

Parental Leave Guide for Medical Officers and their Managers/Supervisor

June 2024



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The NSW Ministry for Health acknowledges the traditional custodians of the lands across NSW. We acknowledge that we live and work on Aboriginal lands. We pay our respects to Elders past and present and to all Aboriginal people.

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Introduction

NSW Health recognises the importance of providing family-friendly employment support for staff with parental and family responsibilities.

This reference guide aids the implementation of a priority initiative from the NSW Health JMO Wellbeing and Support Plan, which is to:

- develop specific policies regarding the treatment of parental leave to help reduce discrimination in training programs,
- address factors making it difficult to take parental leave such as short-term contracts, and
- ensure equity in approach around parental leave and provide supportive return to work practices.

This document supports relevant policies and provides information and guidance to Medical Officers and their Managers/Supervisors in relation to parental leave.

Who does this reference guide apply to?

This guide outlines the entitlements of Medical Officers covered under the [Public Hospital Medical Officers \(State\) Award](#) ('the Award') in a vocational training or non-vocational position.

This document can be used as a reference by NSW Health organisations as:

- support before, during and after leave,
- information on obligations and entitlements,
- information on flexible return to work practices,
- information on how to manage specific circumstances relating to Medical Officers, and
- a leave resource directory.

Policy and Law

Enhanced parental leave provisions have been extended to the NSW Health Service via Premier's Memoranda:

- [M2022-08 Parental Leave Enhancements](#) (effective 1 October 2022)
- [M2022-09 Paid parental leave in the event of a miscarriage, pre-term birth of when undergoing fertility treatment](#)

Relevant Awards

Medical Officers are covered by an [Award](#) that outlines the rates and conditions of their employment. When managing parental leave, Managers/Supervisors will need to check the Award the Medical Officer is covered by and ensure compliance with its provisions.

The [Leave Matters for the NSW Health Service](#) policy directive also sets out additional information about leave provisions. Where there is discrepancy between a policy directive and the Award, the Award takes precedence, noting that the Premier's Memoranda provide *additional* parental leave provisions to those in the Award. Where the Memoranda are silent on an issue, the provisions in the Award need to be referred to.

Local procedures

In addition to relevant Awards, LHD/SNs may have their own procedures regarding parental leave. Medical Officers and Managers/Supervisors should check with their LHD/SN Medical Workforce Unit to determine if any local procedure exists and how it can be located. Where Medical Officers are engaged in a Prevocational or Vocational Training Network and rotated across NSW Health facilities, communication between the Network and the rotational facility is required.

Relevant laws

Anti-discrimination laws: Federal, state and territory anti-discrimination laws make it unlawful for an employer to discriminate against an employee on various grounds including sex, pregnancy, potential pregnancy, breastfeeding, and family responsibilities.

[Industrial Relations Act 1996 \(NSW\)](#): Protection and promotion of the employees' interests in matters concerning their employment.

Work, Health and Safety laws: These laws set out employers' obligations to ensure, so far as is reasonably practicable, that the workplace is healthy and safe for all workers including employees and contractors and others at the workplace. The relevant document ('Procedures for non-work related injuries and health conditions') can be located via the [Workplace Management website](#).

What leave is available?

Table 1 - Types of Leave

Leave Type	Entitlement	Eligibility	Details
Paid Parental Leave – Parent with responsibility for the care of their child.	14 weeks paid	At least 40 weeks' continuous service (at the expected date of the birth, adoption, altruistic surrogacy or permanent out-of-home care placement)	Payment on a normal fortnightly basis or in advance in a lump sum or payment at the rate of half pay over a period of 28 weeks. Leave must be taken within the first 24 months from the date of birth, adoption, or surrogacy. For birth-related leave, paid parental leave may commence prior to the time of birth as provided in the relevant Award (only for the birthing parent).
Unpaid Parental Leave	12 months leave of which up to 16 weeks is paid leave, and the remainder unpaid.		Available for employees who are entitled to paid parental leave A further unpaid period of parental leave of no more than 12 months can be approved, with the total amount being not more than 24 months from the date of birth. Available for employees who are not entitled to paid parental leave (e.g. do not meet the minimum service requirements). They are entitled to unpaid parental leave of not more than 12 months.
Special pre-term parental leave	Birth occurs prior to 37 weeks' gestation	At least 40 weeks' continuous service (at the expected date of the birth)	The parent with the caring responsibility is entitled to be paid special pre-term parental leave from the date of birth of the child (or children from a multiple birth) up to the end of 36 weeks. This leave must be taken in one continuous block. Only one employee can take the special pre-term parental leave where the employees are part of a couple. Immediately following the period of paid special pre-term parental leave, and at the commencement of 37 weeks, paid parental leave as detailed above starts*.
Bonus leave	2 weeks	Both parents must have exhausted their paid parental leave.	Single parents or parents whose partner has no employer-provided paid parental leave are eligible for the bonus leave.
Miscarriage leave	5 days per miscarriage event	No minimum service requirement	The employee or partner of an employee who has suffered a miscarriage is entitled to this leave. It is to commence from the date of the miscarriage and is to be taken in one continuous block.
Fertility Treatment Leave	5 days paid leave per calendar year	No minimum service requirement	The leave is not cumulative and can be taken in part days, single days, or consecutive days. The leave is not available to the partner of the employee undergoing the fertility treatment.

The Premier's Memoranda also set out the relevant notice and evidence requirements for the above leave outlines principles around concurrency of paid parental leave and possible flexible arrangements for taking the leave.

If the Medical Officer has less than 40 weeks of continuous service, they may be able to access alternative leave arrangements, such as annual leave and unpaid parental leave. Medical Officers and Managers/Supervisors need to work together to find leave arrangements that will facilitate parenting and work responsibilities.

Roles and Responsibilities

Roles and responsibilities of Medical Officers

- Check eligibility requirements for parental leave, as specified under the current Award and Premier's Memoranda.
- Inform Manager/Supervisor of intention to take leave. This may include a contact from your rotational facility, Prevocational Training Network or Vocational Training Network*.
- Provide Manager/Supervisor with written notice of the period of leave to be taken and evidence from a medical practitioner of the pregnancy and expected date of birth before the start of the leave. Evidentiary requirements also apply to parental leave due to adoption, altruistic surrogacy or out of home care arrangements.
- Follow the application process that applies (the Leave Application form is to be submitted to your Manager/Supervisor at least eight weeks prior to leave commencing and the Medical Officer will nominate how they receive their paid leave).
- It is recommended that trainees in a Vocational Training program also contact the relevant College or Director of Training (or similar) to confirm if a break in training approval is required.

Leave Application

Electronic Submission

Via [SARA Customer Portal](#) typing "Request Leave" into the search function.

Manual Submission

(for those selected Health Agencies still to adopt Electronic Submission)

Form: [FO100021 Application for Leave](#)

Send to: HSNSW-payroll@health.nsw.gov.au

*It should be noted that communication of leave is required where Medical Officers rotate to different facilities.

Roles and responsibilities of Managers/Supervisors

- Understand legal obligations.
- Consider the leave application in line with Award provisions, Medical Officer entitlements/circumstances and service needs.
- Liaise with relevant contact in the rotational facility, Prevocational or Vocational Training Network to ensure the Medical Officer's leave is communicated and they are provided consistent advice and support.
- Ensure that Medical Officers are fully aware of Award provisions, entitlements, and responsibilities.
- Keep in touch with the Medical Officer during the period of leave.
- Begin discussions early about how the Medical Officer plans to manage their return to work (Medical Officers returning from parental leave have a right to return to their substantive role).
- Communicate with the Medical Officer about any arrangements that need to be made at the workplace, e.g. access to a place for breastfeeding.

Before Leave

Eligibility

Under the current [Award](#), full time and part-time Medical Officers are eligible for paid maternity, adoption and parental leave if they have completed at least 40 weeks' continuous service before the expected date of birth or taking custody of an adopted child. Under the [Leave Matters policy](#), temporary employees are also eligible providing they meet the 40 weeks' continuous service requirements. The Premier's Memoranda also sets out relevant eligibility requirements for paid parental leave and should be referred to in conjunction with the Award.

Employees who have met the conditions for paid parental leave will not be required to work an additional 40-weeks of continuous service to be eligible for further parental leave unless:

- a) there is a break in service (i.e. the employee resigned or was not reappointed),
- b) the employee has more than 40 weeks period of leave without pay, or
- c) for rotating Medical Officers, a break of up to two months before commencing duty with a new employer.

College mid-year start process

The college mid-year start process has been implemented to ensure the continuous service of trainees accepted into college training programs and placed at NSW Health facilities and who will not commence their first year of training until mid-year.

Leave entitlements will be placed on hold and continuity of service will be maintained for pre-existing NSW Health employees who transition to a college training program and commence mid-year. This may be due to training program availability or in circumstances where the trainee has requested leave without pay for the start of the clinical year and has an agreed delay to their start date.

Recognition of service for leave is determined in the same way that the Award recognises service for parental leave. The Medical Officer needs to have worked with an organisation that is part of the 'government sector' as defined in the [Government Sector Employment Act 2013](#). If a Medical Officer rotates between a public service department and a public hospital, previous continuous service will be counted towards the service prerequisite for parental leave.

For the purposes of access to paid parental leave only, service outside NSW Health may be recognised where a Medical Officer with a current contract with NSW Health is directed by either:

- i. a Medical College accredited by the Australian Medical Council
- ii. the Health Education and Training Institute (HETI), or
- iii. the employing NSW Health Agency.

Rotations to a non-NSW Health entity as part of a Medical Officer's NSW Health prevocational or vocational training program will not break the Medical Officer's continuity of service on their return to NSW Health.

Entitlements

Paid Parental Leave

Eligible Medical Officers are entitled to take paid parental leave when they assume responsibility for the care of the child. **14 weeks** paid parental leave is available, and may be taken concurrently with their partner, **except** where both parents work in the same workplace and operational constraints would prevent the leave being taken concurrently. In such circumstances, four weeks leave at the time of the birth or taking custody of the child is available.

Bonus leave

An eligible Medical Officer is entitled to an additional two weeks paid parental leave where both parents have exhausted any paid parental leave offered by their employer. Employees who are single parents or whose partners do not have access to or are ineligible for employer-paid parental leave, will receive the full two weeks of bonus paid leave.

The intent of the bonus leave is to encourage employees to use their available parental leave entitlements. For this reason, the bonus leave cannot be taken in advance, nor is it paid out on termination. Bonus leave can be applied for at the same time as the original parental leave application, however the bonus leave can only be taken when the employee has exhausted their initial parental leave entitlement.

Other types of leave

The default position is that Paid Parental Leave is an unbroken period of leave. An employee may take any annual leave, long service leave (or any part of it) or accrued ADOs to which they are entitled following paid parental leave. The total period of leave cannot be extended beyond the maximum period of leave, i.e. 24 months from the date of birth, adoption, surrogacy, or permanent out-of-home care placement of the child.

Employees can request flexibility in the taking of the leave (i.e. taking the leave in other than a single block) and taking the leave at any time during the 24 months. The employer will consider the request and may refuse on reasonable business grounds.

Australian Government payments

In addition to leave provided by the employer, the Australian Government offer several initiatives providing financial assistance to families raising children. Information on parental leave can be found on the [Services Australia](#) webpage.

Applying for leave

- 1) If you are applying to take leave, formally notify your Manager/Supervisor as soon as possible.
- 2) Your written notice should be dated at least four weeks (eight weeks if applying for birth- related leave) before you go on leave and include the date that you propose to start your leave and the end date. If you are taking custody of a child, you should notify as soon as possible.
- 3) You will also need to provide a medical certificate from your medical practitioner confirming the pregnancy and expected date of birth. In the case of adoption, provide an official form or notification.
- 4) If you have rotated to a non-NSW Health entity as part of your prevocational and/or vocational training program, you will need to provide a certificate of service from the non- NSW Health entity and a letter from the relevant College which outlines the training program and relevant non-NSW Health rotation. The trainee will need to provide the supporting evidence to the relevant NSW Health medical administration.

Points for early discussion

- The plan for leave.
- Review of Medical Officer's performance and development goals to fit with parental leave plans.
- A career planning session to identify the Medical Officer's career path and ensure an equitable career trajectory before commencing leave and following their return.
- Possible training, project, or job opportunities.
- Options for attendance at antenatal appointments.
- Any health and safety concerns associated with the job and any work health and safety assessment or procedure.
- Investigating possible reasonable workplace adjustments. This may include considering changes to start and finish times.
- Plans for how the work will be undertaken while the Medical Officer is on leave.
- Contingency plans in case the Medical Officer needs to commence parental leave earlier than expected.
- Contract length and any requirement to apply through Annual Medical Recruitment.
- Points of communication if Medical Officer is rotational and/or part of a Prevocational or Vocational Training Network.

Strategies for Managers/Supervisors managing leave and service requirements

- Discuss work health and safety issues and avoid making assumptions about what the Medical Officer can do.
- Discuss any changes that need to be made so that the Medical Officer can work safely during the pregnancy.
- Consider whether flexible working arrangements need to be explored (this may include distributing work among remaining employees, job sharing and/or changes in an employee's working hours).
- Consider input and suggestions from the Medical Officer to manage the workload/services.
- Start recruitment to backfill early if necessary.
- With the Medical Officer's consent, involve the Director of Prevocational Education & Training (DPET) or relevant Clinical Director.

Rostering Capability Matrix

The [rostering capability matrix](#) includes information for managers and staff on how to roster effectively and efficiently to deliver the service. The matrix includes on-line learning modules, tips for roster managers and implementation guides. There is a [tips sheet](#) for roster managers for adoption, parental and maternity leave.

Manager/Supervisor checklist

- Once a Medical Officer notifies you of their pregnancy/intention to take parental leave, you will need to ask for written confirmation of the expected date of commencement of new parenting responsibilities.
- Pregnant Medical Officers must provide a medical certificate to confirm the pregnancy – refer to Medical Workforce Unit for questions.
- Adopting parents, receiving a child through surrogacy arrangements or out of home care arrangements must also provide relevant documentation as set out in [Leave Matters for the NSW Health Service](#) or [M2022-08 Parental Leave Enhancements](#)
- Follow appropriate procedures to ensure parental leave is processed accurately.
- Ensure early and appropriate communication with relevant contacts for Medical Officers that rotate to other facilities or are on rotation.

Some LHD/SNs may have their own localised procedures regarding parental leave. Managers/Supervisors should check to determine if any procedure exists and how it can be located.

Medical Officer application checklist

- Details of all other types and periods of leave to be taken consecutively with the parental leave.
- The basis on which the payments will be made (lump sum, half pay, or normal pay on fortnightly basis).
- Anticipated date of return to duty.
- Anticipated date of return to duty on a part time basis (if applicable).
- An appropriate certificate stating the expected date of birth (medical certificate) or the date of taking custody of the child (official form of notification).
- After commencing leave, the Medical Officer can change the period of leave if needed by providing at least 14 days' notice.

Medical Officers should check with their Manager/Supervisor if forms are to be submitted electronically. Familiarise yourself with the form and the procedures to ensure correct documents are completed, approved, and submitted.

As LHDs/SNs have local relevant procedures, contact your local Medical Workforce Unit, Director of Medical Services and/or Manager to check.

Keeping in Touch

NSW Health encourages employees on parental leave to stay connected to their organisation through regular news and updates.

Keeping in Touch Day provisions are available for parents with a child born or adopted prior to 1 July 2023. For children born or placed after 1 July 2023, if an employee is receiving CPPL any 'keeping in touch day' must be paid by the employer (that is, the Government will no longer pay for an employee to work when they are on Government CPPL) unless for an allowable reason. Further information on Keeping in Touch Days is available at [Services Australia](#).

Accessing work/training while on leave

Medical Officers can choose to access work resources such as emails in the office or remotely. Access requirements should be discussed and approved by the Manager/Supervisor prior to commencing leave.

The Medical Officer can discuss with their Manager/Supervisor on how to keep up to date with clinical skills, training, and development opportunities while on leave. Arrangements should be made with the relevant Clinical Supervisor, College, Medical Workforce Unit, or other appropriate person(s).

Returning to work

Right to request

When a Medical Officer wishes to return from parental leave on reduced hours, the provisions of Clause 17 D (ii) of the [Award](#) will apply.

When returning to work, a Medical Officer may request part-time work arrangements. However, the employer may not approve the request based on operational requirements.

Although a range of policies exist from the Colleges to support parenting, their requirements can vary so Medical Officers are encouraged to check with their training College in relation to interrupted training arrangements available.

Information about 'how to make a flexible working request' can be found in Appendix A.

Flexible return to work arrangements

When implemented well, flexible working has a positive impact on employee health and productivity. More flexibility can benefit employees, the team and agency they work within, as well as customers, /patients and the people of NSW more broadly.

It is important for Managers/Supervisors to think about the transition of Medical Officers returning to work after a period of leave and the flexible working adjustments that can be made. Flexible working arrangements may also include adjusting the time, location and tasks Medical Officers are responsible for at work.

Some roles and facilities within NSW Health may accommodate remote access for employees who request to work remotely. Other flexible work options include working reduced hours each day over a five-day period with rearrangement of work routines as required, job sharing and working remotely. Work Health and Safety aspects must be considered when approving a request to work remotely. Also refer to the [Flexible Work Guide](#).

Managers/Supervisors are to demonstrate genuine consideration of requests for flexible work arrangements from Medical Officers, while ensuring that service delivery, patient care and training commitments are not compromised.

Health agencies must have processes in place to manage transitions from part time/reduced hours arrangements to full time arrangements. You should speak to your manager/supervisor to discuss any changes in such transitions.

How to make a flexible working request

The Medical Officer is responsible for submitting a Flexible Working Proposal (see Appendix A) to their Managers/Supervisors. The Medical Officers will need to consider factors such as business impacts, work type and role, context of the request, the possible impacts on others and legal obligations for the business.

Managers/Supervisors will negotiate options and consider the application in line with applicable

policies. This discussion should take place within 21 days of receipt of the proposal. Managers/Supervisors are required to consider the Medical Officer's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, can refuse the request on reasonable grounds related to the effect on the workplace or the employer's business.

If a Manager/Supervisor does not approve the flexible working proposal, and an alternative arrangement cannot be agreed, they must advise the employee of their decision in writing. It must then be reviewed and discussed with the staff member senior to the Manager/ Supervisor to ensure fairness and consistency. Managers and Supervisors should refer to the [Flexible Work Guide](#).

Return to work plan

Doctors who take a significant break from clinical practice have a professional duty to ensure they are safe to return to work. Doctors may feel motivated to take on all their previous clinical duties, or even feel pressured to do so by their colleagues or supervisors, but it is important that they do not try to take on too much, too soon. They must ensure that they work within their own competence so that patient safety is not compromised. The following should be discussed with the Manager/Supervisor:

- A program tailored to individual Medical Officers,
- Practical plan/steps to ensure that their skills are up to date,
- Professional development plan to help the doctors pinpoint any developmental areas, and
- A period of shadowing, observation or mentoring if required.

Breastfeeding facilities and lactation breaks

NSW Health supports breastfeeding Medical Officers and includes paid lactation breaks. This is in line with the [Award](#) provision under 'Lactation Breaks' (section 17A). Refer to LHD/SN for local facilities available.

Leave and College training

Medical Officers employed by NSW Health and enrolled in a Vocational Training Program should familiarise themselves with the relevant policies from their training College and must apply to the relevant college for a leave of absence as college allowances for leave during training can vary significantly. It is important to note that a period of leave greater than two months may constitute a break in service. It is recommended that Medical Officers contact the Director of Training (or similar) before leave and when planning their return to work to ensure that their training requirements can still be met taking into consideration their parenting responsibilities.

Additional support for NSW Health Medical Officers

- JMO Support Line – 1300 JMO 321 or 1300 566 321
- Doctors Health Advisory Service (NSW and ACT) – 02 9437 6552
- Employee Assistance Program – refer to relevant LHD/SN intranet site for details.
- College Helplines – refer to relevant medical college website.

Parental leave and Medical Officer Recruitment

Applying for roles

Where a Medical Officer's contract is due to expire and there is a reasonable expectation that they will be immediately re-engaged under another fixed term contract, the taking of parental leave for part of the new contract is not a relevant factor when assessing the Medical Officer for suitability to the position.

Medical Officers in this scenario are entitled to apply for a position in the following year through the annual medical recruitment process and in doing so, will retain eligibility to any paid entitlement under the [Award](#).

Workplace behaviour

Medical Officers who believe they are being unfairly treated should refer to the [Prevention and Management of Unacceptable Workplace Behaviours in NSW Health - JMO Module](#). This Policy Directive sets the procedures for prevention and management of workplace bullying in all NSW Health workplaces and outlines the additional considerations and specific processes in the management of unacceptable workplace behaviour complaints arising from the junior medical workforce.

The [Prevention and Management of Workplace Bullying in NSW Health](#) sets out the principles and processes in the prevention, identification and eradication of workplace bullying in all NSW Health workplaces.

Medical Officer checklist

Prior to proceeding on leave

- 1) Inform your Manager/Supervisor of your parenting situation and intention to take leave as early as possible. If you are seeking flexibility in taking the leave, this should be discussed with your Manager/Supervisor as early as possible to see whether the requested arrangement can be implemented.
- 2) Consider arranging a discussion with your Medical Workforce Unit to discuss leave arrangements that best meet your parenting and work responsibilities.
- 3) If you have rotated to employment with a non-NSW Health entity as part of your prevocational and/or vocational training program, as directed by either a Medical College accredited by the Australian Medical Council, HETI or a NSW Health employing hospital, you will need to provide a certificate of service from the non- NSW Health entity and a letter from the relevant college which outlines the training program and relevant non-NSW Health rotation. The trainee will need to provide the supporting evidence to the relevant NSW Health Medical Workforce team.
- 4) Discuss your intention to commence leave with your Manager/Supervisor at least eight weeks in advance of your intended leave start date.
- 5) Engage openly with your Manager/Supervisor and discuss your staying in touch preferences and career plans.
- 6) Confirm your leave dates with your supervisor in writing at least four weeks prior to your intended leave commencement date.
- 7) Submit your Leave Application form to your Supervisor/Manager at least eight weeks prior to commencement date of proposed leave.
- 8) Work with your Manager/Supervisor to prepare a handover and arrange access to communication and training while on leave.

While on leave

- 1) Contact your Manager/Supervisor regarding any changes to your circumstances that may affect your leave or return to work, noting that there are Award requirements for providing notice when extending parental leave.
- 2) Consider discussing flexible work preferences or 'Keeping in Touch' days that may support your return to work. If you would like to request flexible working, you are required to complete a Flexible Working Proposal. A template for this is found in Appendix A.
- 3) Contact your Manager/Supervisor to confirm or adjust your return-to-work date providing at least four weeks' notice, or earlier if possible.
- 4) If you have any questions in relation to your return-to-work date and/or leave entitlement, this should be discussed with your local Medical Workforce Unit. It is suggested that you have a copy of their details before your leave commences.

Following return to work

- 1) Communicate openly with your Manager/Supervisor regarding your transition back to the workplace and discuss any support you may need.
- 2) Consider what you may want to discuss with your Manager/Supervisor regarding your career goals, development, and expectations.
- 3) Understand how the organisation can support your breastfeeding and childcare responsibilities upon returning to work.
- 4) Consider contacting your local Medical Workforce Unit about becoming or accessing a parent mentor.

Manager/Supervisor checklist

Prior to the Medical Officer proceeding on leave

- 1) Arrange a conversation to discuss contact preferences and the Medical Officer's career plans. This may include discussing staying in touch preferences with the Medical Officer.
- 2) As workplace related risks may be heightened during pregnancy, ensure health, safety and well-being are maintained.
- 3) Ensure your Medical Officer has provided written notice of their intention to access leave at least four weeks prior to their intended commencement date.
- 4) Work out a plan of action to cover the role and responsibilities of the Medical Officer who will be commencing leave. This may include, seeking additional resources, arranging a handover and/or distributing work amongst the existing team.
- 5) Work with your local Medical Workforce Unit to backfill parental leave via job advertisement if required.

While the Medical Officer is on leave

- 1) Contact your Medical Officer regarding changes that may affect their leave or return, such as changes to their supervisor, location, or work.
- 2) Discuss any flexible work preferences that may support your Medical Officers return to work.
- 3) Work with your Medical Officer to arrange a keeping in touch day schedule if they have expressed an interest in participating.
- 4) Ensure your Medical Officer remains aware of any developmental opportunities and support that may be available, including studying.
- 5) Contact your Medical Officer to confirm their intended return to work date at least four weeks prior to their intended return date.
- 6) Advise IT, WH&S, and the local Medical Workforce Unit of your Medical Officers return (if applicable).

Following the Medical Officer returning to work

- 1) Make time for regular conversations to support the Medical Officers transition back to work.
- 2) Ensure physical and mental health priorities are maintained.

Appendix A – Flexible working proposal template

Flexible working proposal

Suggested template for ongoing/formal flexible working arrangements. Agencies may also choose to use this template to guide short term and ad hoc flexible working discussions.

The process for completing a flexible working proposal is as follows:

- Employee reviews the ‘checklist for completing a flexible working proposal’.
- Employee arranges a meeting to discuss proposal with manager.
- Employee completes the template and takes a copy to the meeting with their manager.
- Manager and employee meet to discuss proposal.
- Manager has a maximum of 21 working days from the original request to respond and provide a signed copy back to the employee.

For employee

Name:		Employee number:	
Role title:		Date:	
Business unit/division:			
Department/agency:			

Details of the flexible working proposal I would like to apply for:

Refer to the employee checklist and use this section to demonstrate how this arrangement might work including how any impacts on team and customers can be addressed.

For manager

- I have met with the employee to discuss the proposal.
- I have reviewed the 'manager's checklist for considering a flexible working proposal'.
- I have discussed with the employee other options to vary the proposal if I have not approved it in its original form.
- I have consulted with my one-up manager if I cannot approve this request, even after exploring other options.

Decision

The employee's proposal for flexible working is:

- Approved and this proposal is documented as an agreement. The proposal will be reviewed (e.g. date for review/monthly/every three months).
- Approved with variation as discussed with employee, and as detailed below. The proposal will be reviewed (e.g. date for review/monthly/every three months).

- Not approved at this time based on the below business reasons (this has been discussed with my one-up manager, who agrees with my decision and has signed below).

Employee can complete a new proposal and schedule a meeting to discuss.

Parties to this agreement

This flexible working proposal is agreed via mutual consent between the employee and manager.

	Name	Signature	Date
Employee			
Manager			
One up manager (if required)			

Source:

<https://www.psc.nsw.gov.au/workplace-culture---diversity/flexible-working/requesting-and-considering-flexible-work/requesting-and-considering-flexible-work>

Appendix B – Frequently Asked Questions (FAQs)

While this section aims to provide guidance on questions medical officers or their Managers may have, each person's situation is unique. You are always advised to seek advice as early as possible to address any questions you may have.

Entitlements

My partner and I are planning to adopt a child and I will have responsibility for the care of the child. What are my leave entitlements?

You may be entitled to parental leave from the date you take custody of the child. Paid parental leave of 14 weeks applies where the employee has 40 weeks continuous service. You may also be entitled to a further two weeks bonus paid parental leave if you and your partner have both exhausted your employer-funded parental leave. Paid parental leave must be taken within 24 months from taking custody of the child.

You may also access any accrued leave entitlements such as annual or long service leave. Your partner may be eligible for paid parental leave should they assume responsibility for the care of the child, and they have 40 weeks continuous service.

My partner is pregnant. Do I have any entitlements to parental leave?

Yes. If you have responsibility for the child, and have the required continuous service, you can take 14 weeks paid parental leave.

There is now no requirement for the partner to have returned to work or study to access the paid parental leave.

A further 2 weeks bonus paid parental leave may be granted where both parents have exhausted their employer-funded parental leave.

I am a single parent. Am I entitled to the bonus two week paid parental leave?

Yes, you are entitled to 16 weeks paid parental leave.

This also applies to employees whose partner does not have access to employer-funded paid parental leave or is ineligible for such paid leave.

I am considering a second pregnancy while on parental leave for my first child. Will I be entitled to a further period of parental leave?

Yes, provided there is no break in service. Please see section 17A(i) of the [Award](#).

Moving between jobs

I have been recruited to NSW Health as a trainee. I have not previously worked with NSW Health. Will my previous interstate service be counted towards my parental leave entitlement?

No. You will only be entitled to parental leave based on 40 weeks continuous service (prior to the expected date of birth) within the NSW Government Sector.

I am currently on a four-year training program, have a length of training contract and am due to return to NSW Health to complete my third year of training. I have been on unpaid parental leave and the college and employer have approved extended leave for six months. What leave entitlements can I access when I return to NSW Health?

You can access any accrued leave entitlements, such as annual or long service leave.

I am leaving NSW Health to take up a new job in another state. Will my service in NSW be counted towards my parental leave entitlement in that state?

This will depend on the receiving organisation and their service recognition approach. In this situation, you should seek further advice from the interstate employer to clarify service recognition.

I am currently employed on a three-year contract. My medical college which is accredited by the Australian Medical Council rotates me overseas for 12 months. Will I be able to access my parental leave entitlement there? What happens to my leave entitlements when I return to NSW Health?

Recognition of your service will depend on the receiving organisation. If service is recognised by the receiving organisation, the entitlements will be based on the receiving organisations employment conditions. Your current leave entitlements will stop accruing for the period of the rotation and recommence accruing when you return from the rotation to NSW Health.

I worked for NSW Health for five years, and last year I went travelling for 12 months on leave without pay. How does this impact my plans to take paid parental leave?

To be eligible for paid parental leave you will need to have worked a continuous period of 40 weeks after taking the leave without pay as this leave constitutes a break in service for the purposes of eligibility for paid parental leave.

What do I need to be aware of when undertaking rotations?

- Ensure discussions take place as early as possible with the relevant managers so that any implications of rotations are clearly understood prior to their commencement.
- Seek clarification on which entity is responsible for approval and payment of the leave, and who is the appropriate contact if circumstances change.
- While on leave, ensure you are still applying for positions for the following clinical year.
- Where your contact is due to end, undertake discussions as early as possible to avoid any adverse implications, such as breaking continuity of service.

Timing of birth and entitlements

I started in NSW Health this year. I am due to have my baby at 41 weeks into my contract. Am I entitled to paid parental leave. What if the baby comes two weeks early?

Yes, you are entitled to paid parental leave if the baby is born after 40 weeks of your employment with NSW Health (as per service requirements). If the baby is born before 37 weeks' gestation, you may qualify for special pre-term paid parental leave until the end of 36 weeks' gestation and then proceed onto paid parental leave of 14 weeks.

I have been working for NSW Health for one year and my baby is due at the end of January, one week before my contract is due to finish (I have a new contract interstate commencing in February that may be able to be made). Am I entitled to a full 14 weeks paid parental leave?

Yes, you are entitled to the full payment. Leave can be taken up to 14 weeks before baby is born. You can have payment in advance or whatever remaining leave at the conclusion of the contract is paid out on termination.

I am due to give birth two weeks after my contract is due to finish (and I don't have a contract for the next clinical year). I understand I can start birth-related parental leave up to 14 weeks before the baby is due. Can I go on parental leave the week before my contract ends and still be entitled to the full 14 weeks paid parental leave?

Yes, you can commence leave prior to your contract ending and still be entitled to 14 weeks paid parental leave. The birthing parent can commence parental leave up to 14 weeks prior to the expected date of birth. At the end of the contract the balance of the 14 weeks will be paid as a lump sum. The two weeks' Bonus Parental Leave cannot be paid out at the conclusion of a contract.

My baby is due mid-May, but my contract finishes four months earlier (at the end of January). I have one year left of training to complete. My consultant told me I should not apply for a position in the year my baby will be born as it will leave the department short-staffed. I'm planning on coming back to work the year after. What should I do?

You should apply for the position as planned and inform your Workforce unit of the advice provided by the consultant. If you are successful and commence in the new position without a break in service, you will have met the 40 weeks service requirements prior to the expected due date so you will be entitled to paid parental leave and you can take up to 12 months' parental leave during the contract. A contract extension may be granted to cover the period of that leave. The health agency where you are working has discretion to grant a further extension to align with the clinical year.

I have given birth prematurely and would like to return to work until the baby is discharged and then resume parental leave. Can I take parental leave in two separate instances?

You are entitled to special pre-term birth parental leave until the end of 36 weeks' gestation. This period of leave must be taken as a continuous block of leave. For the subsequent period of paid parental leave (i.e. from 37 weeks' onwards) you may request to take this leave in other than a single continuous block, with the employer's agreement. You should discuss your options with your manager/supervisor.

I am an Advanced Trainee in NSW and am currently on a one-year contract. I am currently 14 weeks pregnant and will be due in the first week of February (after my contract expires). Can my contract be extended?

It is strongly recommended that you apply for a role, and that you seek further advice from the relevant Workforce Unit.

Timing of birth and recruitment

I currently work for NSW Health in an accredited training role. I have just found out that I am pregnant and annual recruitment is coming up. Should I apply for the position knowing that I am planning to take most of next year off? Who should I discuss this with?

Yes, you should apply for the role next year. You will be paid parental leave if you meet the service requirement of 40 weeks continuous service. The department recruiting to the role will need to backfill the role for the period you are on leave.

You should discuss your situation with the relevant college if you are on a training program and your current supervisor and Medical Workforce Unit.

Leave prior to the expected due date

I'm 10 weeks pregnant with hyperemesis gravidarum. I've needed the last three weeks off work. What leave do I take?

Sick leave should be taken. If you become unable to continue to work because of an illness associated with your pregnancy, you can elect to use any available paid leave (sick, annual and/or long service leave) or to take sick leave without pay.

I have had a miscarriage at 14 weeks pregnant. What leave options do I have available to me?

In the event of a miscarriage, the employee and/or their partner can access five days special miscarriage leave per miscarriage event.

I'm 30 weeks pregnant with premature rupture of membranes. I've been put on bedrest for the rest of the pregnancy. Can I use sick leave for the next 10 weeks, and then parental leave after that?

The Award provides that where an employee is entitled to paid parental leave, but because of illness, is on paid or unpaid sick leave, annual leave or long service leave prior to the birth, such leave ceases nine weeks prior to the expected date of birth. The employee then commences birth-related paid parental leave with the normal provisions applying.

If you give birth prematurely (i.e. prior to 37 weeks' gestation), you will be paid special pre-term birth parental leave up until the end of the 36th week and then will progress onto your 14 weeks of paid parental leave.

I'm 33 weeks pregnant and was admitted to hospital with influenza and pneumonia for one week, with a further week of recovery at home. I have now been cleared by my GP to return to work. Should this be taken as sick leave?

Sick leave should be taken.

I'm 30 weeks pregnant and was admitted to hospital for one week for observation for threatened pre-term labour. I am now well, and my obstetrician has cleared me to return to work. Should this be taken as sick leave?

Sick leave should be taken for the period in hospital.

Modified duties prior to birth

I am 30 weeks pregnant, and I am concerned about night shifts while I am pregnant. Who can I discuss my options with?

The Medical Officer should seek written medical advice from a General Practitioner (GP). If the GP confirms that it is recommended that the Medical Officer is safe to continue working in role but not to work night shifts, the supervisor/manager should investigate if an arrangement can be made to accommodate the request. The employer should consider making all reasonable adjustments to the role to facilitate the request. Alternative arrangements may include modifying the roster or duty or assigning a different role.

I am 34 weeks pregnant and am concerned that I can't do cardiopulmonary resuscitation (CPR) on after-hours shifts. What are my options?

You should seek written medical advice from a General Practitioner (GP). If the GP confirms that it is recommended that you are safe to continue working in role but not carry out the full functions of the role, the Supervisor/Manager should investigate if an arrangement can be made to accommodate the request. The employer should consider making all reasonable adjustments to the role to facilitate the request. Alternative arrangements may include modifying the roster or duty or assigning a different role. If an alternative arrangement cannot be found the employee would proceed on parental leave.

I am 26 weeks pregnant and plan to take three months parental leave after the baby is born. I work with four other registrars in my department. I have received my roster for the upcoming term to find I have been rostered every second weekend (rather than 1 in 5) to make up for the shifts that I would be 'missing' when I am on parental leave. What options do I have?

This is not appropriate. Any leave taken should not impact weekend requirements (i.e. making up shifts on the weekend in advance of parental leave). You should seek further advice, including speaking with the relevant supervisor/manager, and escalate as required.

Training requirements

I am in a specialist training program. How many weeks can I have off before it affects my accredited training time?

You should contact the relevant college to seek advice.

While on leave

Do I accrue more ADOs while on parental leave?

No. ADOs are not accrued when on paid or unpaid parental leave.

What happens to incremental progression when on parental leave?

The way increments are determined is dependent on the relevant leave accrual. For example, periods of full pay parental leave count in full (pro rata for permanent part time employees) for leave accrual and incremental progression.

Periods of half pay parental leave count for leave accrual and incremental progression on a pro rata basis. Parental leave without pay does not count as service for incremental purposes.

Returning to work

I am on a one-year contract (Feb-Jan), and I had my baby in September. I plan to return to work next August. Will my contract be extended? Is my employer obligated to take me back in my old position?

Your contract should be extended for the period you are on leave with the employer having the discretion to align to the end of the clinical year. If in an accredited training program, you should also contact the college to ensure training requirements can be met.

An employee returning from parental leave has the right to resume their former position. Where this position no longer exists, you are entitled to be placed in a position nearest in status and salary to that of your former position and to which you are capable or qualified.

My three-year training program offers one-year contracts, and I had my baby in September (just before annual recruitment). I want to return to work next August, but the convenor wants me to take off the entire calendar year and return to work in January the following year. I am concerned about my leave entitlements and training requirements if I take more time off. What should I do?

You should contact the relevant college to confirm training requirements and work with the convenor and Medical Workforce Unit to arrange suitable return to work arrangements to accommodate these requirements. The convenor does need to ensure that service provisions can still be met for the Specialty.

I am a vocational trainee on a length of training (LOT) contract. I am hoping to return to work one-year or two years after the birth of my baby.

The employer will need to ensure that training commitments can be met which may involve contacting the college. The employer may extend a contract to cover the period of leave and has discretion to grant an extension to align with the remainder of the clinical year.

You can request to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months. Therefore, a total of 24 months leave can be taken. However, this is dependent on training requirements and the impact that such leave might have on completion of your training.

I want to work reduced hours after returning from parental leave. Can I do this? Can I also request other flexible working arrangements?

You have the right to request to return from a period of parental leave on reduced hours providing you have a current contract with NSW Health.

If you would like to request a flexible working arrangement, you are responsible for making a Flexible Working Proposal (see Appendix A). While drafting this proposal you should consider

factors such as business impacts, work type and role, context of the request, the possible impacts on others, and legal obligations for the business.

You are required to submit a Flexible Working Proposal to your Manager/Supervisor. Once received Managers/Supervisors are required to consider the application in line with policy. After this point, a discussion must take place to discuss the proposal and approve or renegotiate options. It is best practice that this discussion takes place within 21 days of receipt of the proposal.

Managers/Supervisors are required to consider the request having regard to your circumstances and, provided the request is genuinely based on your parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on patient care.

Resources and References

- NSW Health JMO Wellbeing and Support Plan, NSW Ministry of Health, 2017.
- Employment Arrangements for Medical Officers in the NSW Public Health Service Policy Directive as amended from time to time.
- Premier's Memoranda – Parental Leave Enhancements (effective 1 October 2022):
 - <https://arp.nsw.gov.au/m2022-08-paid-parental-leave-parent-with-responsibility-for-care-associated-with-the-birth-adoption-altruistic-surrogacy-or-permanent-out-of-home-care-placement-of-a-child/>
 - <https://arp.nsw.gov.au/m2022-09-paid-leave-in-the-event-of-a-miscarriage-pre-term-birth-or-when-undergoing-fertility-treatment/>
- Leave Matters for the NSW Health Service Policy Directive as amended from time to time. Flexible Work: more than one way to work Guide as amended from time to time.
- Medical Graduate Allocation Applicant Guide, 2021 Clinical Year, Health Education & Training Institute (HETI) 2020
- The Doctor's Compass: A Guide to Prevocational Training (4th Ed), Health Education & Training Institute, 2017
- Trainee in Difficulty: A Management Guide for Directors of Prevocational Education and Training (3rd Ed), Health Education and Training Institute, 2017

Commonwealth/State Awards and Agreements

- Anti-Discrimination Act 1977 No. 48.
- Health Industry Status of Employment (State) Award 2018 Health Professional and Medical Salaries (State) Award 2018 Public Hospital Medical Officers (State) Award 2018
- Make Flexibility Count: Strategic Framework for the NSW Government Sector, Public Service Commission
- Procedures for managing non-work-related injuries or health conditions, NSW Department of Premier and Cabinet, 2010
- Overview of the procedures', PSC Directive 2010-019, Procedures for Managing Non-Work-Related Injuries or Health Conditions. Public Sector Workforce - NSW Department of Premier and Cabinet

