

**Policy Name: Parental Leave**

**Policy Number: 2.04**

**Date: February 2023**

## **POLICY STATEMENT:**

JC Steele understands the importance of new parents having the appropriate amount of time off work to attend to a new baby or adopted child. JC Steele complies with all legislation regarding Parental Leave. This policy is designed to provide all employees with information regarding parental leave.

## **PROCEDURES:**

### **1. General**

Parental Leave allows you to take a period of time away from work for the birth or adoption of a child. There are rules regarding who can take leave and when. Statutory parental leave is unpaid and is governed by the *Fair Work Act 2009* (Cth).

Employees may be eligible for payments under either the Parental Leave Pay scheme or the Dad and Partner Pay Leave scheme, both administered by the Commonwealth Government. Both schemes provide for payments for leave subject to eligibility criteria (including work tests, income tests and residency requirements). Employees should make enquiries with Services Australia as to eligibility and how to apply. JC Steele has no control over changes to eligibility, rates or even the continuance of these schemes.

### **2. Statutory Parental Leave**

JC Steele will not provide less favourable conditions than those provided in the legislation, but may, at its discretion provide more. Employees should not assume that JC Steele will grant a request if it is outside of the legislative requirement. Employees should check with the Managing Director before making any decisions that depends on JC Steele consent.

Under the Fair Work Act 2009 all employees are entitled to parental leave, on the following terms.

- You must have at least 12 month's continuous service, measured from the date or expected date of birth if you are pregnant or the date of the adoption if adopting a child.
- Casual employees must have been working for JC Steele on a regular and systematic basis for at least 12 months, and have a reasonable expectation of continuing work
- You must have, or will have, primary responsibility for care of the child.

If you have qualified for Parental Leave, you do not need to wait for another 12 months before taking further leave, unless there is some other break in the employment.

### **3. Taking Parental Leave**

If you are the only parent who takes unpaid parental leave, you are entitled to take a period of up to 12 months' unpaid Parental Leave. The leave must be taken in a single continuous period, so it is not possible, for example, to take seven month's leave, return to work, and then take the remaining five month's leave.

You may request up to an additional 12 months leave but JC Steele does not have to approve this request if it doesn't suit the needs of the business.

If you are a pregnant employee who takes unpaid parental leave, the leave must commence on the birth of your child, or up to six weeks before the expected birth (unless JC Steele agrees to an earlier date). You should discuss your preferred leave start date with your direct manager. If you continue to work past the 6 weeks prior date, we may request that you provide us with clearance to do so from your medical practitioner.

If you are an adopting parent who is the one taking leave, that leave must start on the date of placement of your child.

If you are the parent of the child but not the person who is pregnant, your leave must start on the date of the birth of your child. You can start unpaid parental leave after the birth of your child if you have primary responsibility for the care of the child, and your pregnant partner is not employed. You must take leave within 12 months of the birth or placement of the child.

#### **4. Parental Leave Notice**

If you are planning to take a period of Parental Leave, you are required to provide us with 10 weeks' written notice of the expected date of birth or placement of your child and the intended start and end dates of your leave.

However, JC Steele appreciates as much notice as possible so it can adequately plan and prepare for your leave. Hence, JC Steele encourages you to advise your manager as soon as you are comfortable to do so.

If you are unable to give 10 weeks' notice (for example, the baby is born prematurely), you must give as much notice as possible.

While you are on Parental Leave you are required to provide JC Steele with written notice of your intention to return to work no later than four weeks prior to your return date. You should communicate openly with your manager about your expected return to work date and if it is likely to differ from the original plan provided.

JC Steele requires a medical certificate showing the expected date of birth and may ask you for evidence of the date of placement of an adopted child. If you do not provide evidence when requested, you will not be entitled to leave.

#### **5. Taking other leave**

You do not accumulate any type of paid leave while you are on unpaid Parental Leave (this includes paid leave such as annual leave or sick leave). Paid leave also does not accumulate while you are receiving the Government-funded payments for Parental Leave (see below).

If you have accumulated annual leave from before your Parental Leave, you may use this accrued annual leave during the period of pregnancy or childbirth. This does not extend the period of Parental Leave. If you have qualified for Long Service Leave (governed by State legislation applicable to where you live and work) you may also be able to take a period of your accrued Long Service Leave.

You cannot take sick or carer's leave, compassionate leave or (with one exception) community service leave during the period of unpaid sick leave. You will be able to take jury service leave.

## **6. Sickness during pregnancy and unpaid special maternity leave**

Pregnancy is not considered an illness or injury, but if you are pregnant, you still are entitled to personal leave when you are sick. For example, if you are more tired than usual or need to attend an obstetrician appointment, these are not eligible uses of personal leave (sick leave). However, if your pregnancy is causing another illness such as morning sickness or preeclampsia, then use of personal leave is permitted.

You may also be entitled to unpaid special maternity leave, if you suffer from a pregnancy-related illness or if your pregnancy ends other than in the birth of a living child (so by miscarriage, termination or stillbirth), within 28 weeks of the expected date of birth.

If you need to take unpaid special maternity leave you must give JC Steele notice as soon as possible (which may be after the leave has started), and medical evidence will be required.

If you take special maternity leave because of a pregnancy-related illness, the leave ends when the pregnancy or illness ends (whichever is first). If you take special maternity leave because of a miscarriage, termination or stillbirth, the leave continues until you are fit for work.

Unpaid special maternity leave taken while you are pregnant does not reduce your unpaid Parental Leave entitlement.

## **7. Safe jobs for pregnant mums**

If you are pregnant, you will be entitled to move to a safe job if it is not safe for you to do your usual job because of pregnancy (irrespective of whether you are eligible for unpaid parental leave). You must give JC Steele evidence that you can work but cannot do your normal job (including why your normal job is not safe) and evidence of how long you should not work in your normal job. Normally JC Steele will require this evidence to include a medical certificate with specific details provided by your treating obstetrician.

If you are able to be moved to a safe job, you will get the same rate of pay, hours of work and other entitlements that you receive in your normal job. You and JC Steele may agree on different working hours if that is appropriate. You will be able to stay in the safe job until it is safe to go back to your normal work, or until you give birth to your child.

## **8. Working in the six-week period prior to expected birthdate**

If you want to work in the six weeks before the date of the expected birth, we may ask you for a medical certificate that says that you can continue to work and that it is safe to do your normal work.

If you do not provide the certificate, or the medical certificate says that you are not fit for work, then we may direct you to take unpaid parental leave which will count as part of the total unpaid parental leave entitlement. If you planned to take parental leave at a later date after the birth, this directed leave does not have to be continuous with the balance of your unpaid leave.

If the certificate says that you can work but cannot do your normal job as it is not safe, then you will be entitled to a safe job or to no safe job leave (see above).

## **9. Extending Parental Leave**

You may apply to JC Steele for an extension of Parental leave. The time depends on your original leave period. Any extension must be taken straight after the original unpaid parental leave period. The extension may be for any period up to an additional twelve months. JC Steele will endeavour where possible to approve extension requests, but decisions will be based on the needs of the business at the time.

JC Steele is entitled to refuse a request on reasonable business grounds (this will include such matters as the impact of finance, productivity or customer service, any difficulties in managing the workload of other employees, or difficulties in recruiting a replacement employee). If we are going to refuse a request based on genuine business needs, we will discuss the issue with you beforehand.

## **10. Partner taking leave**

You and your partner can only take a combined period of 24 months of unpaid parental leave. If you or your partner extends the leave, it can affect the rights of the other party. For example, if you take 12 months of leave and then extend your leave by four months, then your partner can only take eight months' unpaid leave, regardless of whether you work for the same employer or different employers.

## **11. Keeping in Touch during your leave**

We support all employees to keep in touch with the business during their period of parental leave, if they choose to do so – and there is no requirement to do so. Prior to commencing your leave, you should discuss how you'd like to keep in touch and JC Steele will accommodate your requests wherever possible. For example, you may request that you stay included in all companywide email announcements that are of a certain importance.

You can also choose to work for 10 days during each 12 month period, which does not impact on your parental leave period, to 'keep in touch'. This might be to attend certain meetings, to refresh your skills or to transition back to work one day per week for example, before returning to your role in full. You will be paid for any days worked. These days do not break the continuity of your parental leave period.

## **12. Returning to work after Parental Leave**

If you are eligible to take a period of parental leave, you are entitled to return to the workplace in the same, or similar job you were in prior to the leave, and on the same salary. If you were moved to a safe job during your pregnancy, you are entitled to return to the job you had prior to the safe job.

You may request to return in a different capacity – for example, you worked full time prior to commencing your parental leave and now you wish to return to work on a part time basis – however, the business does not have to agree to this request if it does not suit the needs of the business.

If, during your parental leave, the business needs to make significant changes to the role you were doing or if the role is no longer required, we will discuss these changes with you and provide an opportunity for you to have input, even though you are on leave.

If your job no longer exists or has significantly changed when you wish to return to work, we will offer you a suitable alternative role, which you are qualified and suited to work in and which is closest to your old role in pay and status.

If you cannot be placed because of changes that have taken place, a redundancy process may apply.

If you are returning to work after parental or adoption leave, you have the right to ask for flexible work arrangements to help you care for your child, for example, temporary or permanent reduced hours, changed start/finish times, job sharing, and working from home.

Your request must be in writing, with details of the change you want, and your reasons for such request. JC Steele will make every attempt to accommodate these requests however, may not be able to agree to the changes based on the genuine needs of the business.

### **13. Breastfeeding on return to work**

JC Steele supports the right to breastfeed infants and express milk and will endeavour to make suitable facilities available. Please speak to management about this as soon as possible, so that we can discuss what you need and once agreed, make suitable arrangements for your return.

### **14. Effect of Parental Leave on Employee Entitlements**

**Length of Employment:** After an employee returns from an extended leave of absence, including parental leave, his or her total length of continuous employment is calculated as though the employee had not been on the leave of absence.

**Public Holiday Pay:** An employee on an extended leave of absence is not paid for any public holidays occurring during the unpaid component of their leave.

**Annual Leave & Personal Leave:** An employee on an extended leave of absence will not accrue annual leave and personal leave hours for the time that he or she is on leave without pay. For any part of the leave that is with pay, an employee will accrue annual leave and personal leave for that part of the leave only.

**Long Service Leave:** Any period of leave without pay is deducted from the length of service for the accrual of Long Service Leave Entitlements.