

/// Chief Minister's Department - Governance Division

Introduction to Grandparental Leave

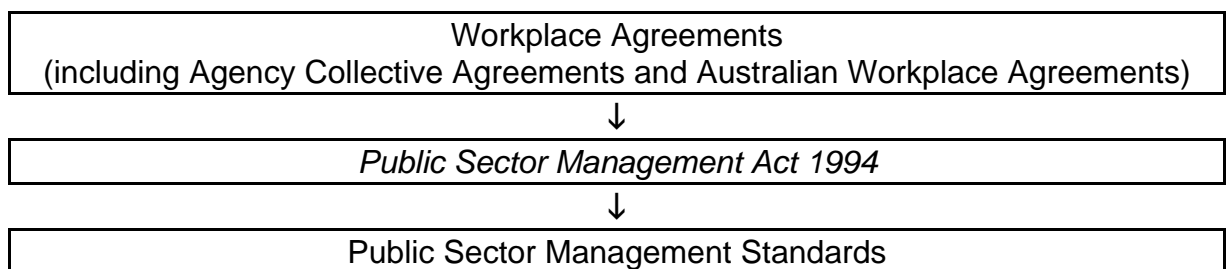
- HR Managers
- Shared Services

Purpose

1. To advise agencies on the entitlement and process for the granting of grandparental leave.

ACT Public Service Legislative Employment Framework

2. The main elements of the ACT legislative employment framework are detailed below.
 - *Public Sector Management Act 1994* (the PSM Act) and Public Sector Management Standards (the Standards); and
 - Agency Collective Agreements (ACA):
 - the Agency Collective Agreement and agency specific conditions as a schedule; or
 - Occupational/Departmental specific Collective Agreements.
3. The following diagram represents a simple view of the employment framework (in order of precedence):



4. The PSM Act establishes and sets out general provisions (e.g. values and principles) and primary employment issues including categories of employment, promotion, transfer, appeal and review mechanisms and discipline. The PSM Act is supported by the Standards (subordinate law). If any inconsistency arises between the PSM Act and the Standards, the Act prevails.
5. The PSM Act and Standards are subordinate to Workplace Agreements because Workplace Agreements are made under provisions of Commonwealth laws. Where there is inconsistency between a workplace agreement and the Act or Standards, the workplace agreement will override ACT laws to the extent of any inconsistency.

Background

6. On 27 August 2007, the Chief Minister asked the Commissioner for Public Administration to consider formalising grandparental leave for ACT public servants.
7. After consideration by Joint and Human Resource Councils in early 2008 the Commissioner for Public Administration introduced the provision for use from **1 July 2008**.
8. The provision of grandparental leave:
 - adds to the ACT Government's reputation as an employer of choice;
 - assists the ACTPS in retaining mature age employees; and
 - helps to balance employees working, home and family life.

The Provision

9. Grandparental leave allows for up to **52 weeks grandparental leave without pay** to be granted **over a three year period** to permanent full or part time employees and to temporary employees.
 - To be eligible employees must be employed on a permanent or long term temporary basis. Long term temporary employees are defined in ACA as employees who have been employed by the ACTPS for 12 months or longer.
 - The baby/child must be the employee's grandchild, step-grandchild or adopted grandchild or a child who is in care of the employee's child or children who have parental responsibility authorised under a law of a State or Territory e.g. the *ACT Children's and Young Peoples Act 1999*.
 - Eligible employees are required to produce evidence to establish a clear primary care giving role. Primary care giving role means that on occasion or in regular periods they assume the principal role of providing care and attention to the baby/child during normal business hours.
 - The leave can be taken as a single or part-day absence, in a single block, as multiple blocks, or as a regular period of leave each week or month.
 - The leave is available up until the child's third birthday.
 - Contractors, consultants, service providers, work experience students, casuals, and employees on probation are ineligible for grandparental leave.

Authority to grant

10. The authority for grandparental leave is the Leave Not Provided for Elsewhere provision of the (ACA). The ACA provision allows for up to 12 months leave without pay to be taken.

Requesting leave and evidence required

11. Employees are expected to give their manager as much notice as possible when applying for grandparental leave.
12. Approval should not be unduly withheld by the manager and should be given at least one month before the commencement of the leave date.
13. If an employee requests grandparental leave they must provide evidence to their manager. This may be in the form of a statutory declaration, or a medical certificate confirming the birth or expected date of the baby/child's birth, or adoption certificate or letter confirming the adoption, or evidence that there is an authorised care situation.

Agency right to refuse

14. Agencies have the right to refuse grandparental leave on operational grounds. However, this should only be done in exceptional circumstances. In refusing grandparental leave agencies must provide written advice to the employee detailing the exceptional circumstances and operational reasons for refusal. Agencies must work with the applicant to identify ways around operational difficulties preventing the approval on operational grounds including changing the initial application to suit arrangements more acceptable to the Agency. Refusal to grant grandparental leave is appealable under the Internal Review provisions of the ACA.

Accumulated Paid Leave Entitlements

15. Clause 54 of the ACA encourages employees to frequently take annual leave entitlements and states that it is in the interest of the employee and the agency to reduce the levels of leave liability. When considering applications for grandparental leave managers should be cognisant of the ACA provision to reduce excess annual leave credits for employees who have accrued over two years worth of annual leave credit. Under that provision employees and managers must enter into an annual leave usage plan to reduce the amount of annual leave credit. Therefore where there is an annual leave balance of more than eight weeks applicants will be expected to use that leave excess before agencies will allow grandparental leave to occur.
16. The availability of grandparental leave does not limit an employee's right to access other forms of paid leave, including purchased leave, should the employee choose to do so.

Superannuation

17. Superannuation will be applied consistently with the rules of the individual employee's superannuation scheme regarding the making of contributions during periods of LWOP.

Effect on salary packaging

18. Where employees are on salary packaging arrangements it is the employee's responsibility to seek appropriate financial and provider advice to ensure that those arrangements are not jeopardised or impacted by the taking of grandparental leave.

To count as service

19. Generally leave approved under the ACA: Leave Not Provided for Elsewhere provision does not count as service for any purpose unless the Chief Executive directs that it does count as service. However, leave granted for grandparental leave purpose counts as service for all purposes except annual leave and personal leave.

Other (outside of the Service) employment

20. Agencies must inform eligible employees that they cannot engage in other outside work during the period of grandparental leave unless this has been approved by their manager as part of the leave request process.

Becoming a grandparent again

21. If an employee becomes a grandparent again during their grandparental leave and wishes to apply for future period of grandparental leave they must negotiate this with their manager.

Returning to work

22. Employees must return to work on the date or dates agreed with their manager. Failure to do so may invoke forfeiture of office provisions.
23. Employees are entitled to return to the position they held immediately before taking grandparental leave unless they are unattached.

Provision of advice whilst on leave

24. Agencies must advise employees who are on grandparental leave of any changes made to administrative orders; or to machinery of government arrangements; or to the employee's working conditions and/or arrangements.

Leaving the ACTPS

25. Employees on approved grandparental leave are required to provide notice of their resignation should they decide to leave the ACTPS.

Recording and monitoring of grandparental leave

26. The Shared Services Centre has created a grandparental leave identifier for Chris21 to assist with the recording of leave.
27. The use of grandparental leave will be monitored and reports provided by the Governance Division of CMD to Joint and HR Councils.
28. It is intended to incorporate grandparental leave as a form of leave in its own right through the next collective agreement bargaining round.

Further Information

29. HR areas that require further information regarding grandparental leave can contact:
 - Policy Officer on (02) 6207 6159; or
 - Senior Policy Officer on (02) 6205 0307.
30. Employees requiring further information are advised to contact their HR area for advice

Catherine Hudson
Commissioner for Public Administration