

FAQs

Paid Primary Carer Leave

1. Why has UNSW decided to provide paid Primary Carer Leave?

Parental leave has traditionally been viewed as a benefit mainly used by women, however leading organisations are now recognising that true gender equality means acknowledging the important role partners and fathers have to play as parents. UNSW supports gender equality and recognises the role partners play in sharing caring responsibilities; offering paid Primary Carer Leave supports that commitment.

2. What is the key difference between UNSW's paid Maternity Leave benefit and paid Primary Carer Leave?

Under UNSW's enterprise agreements, Maternity Leave can only be accessed by UNSW employees who are the birth mother. The UNSW employee may access up to 26 weeks full pay if the birth mother has up to 5 years continuous service or up to 36 weeks full pay if she has 5 years or more continuous service.

The Primary Carer Leave guidelines allow a UNSW employee who does not have access to Maternity Leave (either directly or through their UNSW employed partner) to access paid leave if they are the primary carer of a child (or children if multiple births). The employee may access up to a maximum of 26/36 weeks paid Primary Carer Leave (regardless of the number of children born) minus:

- any paid Partner Leave they take; and
- any employer or principal's paid parental or primary carer leave (or similar) taken by the employee's partner (including same-sex partner and regardless of gender) in respect of the same child (or children), regardless of where they work. (The paid leave may already have been taken or planned to be taken following the UNSW employee taking their period of paid parental leave).

Example: The birth mother is not a UNSW employee; she is the primary carer for the first 12 weeks following the birth of the child and accesses 12 weeks paid parental leave through her employer. Her partner is a UNSW employee who has completed less than 5 years continuous service with UNSW and accessed 2 weeks of paid partner leave at the time of the birth.

After 12 weeks, the UNSW employee becomes the child's primary carer. Accordingly, the UNSW employee may at that point access up to another 12 weeks as paid Primary Carer Leave as long as it is taken before the child's first birthday (i.e. 26 weeks in total for both partners, less the paid parental leave taken by the partner, less paid partner leave already taken by the UNSW employee). In other words, the total amount of paid leave taken by both parents in respect of the birth is 26 weeks.

3. What is a primary carer?

The primary carer is the parent who principally meets the daily needs of a child (or children) which include feeding, dressing, bathing and supervision. It is the member of a couple (including same-sex partner and regardless of gender) identified as having principal responsibility for the day-to-day care of a child (or children).

(Based on the 2015 - 2016 Workplace Gender Equality Agency Reporting Reference Guide)

4. What are the key eligibility requirements for employees?

Primary Carer Leave is available to UNSW employees who satisfy the following criteria:

- Engaged via a continuing or fixed term employment contract at the time a child was (or children were) born;
- In paid employment or on paid leave immediately prior to the taking of Primary Carer Leave;
- Commenced employment and have up to 5 years of continuous service (for a maximum of 26 weeks leave at full pay) or 5 years or more of continuous service (for a maximum of 36 weeks leave at full pay);
- Not entitled to UNSW's paid Maternity Leave, either directly or through their UNSW-employed partner;
- At the time of taking the leave, is a parent of a child (or children) born less than 12 months ago;
- For the duration of the leave, will be the primary carer of the child (or children) born;
- For the duration of the leave, the employee will be employed by UNSW; and
- For the duration of the leave, the employee's partner and/or the other parent of the child (or children) is:
 - working on a continuing, fixed term, casual or contractual basis and not on any form of paid or unpaid leave (other than partner leave) in relation to the child (or children) born; or
 - enrolled with an officially recognized education provider and studying on a full time basis; or
 - unable to be the primary carer of the child

As a condition of the leave, an employee must provide details and evidence of any leave, study or other activity undertaken by their partner to verify that the above criteria are met.

To apply for Primary Carer Leave an employee must complete the new HR51A Primary Carer Leave Application form.

5. What if an employee does not want to provide information or evidence regarding their partner and his/her parental leave?

The information and evidence requested in the form is a condition to paid Primary Carer Leave being granted. Leave will not be granted unless this condition is met.

6. Will Parental Leave payments provided by the Australian Government (Department of Human Services) to primary carers be deducted from the maximum 26/36 weeks paid Primary Carer Leave provided by UNSW?

No, only paid parental or primary carer (or similar) leave provided to the employee's partner by their employer or principal will be taken into account.

7. Are casual employees eligible for Primary Carer Leave?

No. The maximum entitlement for eligible casual employees remains unchanged and is 14 weeks paid maternity leave and up to 52 weeks unpaid leave.

8. Are fixed term employees eligible for Primary Carer Leave?

Yes but an employee on fixed term employment ceases to be eligible for Primary Carer Leave upon expiry of their employment contract. Primary Carer Leave will not be paid out upon expiry of an employment contract.

9. When can employees start applying for Primary Carer Leave and when can employees start taking Primary Carer Leave? How much notice needs to be provided?

Applications open from the date of announcement via the Vice Chancellor's newsletter (expected date: 13 April 2017).

As with all Parental Leave applications, unless it is impracticable, an employee must provide their supervisor with at least 10 weeks' notice of the intention to take parental leave and at least 4 weeks' formal notice of the date on which they would like to commence paid Primary Carer leave. The needs of a work unit (not only the needs of an employee) will be relevant in determining whether a request is to be granted where an employee has not provided their supervisor with 10 weeks' notice of intention and/or 4 weeks' formal notice.

Paid Primary Carer Leave applications are not retrospective.

Examples (assuming applications open 13 April 2017):

- *Chris is an employee on a continuing employment contract. Chris' child was born on 1 July 2016. Assuming the primary carer criteria are met, Chris may apply for paid Primary Carer Leave to be taken between 22 June 2017 (10 weeks after the announcement on 13 April 2017) and 30 June 2017, the day before the child's first birthday.*
- *Chris is on a continuing employment contract. Chris' child was born on 1 July 2016. In July and August 2016, Chris took 2 months carers leave to care for his child as Chris' wife had post-natal depression. Chris asks to be re-credited for the leave taken in July and August 2016. This request would not be granted as applications for retrospective leave are not accepted.*

10. My partner had a baby before the paid Primary Carer Leave was announced. Am I able to apply for leave as a primary carer?

Yes provided you satisfy the eligibility criteria and adhere to the 10 week notification period. *NB: See the first example in Question 9.*

11. An employee's partner does not work at UNSW and has taken unpaid leave provided by their employer. Will the unpaid leave taken by the employee's partner be deducted from my maximum 26/36 week paid Primary Carer Leave benefit?

No deduction will occur as the leave is unpaid. However, while on paid Primary Carer Leave, an employee's partner must meet the Primary Carer Leave requirements and be able to verify as such.

12. An employee's partner does not work. Can the employee access paid Primary Carer Leave?

It would be unusual for an employee to be granted Primary Carer Leave in these circumstances. However, the UNSW employee can apply for Primary Carer Leave provided they can verify they will be the primary carer of the child for the period of the leave requested, for example, if their partner was too sick to care for the child.

13. Does paid Primary Carer Leave have to be taken in one continuous period?

Yes (unless there is an agreement with UNSW).

14. Can paid Primary Carer Leave be accessed at half pay?

Yes, however any entitlement to paid Primary Carer Leave will cease on a child's first birthday.

15. Am I able to take Partner Leave following the birth of my child and then apply for Primary Carer Leave at a later date?

Yes but the Partner Leave taken will be deducted from the maximum 26/36 week amount of paid Primary Carer Leave you can access.

16. Has anything changed for birth mothers who wish to access Maternity Leave under the enterprise agreement provisions? What about their UNSW employed partner?

There is no change to the Maternity Leave entitlement at UNSW. Birth mothers should continue to complete the *HR 51 – Parental Leave Application Form (for Maternity/Adoption leave)*. The same form should be completed by partners of birth mothers who wish to share their Maternity Leave entitlement.

17. Has anything changed for couples where both members work at UNSW?

There is no change to the entitlement for couples where both members work at UNSW. A UNSW couple will continue to have access to a maximum of 26/36 weeks paid Maternity Leave. UNSW's parental leave provisions already allow for Maternity Leave to be shared if both parents work at UNSW. Where the Maternity Leave is shared, one employee's leave entitlement is reduced by any period of parental leave taken by the employee's partner (including same-gender partner).

18. Why hasn't paid Primary Carer Leave been extended to employees adopting a child?

Employees adopting children already have access to adoption leave through the UNSW enterprise agreements, regardless of gender and caring responsibility.

19. If an employee wants to take a range of leave relating to the birth or placement of a child, for example unpaid parental leave, paid Primary Carer leave and annual leave, is there a particular order they have to be taken in?

Paid forms of parental leave are taken first followed by other forms of paid leave, and lastly other types of unpaid leave (including unpaid parental leave).

20. Can an employee still apply to extend their parental leave beyond 52 weeks?

An employee may still apply to extend their unpaid parental leave beyond 52 weeks, in accordance with relevant legislation. The total period of leave cannot extend beyond 24 months (taking into account both the employee and their partner's leave in respect of the child). The request may only be refused on reasonable business grounds.

21. My partner gave birth to twins. Does that mean I am entitled to twice the amount of Primary Carer Leave compared to parents whose partner gave birth to one child?

No, an eligible UNSW employee who is the primary carer of a child (or children) born may access up to a maximum of 26/36 weeks full pay of paid leave ("Primary Carer Leave"), regardless of the number of children born.

22. My child was born before I started working at UNSW. May I still access Primary Carer Leave?

No, one of the eligibility criteria for Primary Carer Leave is you were engaged via a continuing or fixed term employment contract at the time a child was (or children were) born. You must also been in active service immediately prior to the taking of Primary Carer Leave.

23. What are the payment options for Primary Carers Leave?

Primary Carer Leave may be paid to you at full or half pay only, in your normal pay-cycle

24. My circumstances changed while I was on Primary Carers Leave. May I continue to be on leave.

As a condition of the leave, an employee must notify UNSW of a change in their circumstances if it means they are no longer eligible for Primary Carer Leave. If you wish to remain on leave, you may request to use one of your leave entitlements. UNSW reserves its right to reclaim any Primary Carer Leave paid to an employee during a period of ineligibility.