an ACTPS staff member is on paid maternity leave in relation to the same child (clause 58.3 of the Template Agreement and Standards, section 447). However, where both are ACTPS staff members, the leave can be shared, provided they do not take the leave concurrently (see clause 58.3 of the Template Agreement).
103. For ACTPS staff members, the maximum amount of paid maternity and primary care givers leave is 14 weeks in relation to the same child (birth or adoption) (clause 58.3 of Template Agreement). Therefore, if a woman has a period of paid maternity leave, the amount of primary care givers leave is reduced by the amount of paid maternity leave taken in the ACTPS by the other employee.

Example 1: An ACTPS officer takes 8 weeks paid maternity leave and returns to work (note fitness for duty requirement –see paragraph 79), the primary care giver takes 6 weeks paid primary care givers leave. Following this, the mother or primary care giver can proceed on unpaid maternity or parental leave.

Example 2: A women (not an ACTPS officer) takes 12 weeks paid maternity leave. An ACTPS officer applies for primary care giver leave. The officer can be granted the 14 weeks leave noting that:

- They must be eligible for the leave;
- The officer must demonstrate they are the primary care giver – for instance the mother has returned to work, or for other reasons the ACTPS officer is the primary care giver;
- The newborn is less than 14 weeks old at the commencement of the leave.

Non-continuous primary care givers leave

104. As with paid maternity leave, primary care givers leave can be taken in a non-continuous manner. This operates in the same manner as for maternity leave (see paragraphs 81 and 82).

PAID BONDING LEAVE

105. Paid bonding leave provides a period of leave to the non-primary care giver to enable them to bond with the newborn or adopted child.

Application

106. The entitlements apply to any ACT public servant who applies for leave at the time of the birth or adoption of a child.

Entitlement

107. Five days paid leave must be granted if a staff member applies for this leave at the time of the birth or adoption of a child. This leave can be granted at the same time the staff member's domestic partner is on paid maternity or primary care givers leave (see Template Agreement clause 59 and Standards, section 448).

UNPAID PARENTAL LEAVE

108. Parental leave provides a period of leave for caring purposes following the birth or adoption of a child.

Application

109. The entitlements apply to any ACT public servant who applies for the leave following the birth or adoption of a child.

Entitlement

110. Public Servants are entitled to a maximum period of 40 weeks unpaid parental leave following the birth or adoption of a child. There is also a maximum aggregate period of 66 weeks leave that can be taken by domestic partners (where both people are employed by the ACTPS) in relation to the same child (see Template Agreement clause 60.4).
111. Under the WR Act, an employee is entitled to 52 weeks of leave to care for a child in the first years of the child's life.

112. The leave may commence on the day of the birth of a child or on the day the staff member assumes responsibility for the child. The amount of available leave is:

- a) Subject to clause 60 of the Template Agreement, if a person accesses paid maternity or paid primary care giver leave, up to 40 weeks paid parental leave. This equals a maximum period of 54 weeks leave.

OR

- b) Subject to clause 60 of the Template Agreement, if a person cannot access paid leave, up to 54 weeks unpaid leave. This comprises 40 weeks unpaid leave provided under the Standards, and the remaining granted under 'other leave' provisions.

OR

- c) Subject to clause 60 of the Template Agreement, a period of leave such that the combined entitlement of a person whose accesses parental leave, where their domestic partner has accessed ACTPS maternity or parental leave, does not exceed a maximum of 66 weeks, in relation to the same child. The period of 66 weeks can be taken in any combination between the persons caring for the child.

113. The period of parental leave does not count for service for any purpose but does not break continuity of service.

Special Provisions Applying to Teachers

114. Under the Standards, teachers may apply for up to four years parental leave for the first child. This leave can be extended by up to three years for subsequent children where certain conditions are met, including that the teacher agrees to unattachment (see Standards, section 449).

OTHER LEAVE

115. Clause 56 and Schedule E to the Template Agreement and Standards, Part 4.20 includes various forms of other leave, ranging from ceremonial, defence service, emergency leave and leave not provided for elsewhere.

116. The provisions specify the terms and availability of the leave. There are often limits to the maximum amount of leave that can be taken, however Standards, section 367 allows, in certain circumstances, leave to be extended beyond the maximum limits.

VOLUNTEERING LEAVE

117. Under the Template Agreement agencies are committed to supporting staff who wish to volunteer. The Volunteering guidelines provide a framework to support the Template Agreement provisions.

118. The guidelines provide:

- general principles against which to assess volunteering applications for leave;
- advice on the periods of paid and unpaid leave which can be granted;
- details on how to apply for leave;
- details on the authority to pay;
- how delegates can approve leave; and
- advice on workers compensation and insurance issues.

UNAUTHORISED ABSENCES

119. Where a staff member is not on duty or on approved leave, and unless arrangements are made within a reasonable period following the absence, the period of absence is unauthorised.

120. Under the Standards, absences are more than 30 minutes that are unexplained and are not made up, will be deducted from the officer's pay, in that pay period.

121. Unauthorised absences are without pay and do not count for service.

122. Unauthorised absences may also arise where the leave taken does not comply with the rules for leave. For example, only three days of personal leave without a medical certificate may be taken consecutively in a personal leave year. If a person was absent for illness for more than three days, then any absence after the three days which is not supported by a medical certificate would be unauthorised, and no deduction would be made from the personal leave credit for days above the three days. The unauthorised absence would be without pay and not to count as service.

123. HR areas, managers and employees all have obligations to ensure that the arrangements for the leave are abided by, and if this is not possible in

extraordinary circumstances, other arrangements may be able to be made to ensure the absence is not unauthorised.

FURTHER INFORMATION

124. **HR areas** that require further information can contact the Public Sector Management Group on:

- Policy Officer on (02) 6207 5586; or
- Senior Policy Officer(s) on: (02) 6207 1255;
(02) 6205 0406;
(02) 6205 0308; or
(02) 6205 0307.

125. Managers or employees that require further information must contact their relevant agency HR or personnel area for advice.