

/// CMD Governance Division

LEAVE

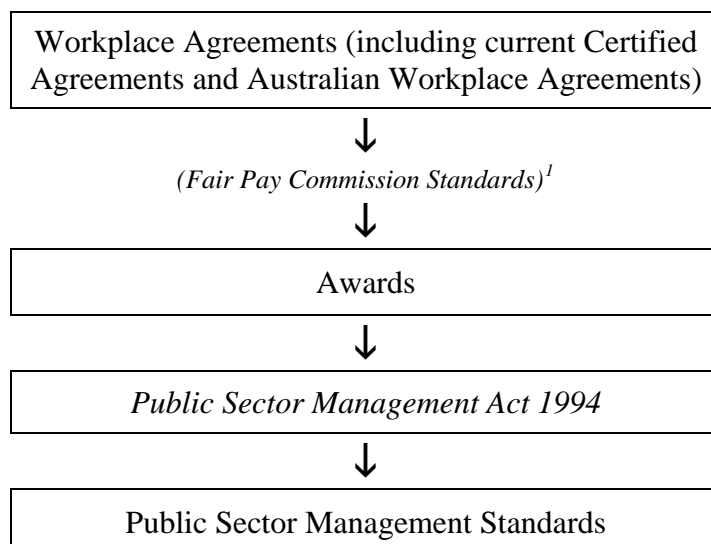
- **HR Directors / Managers**

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 diagram represents a basic view of the employment framework.



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

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.

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

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.

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).

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).
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).

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.

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

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
 - (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).

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.

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	Unpaid Leave Available	Additional Leave Available
14 weeks paid maternity leave	38 weeks unpaid maternity leave	2 weeks leave not provided for elsewhere (equivalent to unpaid maternity leave: does not count as service but does not break continuity of service)
28 weeks half-pay maternity leave	24 weeks unpaid maternity leave	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 members 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.