

# Primary Care Giver Leave

Policy Number: 4/2023

Issued: September/2023

## Introduction/Purpose

1. An administrative arrangement was approved by the Chief Minister on 17 August 2023 to displace clauses E16.12/F16.12 and E16.18/F16.18 of the ACT Public Service Enterprise Agreements, which required the head of service to first consider leave taken by other persons prior to approving leave for the primary carer.
2. This advice provides Primary Care Giver Leave entitlements in addition to those in the Common Terms and Conditions of the ACT Public Service (ACTPS) enterprise agreements.
3. This advice must be read in conjunction with the relevant [ACTPS Enterprise Agreements](#) and the Interim Advice – Primary Care Giver Leave.

## Coverage/Eligibility

4. This advice is in effect from 17 August 2023.
5. This advice is for ACTPS employees (other than casual employees).
6. This advice is not for employees who are eligible for paid birth leave, foster and short-term care leave, or adoption or long term care leave.

## Application

7. This advice is a whole-of-government strategy issued by the Head of Service under section 17(2)(a) of the Public Sector Management Act 1994 (PSM Act) and binds all employees engaged under the PSM Act and all public sector employers within the meaning of section 152(1)(a) of the PSM Act.
8. For the purpose of this advice, employees are defined as including executives, permanent officers, temporary employees, and a public sector employer's staff member who is employed on either a permanent or temporary basis.
9. Primary Care Giver Leave provisions are provided for in the ACTPS enterprise agreements and in the administrative arrangement approved on 17 August 2023.

## Principles

10. The principles that underpin the Primary Care Giver Leave entitlements are:
  - a. The employee must have completed 12 months of continuous service prior to commencing a period of primary care giver leave;
  - b. Leave must commence before the child is 26 weeks of age;
  - c. The employee must provide appropriate evidence concerning the reasons for and circumstances under which the leave application is being made;
  - d. Leave may be taken concurrently with another employee accessing Birth Leave or other leave types for the same child, provided the employee can demonstrate they are the primary carer of the newborn child; and
  - e. The maximum leave entitlement under these provisions is 18 weeks of paid leave. This is non-cumulative.
11. The following clauses have been displaced by the administrative arrangement signed on 17 August 2023 and **no longer apply** as a condition for primary care giver leave:
  - a. *E16.12/F16.12 In all cases details of leave being taken by other persons who may be considered a primary care giver in relation to the same child (or children in the case of multiple births) must be provided.*
  - b. *E16.18/F16.18 Primary care giver leave may be taken in any combination with birth leave provided that the person who have given birth and entitled to birth leave, and the other employee eligible for primary care giver leave do not take these forms of paid leave concurrently.*

## Procedure

12. To take primary care giver leave an employee must:
  - a. Discuss with their manager as soon as practicable their intention to be absent on primary care giver leave.
  - b. Submit a leave application through the OneGov Service Centre. This includes providing appropriate evidence such as a birth certificate or certificate from a registered medical practitioner or health professional relating to the estimated due date of the child.
  - c. Demonstrate they are the primary care giver of the newborn child for the duration of the leave application.
13. To approve primary care giver leave a manager must:
  - a. Be satisfied that the employee is the primary care giver of the newborn child.
  - b. Confirm, by viewing the birth certificate or certificate from a registered medical practitioner or health professional, that the newborn child is not over 26 weeks of age at the commencement of the leave period. In extenuating circumstances the manager may approve leave when a newborn is more than 26 weeks old.
  - c. Leave being accessed concurrently by another person in relation to the same child is not to be taken into account.



## Examples

### Example 1

Employee and their partner welcomed a baby on 12 March 2023. Both employees work in the ACTPS. While still on paid birth leave, from 14<sup>th</sup> of August 2023 the birth parent will be attending health and wellbeing workshops 1 day per week for 10 weeks. The non-birth parent took 3 weeks of bonding leave at the time of the birth and has a remaining entitlement of 15 weeks primary care giver leave. They speak with their manager about accessing primary care giver leave as the child is still under 26 weeks of age. The employee provides confirmation that their partner is booked into a course that runs from 9am to 4.30pm every Monday and the manager is satisfied that the employee will be the primary carer of the child on these days. The employee submits leave applications through the OneGov Service Centre for each Monday they will be accessing primary care giver leave. This is processed by Shared Services Payroll and automatically paid with the fortnightly pay cycle.

### Example 2

Employee and their partner welcomed a baby on 30 July 2023. Both employees work in the ACTPS. The birth parent is experiencing some complications from the birth that require them to undergo medical treatment and mandatory bed rest. To best assist their partner in their recovery the employee speaks with their manager about commencing primary care giver leave once their bonding leave ends on 20 August 2023, while their partner is also on paid birth leave. The employee has already supplied a copy of the birth certificate as evidence to access bonding leave, and also supplies a letter from their partners doctor confirming they have been placed on bed rest for 6 weeks. The manager is satisfied that the employee will be the primary care giver for the child for this time and approves the leave application once it comes through on the OneGov Service Centre.

## Further Information

14. For further information please contact, Office of Industrial Relations and Workforce Strategy (OIRWS), Chief Minister, Treasury and Economic Development Directorate (CMTEDD) at [eba@act.gov.au](mailto:eba@act.gov.au).

## Approval Authority

15. This advice is approved by:

Margaret McKinnon  
Acting Deputy Director General  
Office of Industrial Relations & Workforce Strategy  
Chief Minister, Treasury and Economic Development Directorate  
On behalf of the Head of Service  
22 September 2023

