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PROTECTING NEW ZEALAND'S BORDER

8 May 2019

Ref: OIA 19-112

s9(2)(a) OIA

By email: s9(2)(a) OIA

Dear s9(2)(a) OIA

Request for information under the Official Information Act

Thank you for your request under the Official Information Act 1982 (the Act) to the New Zealand Customs Service (Customs), dated 11 April 2019. You requested the following information:

"...parental leave policies, procedure and arrangements for your organisation

this should include: parental leave payments and 'top-ups', leave for partners' or secondary carers, pay review while on leave, any payments on leave accrued while on parental leave (is this the full rate?), flexible work arrangements, Kiwisaver contributions, and any contributions towards childcare."

In response, please find attached the following documents which contain information on Customs' parental leave policies, procedure and arrangements:

- *People & Capability Policy: Parental Leave*
- *Parental Leave Guidelines for Customs Employees*
- *Flexible Working Policy*

In response to your request for information about pay review while on leave, I can advise that any employee who is on parental leave will have a performance review if they were present for part or all of the review period, and any adjustments to their remuneration as a result of the review will be applied to their salary upon their return to work.

If you have any queries in regard to this response, please contact Helen Keyes, Customs' Communications Manager, in the first instance on (04) 901 4549 or Helen.Keyes@customs.govt.nz.

Please note that Customs proactively releases responses to Official Information Act requests on our website. We will hold this response for two months before publishing it. Your name and contact details will be removed.

Yours sincerely

s9(2)(a) OIA

Jacinda Funnell
Group Manager, People and Capability



Introduction

This policy sets out the guidelines and responsibilities of the parties, entitlements, benefits and support available to new parents prior to, throughout and after the Parental Leave period.

Policy – General Parameters

NZ Customs Service will provide support and job protection to employees in line with and in excess of the requirements of the Parental Leave and Employment Protection Act 1987 and its subsequent amendments. The Policy covers the term prior to, during and after the Parental Leave and sets out application of the Act to Customs employees and their partner under the definitions provided under the policy.

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Entitlement to parental leave

Parental leave is available to employees who wish to take leave to care for a new born child, or a child who is under six years of age, that they have assumed the care of with a view to adoption.

“Parental leave” refers to five different periods of leave - Primary Carers leave, Special Leave, Partner Leave, Extended Leave and negotiated carer leave, which are outlined in this policy. Paid Parental Leave is also available through the IRD.

Employees must have worked for Customs for an average of at least 10 hours a week for the 12 months before the baby’s due date (or the date the employee becomes responsible for the care of a child under six years on a permanent basis). Employees who have been employed for 6 months but less than 12 months at the expected date of the birth or assumption of care of a child may also meet other eligibility criteria as detailed in the Act.

Eligibility criteria may also be met under the following terms:

- Employees on fixed term employment agreements have the same entitlement to parental leave as permanent employees, however any entitlement to parental leave and paid parental leave will end on the same day that the fixed term agreement expires.
- Employees can take parental leave multiple times provided that eligibility requirements are met on each occasion. In the case of parental leave 6 months must elapse, and in the case of extended leave 12 months must elapse, between the date the employee returned to work and the expected date of birth of the subsequent child.

Types of Parental leave

Outlined below are the types of leave that come under the policies and employment agreement provisions for parental leave, these are:

- Primary Carer leave
- Special Leave
- Partners Leave
- Extended Leave
- Negotiated Carer Leave

Primary Carers Leave

Primary Carer leave is available to:

- An employee who is having a baby or; their spouse or partner if they have all or part of the birth mother’s parental leave payments transferred to them;
- employees who are going to have the primary responsibility for the care, development and upbringing of a child under six years on a permanent basis; this may be through adoption, home for life or Whangai (but it doesn’t include on a foster care or other temporary care basis). If the employee has a spouse or partner they need to choose who will be the primary carer.

Primary carer leave can be taken for up to **18 weeks (22 from July 2018)** and must be taken in one continuous period. Primary care leave can't be taken if the employee has already taken any period of parental leave or similar leave in relation to that child.

Employees can choose to begin primary carer leave up to 6 weeks prior to the due date or the date the employee becomes the primary carer in respect of the child. At Customs, Primary Carer leave taken prior to the due date does not contribute to the 52 weeks of extended leave provided under the act.

Pregnant employees can also start their primary carer leave earlier if:

- the baby is born before her scheduled leave, or
- directed by a doctor or midwife, or
- under S14 of the Parental Leave Act, the employer considers that the pregnant employee's work is unsafe, or her performance is inadequate due to her pregnancy; and the employer can't temporarily transfer her to another suitable job.

If the primary carer leave starts early (by medical or employer direction as above), the employee giving birth may still take at least 12 weeks' primary carer leave after the expected date of delivery (even if this means that she will have taken more than the maximum limit for primary carer leave). In this situation the additional weeks of primary carer leave before the due date is not included in the calculation of the amount of extended leave available.

Special leave

In addition to any parental leave taken, females who are pregnant can also take up to 10 days' unpaid special leave for pregnancy-related reasons such as antenatal classes, scans or midwife appointments.

Sick Leave

Sick leave may be used where available, where an employee cannot attend work due to medical reasons and the employee's application meets the requirements of Customs' sick leave policy and procedures.

Partner's Leave

If a Customs employee is a spouse or partner and meets the eligibility criteria as defined under this policy, the employee may take the following leave:

[six month time criteria](#) the employee may take one week (7 calendar days) unpaid partner's leave

[twelve month time criteria](#) the employee may take two weeks' (14 calendar days) unpaid partner's leave.

Partners Leave can be taken within the following timeframe:

- starting 21 days before the due date of the baby, or the date the partner or spouse becomes the primary carer for a child under six years, and

- ending 21 days after the baby is born (unless the baby is discharged from a hospital more than 21 days after the birth, in which case the partner's leave timeframe ends on the day the child is discharged) or the date the partner or spouse becomes the primary carer for the child.
- If a Customs Employee and Manager agree, partner's leave may start at any time.

A Customs Employee cannot take partner's leave if:

- the employee is the biological mother and she has transferred her parental leave payment entitlements to her spouse or partner; or
- the employee is the partner or spouse of the child's biological mother and she has transferred her parental leave payment to the employee (the employee will have primary responsibility for the day-to-day care of the child).

Extended leave

The amount of extended leave that an employee may take depends on whether each parent meets either the six month or 12 month time criteria as defined under this policy. Extended leave may be shared by two parents who both meet the criteria, and they can take it at the same time or one after the other:

- Employees who meet the 12 month criteria may take up to **52** weeks extended leave (less the number of weeks primary carer leave taken). If two parents are sharing the leave and they both meet the 12 month criteria then they share this amount.
- Employees who meet the six month criteria may take up to 26 weeks in total (less the number of weeks primary carer leave taken). If two parents are sharing the leave and they both meet the six month criteria then they share this amount.
- If one parent meets the 12 month criteria and the other parent meets the six month criteria then the person who has only worked for six months cannot take more than 26 weeks of the total 52 weeks (less the number of weeks primary carer leave taken up to the maximum) available to the couple.

The one or two weeks of partner's leave is not included in the 26 week or 52 week extended leave period.

An employee can start extended leave:

- at any time after the end of primary carer leave, or
- at any time after the end of partner's leave, or
- on any date agreed with the employee's Manager, or
- if the employee can take primary carer or partner's leave but choose not to, then the employee can start extended leave either at the birth of the child, if the child is born to the employee, spouse or partner, or the date the employee, spouse or partner becomes the primary carer in respect of the child in all other cases.

An employee can finish primary carer or partner's leave, go back to work, and then take extended leave later within the available 52 week period.

For an employee (and/or their spouse or partner) who meets the 12 month criteria, extended leave must end by the:

- date the child turns one year if the child is born to the employee or their spouse or partner, or
- 12 months' anniversary of the employee or their spouse or partner becoming the primary carer in respect of the child.

Note: Employees utilising the full 52 week period are due back to work the day after the 1st birthday of the child.

For an employee who only meets the six month criteria (and whose spouse or partner doesn't meet the twelve month criteria), extended leave must end by the:

- date the child turns six months if the child is born to the employee or their spouse or partner, or
- six months from the date the employee or their spouse or partner became the primary carer of the child.

Negotiated Carers Leave

If an employee will be the primary carer of the child and would meet the criteria as defined in the Parental Leave Act, but the employee cannot take primary carer leave (because the employee does not meet the criteria for parental leave), the employee can apply to their Manager for Negotiated Carers Leave. The Manager will consider the application and consult with Human Resources prior to a decision on the request. Customs will provide a decision as soon as possible not exceeding 1 month from the date of application.

Negotiated carer leave lets employees who don't qualify for primary carer leave to take leave to care for their child and receive parental leave payments.

Negotiated carer leave is a period of unpaid leave from work which an employee can ask for:

- at least three months before the baby's due date, if the employee or their spouse or partner is pregnant, or
- 14 days before an employee becomes the primary carer of a child.

Customs can decline the request if:

- work cannot be reallocated or reorganised, or
- the absence reduces quality, performance or ability to meet Customs deliverables, or
- restructuring is forecast within the requested leave period,
- Additional costs during the Leave period are unreasonable.
- Customs will provide a written explanation if the application is declined.

Premature babies

In accordance with Section 71D(a) of the Parental Leave Act 1987, Customs employees may be eligible for additional payments through Inland Revenue. Preterm baby payments are in addition to the paid parental leave provided for under the act and this policy.

An application for a preterm baby payment is submitted to Inland Revenue in the same way and on the same form as applying for the parental leave payment.

Paid Parental Leave

Paid parental leave (PPL) is administered by the Inland Revenue Department and is available to employees who give birth to a child, or to either parent where a couple has assumed the care of a child under six they intend to jointly adopt.

The following employees do not qualify for paid parental leave:

- Primary Carers who work for less than an average of 10 hours per week;
- Primary Carers who have worked for the same employer for less than 6 months;
- Primary Carers who have taken Parental Leave within 6 months of commencing their next period of parental leave; and
- Primary Carers where the family is already receiving Parental Tax Credit for the child.

The primary entitlement for paid parental leave rests with the birth mother. Customs employees may transfer all or part of their paid parental leave to a spouse/partner as long as they are also eligible for parental leave. An eligible employee may also receive a transfer of paid parental leave from his/her partner.

An employee is entitled to paid parental leave according to the legislation current at the time. Rates of payment are determined by the Inland Revenue. Paid parental leave must be taken at the same time as any unpaid parental or extended leave taken from Customs.

An employee must apply to Customs for parental leave in accordance with these procedures, Payroll will forward the completed application directly to [Inland Revenue](#) for paid parental leave payments. An application for paid parental leave can be made before leave commences or at any time whilst on parental leave. Payments can be backdated to the date that the employee commenced parental leave. Applications must be made before the employee returns to work or he/she resigns.

The payment period begins when the employee commences primary carers, partner, or extended leave. Alternatively, an employee can choose on the application form when the payments will commence.

Payment continues until the limit is reached, however, it may stop earlier if the employee:

- Transfers the payment, or part of the payment, to his/her spouse/partner;
- Returns to work beyond the parameters of 'Keeping in touch' hours.
- Resigns from his/her job;
- Is employed on a fixed-term agreement that expires during the paid parental leave period.

An employee who receives paid parental leave will still qualify for Customs' ex-gratia payment where he/she meets the eligibility criteria.

Application for Parental Leave

An employee must provide written notice of his/her intention to take Parental Leave no less than 3 months prior to the intended commencement date.

The written application must include the types of leave being applied for, the date and duration of leave being applied for, and information about any Parental Leave that the employee's spouse/partner intends to take if applicable.

The written application must include a certificate, or a copy of a certificate, from the employee's doctor or midwife stating when the baby is due.

An application for paid parental leave must be made separately to the IRD. The employee will request pay information from Payroll, who will then send the application to IRD on behalf of the employee

Response to Application for Parental Leave

On receipt of an Application for Parental Leave, an employee's manager will consider his/her eligibility and reply to the application within **21** days as follows:

The Manager will complete the Application for Parental Leave form approving or declining the leave based on eligibility, and forward to Payroll with the employee application for Paid Parental Leave.

P&C will prepare a written response to the employee confirming his/her Parental Leave which will state:

- Whether the employee is entitled to take parental leave, and if not, the reasons why not;
- The main legal rights and obligations the employee has, particularly those relating to when the employee can commence his/her Parental Leave;

Job protection

Employees have a statutory right to take parental leave and have their job protected during that leave, and the Act presumes that an employee's position will be held open for his/her return from parental leave except in specific circumstances.

Where an employee is engaged in a deployment position and/or deployment programme on commencement of parental leave and his/her position is being held pending return from parental leave, the position held will be in the same geographical location and within that deployment programme. However the position may not be in the same work group or with the same hours of work as the position held prior to commencement of parental leave. This does not constitute a change of terms and conditions of employment.

In rare circumstances Customs may decide not to hold an employee's position open for him/her where it is considered to be a 'key position'. This may occur where a position is considered critical to the business, and where it is proven that it is not possible to find a short-term replacement for the employee.

A decision not to hold a position open for an employee will be made by a Group Manager in consultation with People & Capability. The affected employee will be consulted prior to a final decision being made.

Temporarily filling a position:

Where a position is being held pending an employee's return from parental leave, a manager may decide to fill that position on a temporary basis. In such cases the employee filling the position on a temporary basis by way of secondment or fixed-term employment will be informed:

- employment or secondment is on a temporary basis in the place of a substantive position-holder who is on Parental Leave; and
- the substantive position-holder may in certain circumstances return to work before the date on which he/she is required to return to work, which may result in early termination of the temporary employment or secondment.

Written confirmation of parental leave

Within 21 days of the employee commencing parental leave, the employee's manager will provide written confirmation of the following:

- The date on which parental leave will end;
- The date on which the employee is required to return to work;
- The requirement for the employee to provide no less than 21 days' written notice of his/her intention to return to work;
- The employee's rights in relation to early ending and extension of Parental Leave.

The employee may be reminded of his/her rights under Flexible Working legislation and the right to apply for temporary or permanent changes to his/her terms and conditions of employment on return to work.

Notice of Intention to Return to Work

An employee who wishes to return to work must provide a minimum of 21 days' written notice of his/her intention to return to work.

An employee can return to work earlier than the agreed end date for his/her parental leave if they no longer have care of the child. The employee must provide a minimum of 21 days' written notice of his/her intention to return to work. Alternatively the employee can return to work early if Customs agrees. Customs may request a medical certificate if the employee requests to return to work early from parental leave.

An employee who decides not to return to work following parental leave must advise their manager of that decision in writing no less than 21 days' before the expected return to work date. The final date of employment in such cases will be the date the employee commenced parental leave, or the date on which any paid leave concluded from Customs. Any annual leave owed as at the date of termination will be paid to the employee.

The employee's manager will liaise with People & Capability, and where necessary, confirm the employee's terms and conditions of employment in writing on return from parental leave.

Flexible Working Arrangements

If an employee is seeking temporary or permanent changes to his/her terms and conditions of employment by way of flexible working arrangements (ie change to hours of work, days of work or place of work), he/she should advise his/her manager in the written notification of intention to return to work.

Discussions about flexible working arrangements will be in accordance with Customs' Dependent Care Policy and Procedures.

Keeping in touch hours

While on parental leave Customs employees can choose (by agreement) to perform work from time to time. For example, to attend a team day or change announcement as long as:

- Total worktime must not exceed 40 hours of paid work during the parental leave payment period, and
- this work is not within the 28 days after the child was born.

Employees can claim actual and reasonable childcare expenses during 'keeping in touch hours' redeemable via expense claim to Finance as the earliest possible time.

Managers will complete a Manual Timesheet and send this to Payroll for processing.

Leave and continuous service

An employee who intends to take parental leave can take other leave prior to commencing parental leave. Any outstanding leave thereafter will be carried forward for the employee's return to work.

Outstanding leave types may include:

- Annual Leave
- Alternative Holidays
- Time off in Lieu
- Special Leave.

Customs Employees can choose to start their paid parental leave payment period once other leave types have been exhausted — even if this is after the child's arrival.

Holiday Pay Calculation

Annual leave accrued prior to commencing parental leave will be paid in accordance with the Holidays Act.

During the period of Parental Leave (and for the 12 month period following return from Parental Leave), Holiday Pay (Annual Leave) will be calculated at either the Average Weekly Earnings (AWE) rate **or** the Ordinary Weekly Pay rate whichever is higher.

Remuneration and ex-gratia payment

Any payment due under Customs' Remuneration Policy and Procedures whilst the employee is on parental leave will be actioned on the employee's return to work. Payments will be backdated and/or pro-rated where appropriate.

Employees who return to work after a period of Parental leave or extended leave of 30 working days or more are eligible to receive an ex gratia payment equivalent to a total of 6 weeks pay.

The ex-gratia payment will be paid in the following manner:

- 3 weeks paid on return from Parental Leave*
- 3 weeks paid 6 months from the date of return to work.

*Employees become eligible 6 months after return to work. The first payment is considered 'in advance of eligibility'. Should the employee leave Customs prior to the 6 month term, the employee will be required to payback customs the amount of the overpayment.

This payment will be calculated on the basis of the employee's ordinary pay (i.e. base salary + fixed allowances) at the time the employee ceased normal hours prior to commencing parental and/or extended leave.

Payroll will automatically process these payments on the pay following the 3 week and 6 month durations from the date of the employee's return to work. The ex-gratia payments can only be claimed by one parent within the public service. Employees are required to notify People & Capability if they have a partner at another Government agency or State Sector service.

Applying for Leave Without Pay (LWOP) to take effect after extended leave

An employee may request additional unpaid leave prior to the expiry of parental leave. This leave is considered Leave Without Pay (LWOP) and the provisions of Customs LWOP policies and procedures and employment agreements will apply in conjunction with these Parental Leave Procedures.

The following conditions apply where such a request is granted under these procedures:

- entitlement to an ex gratia payment will be forfeited;
- the position will not be held open and the employee will no longer be eligible to any form of severance payment if no position is available at the expiry of the additional period of leave;
- there will be no employer contribution to superannuation schemes on behalf of the employee during this period of LWOP;
- there will be no additional purchase of ACC cover by Customs;
- the employee will retain any preferential LWOP re-entry rights detailed in his/her employment agreement.

Employer contributions to superannuation

Contributions to an employee's superannuation scheme ie GSF, SSRSS or Kiwisaver will cease automatically because the employee is earning no income from Customs. Employees must contact scheme providers for information about the effect of parental leave on contributions, and to explore options for continuing contribution payments during parental leave.

Concerns about parental leave

Any concerns about the application of these Parental Leave Procedures should be raised with the manager as soon as possible. If the matter cannot be resolved the employee can use the 'How to Resolve an Employment Relationship Problem' process.

Responsibilities

Employees are responsible for:

- Meeting all employee obligations according to Customs' Parental Leave Policy and Procedures, including timeframes for application for parental leave and notification of intention to return to work;
- Initiating and managing the process in instances where they qualify for Paid Parental Leave.

Managers are responsible for:

- Ensuring employees who express an interest in taking Parental Leave are directed to Custom's Parental Leave Policy and Procedures which details rights and obligations;
- Meeting all employer obligations with respect to Customs' Parental Leave Policy and Procedures, including meeting timeframes for response as detailed on the 'Parental Leave Timeline';
- Forwarding all relevant parental leave documentation to Payroll for processing;
- Keeping in regular contact with the employee throughout his/her parental leave and ensuring that suitable arrangements are made to invite him/her to activities and presentations as appropriate;
- Accommodating, where practicable, requests from an employee for flexible working arrangements in accordance with Customs Dependant Care Policy;
- Informing ODHR that an employee intends to return from parental leave to enable terms and conditions of employment to be confirmed where necessary;
- On return from parental leave, ensuring the employee is aware of any changes that have occurred in his/her absence, and providing training and refresher courses as appropriate;
- Ensuring budgetary provision is made to cover ex-gratia payments to staff returning from a period of extended parental leave.

Payroll is responsible for:

- At the beginning of the financial year, providing cost centre managers with details of likely ex gratia payments that may impact on their cost centre in the coming financial year;
- Filing all parental leave documentation on relevant employee personal files;
- Advising cost centre managers when an ex-gratia payment is due to be paid and processing the payment 6 months after the employee's return;

- Promptly processing Paid Parental Leave application forms that are submitted and liaising with the Inland Revenue Department as and when required.

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Parental Leave Guidelines for Customs Employees



Congratulations, you will soon be taking leave to care for your new child. This guideline is intended to provide you with useful information to help you prior to, during and after your parental leave.

This guideline describes parts of the Customs Parental Leave policy and your rights under New Zealand legislation. If you have questions that are not answered as part of this guide, refer to the policy, talk to your Manager, or P&C.

Before you go.....

You are entitled to Parental leave.

At Customs we allow a parent up to 12 months extended leave from the baby's arrival date, plus up to an additional 6 weeks unpaid leave if you require more prior to the baby's birth.

Before your Parental Leave starts, you have opted to take the following paid leave:

Type of Leave	Dates (inclusive)
Annual leave	
Days in lieu	
TOIL	
Parental leave beginning on	

Before you go on Leave

- Load all paid leave types into Kiosk
- Update your contact details in Kiosk and provide a contact phone number and non-customs email address.
- Talk to your manager about whether you need to Return ID cards and uniform

Types of Leave

Parental Leave

Parental leave is the overall term for three types of leave i.e. Primary Carer Leave, Partner's Leave, Extended Leave and Negotiated Carer Leave.

Full definitions can be located either on the Customs policy or this [link](#).

Primary Carer Leave

Primary carer leave can be taken for up to **18** weeks and must be taken in one continuous period. Primary care leave can't be taken if you have already taken any period of parental leave or similar leave in relation to the same child.

When does it start?

Primary carer leave starts on the due date, or after you have used other paid leave (Annual leave, Alternate days, Special leave or Time off in Lieu (TOIL)). In any other case primary carer leave starts on the date that you become the primary carer in respect of the child.

You can start primary carer leave up to six weeks (or earlier with the employer's consent) before the baby's due date or the date on which you become the primary carer of the child. At Customs, we don't include this time in the 52 week Parental Leave period, so you can take a maximum of **58** weeks of absence from the workplace.

In some circumstances Customs could direct you to start Parental Leave early if there is limitation on your ability to complete your role, when light duties are unavailable or when there is a real risk of illness or injury as a result of continuation. In such a circumstance, Customs will work with you to identify the best way to manage the situation.

Partner's Leave

If you're a spouse or partner and you meet the:

- [six month time criteria](#) you may take one week's unpaid partner's leave
- [twelve month time criteria](#) you may take two weeks' unpaid partner's leave.

You can take partner's leave within the timeframe:

- starting 21 days before the due date of the baby, or the date your partner or spouse becomes the primary carer for a child under six years, and
- ending 21 days after the baby is born (unless the baby is discharged from a hospital more than 21 days after the birth, in which case the partner's leave timeframe ends on the day the child is discharged) or the date your partner or spouse becomes the primary carer for the child.

How to apply for paid parental leave

Complete the [application for Parental Leave](#) form from the Longroom, have your manager sign it and send it through to Payroll. You will need to think about whether you choose to take paid employee leave prior to government paid parental leave as this is now an option.

Once received, payroll will send the completed form through to IRD for processing.

Parental leave paid by the IRD



Starts	A parental leave payment is payable for a period that begins on the date of commencement of your parental leave or after you have used other paid leave (Annual leave, Alternate days, Special leave or Time off in Lieu (TOIL)).
Duration	One continuous period not exceeding 18 weeks - 2017 (22-2018, 26-2022). Paid parental leave may be shared between the parents if you both qualify.
Ends	The parental leave payment ends on the earlier of: 18 weeks after the date of commencement of parental leave, or the date the parent returns to work, or resigns.
To Apply:	Go to the IRD website and download IR880 form. This needs to come to payroll for your pay details, then Payroll will send this to IRD on your behalf.

Using Annual Leave, Alternate Days, Special Leave or Time of in Lieu (TOIL) prior to going on Paid Parental Leave



From 1 June 2017 employees going on parental leave can choose to first use other types of paid leave they are entitled to before starting the paid parental leave period. Leave that can be used is Annual leave, Alternative days, Special leave, Time of in Lieu (TOIL).

The IRD site states:

If your baby is due or is born on or after 1 June 2017

You may use paid leave entitlements (eg annual leave) before starting your paid parental leave. In this situation you can start your paid parental leave from the day after your paid leave ends, even if it is later than the child's expected delivery date or date of birth, or the date they come into your care.

If you won't be using paid leave entitlements, your start date cannot be later than your expected delivery date or child's date of birth, or the day you become the primary carer of the child.

While you're away.....



Keeping in touch days

From 1 April 2016, you can work limited Keeping in Touch (KIT) hours during your PPL without losing your entitlement. You can work up to 40 hours over the 18 week period by agreement with your employer, or more if you're receiving payments for a premature baby.

Note

Unless you receive additional payments for a premature baby, you can't work any of these hours in the first four weeks after giving birth.

Pre-term Child

If your child is born pre-term (before the 37th week of pregnancy), you will be entitled to additional payments. If your baby arrives early after you have sent in your application contact the Inland Revenue Department to receive your correct entitlement.

What if I don't come back from Parental Leave?

If you choose not to return to Customs, your service is considered to end on the final day of work prior to the beginning of your Parental Leave. Because of this reason, should you for any reason change position, these are held until the return from Parental Leave.

Extended Leave

Extended leave can be shared by two partners (subject to meeting criteria as outlined in the policy). Extended leave is for up to 52 weeks inclusive of Primary Carers leave or Negotiated Carers Leave.

Partners leave is not included in the 52 week calculation.



You can start extended leave:

- at any time after you end your primary carer leave, or
- at any time after you end your partner's leave, or
- on any date agreed with Customs, or
- if you can take primary carer or partner's leave but choose not to, then you can start extended leave either when the baby arrives if the child is born to you or your spouse or partner, or the date you or your spouse or partner becomes the primary carer in respect of the child in all other cases.

You can finish your primary carer or partner's leave, go back to work, and then take extended leave later.

Ending extended leave

If you meet full criteria, you are required to return the day after the first birthday of the child (or 12 months from becoming the Primary Carer).

If you are in any doubt about eligibility, please contact your manager in the first instance. We can support you to identify ways to manage Parental Leave and will provide you with information and support.

I need longer than 52 weeks – what does this mean for me?



Customs can allow extended Leave without Pay (LWOP) following Parental Leave however this comes without a guaranteed position upon return. Furthermore, the Ex-Gratia payment will not be available as an incentive. If you choose to extend LWOP you will not be able to claim redundancy should you be unable to find a position on your return or superannuation subsidy.

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Coming back to work.....

Let us know if you are changing your Parental Leave return dates.

If you choose not to return from Parental Leave you need to give us 1 month notice.



You can return early by giving **21** days' notice in writing of your intention including your expected return date. The best plan is to stay in touch with your manager throughout the Parental leave term.

Employment legislation provides the terms under which employees can return early. Go to <https://www.employment.govt.nz/leave-and-holidays/parental-leave/>

Most importantly, you must return within the 52 weeks from the birth of the child.

Flexible working hours

You may not feel ready to return to work full time at the conclusion of your Parental Leave period. You can apply for Flexible working hours and Customs must consider your request. In some circumstances, flexible or limited hours may not be possible. It pays to have a discussion with your manager early on to see whether this is possible.



Ex Gratia Payment

We recognise that employees return to work having been without; or on reduced income for a prolonged period of time. To help with this Customs will pay you the equivalent of 3 weeks pay when you return. This will be paid as soon as possible.

After 6 months, you will receive another 3 weeks of pay recognising our thanks that you have come back and stayed with Customs following Parental Leave.

Please note, the first Ex-gratia payment is an advance payment, should you leave the service prior to the 6 month eligibility, the 3 week payment will be deducted from your final pay.

If your partner works in the Public Service, there is a good chance that they will also have provision for an Ex-gratia payment. Only one Public Service employee is eligible for Ex-Gratia payments. Notify Payroll if you would prefer a Partner to receive the payment. payroll@customs.govt.nz

The effect of parental leave on your annual leave

You will continue to accrue Annual Leave during Parental Leave.

What rate is annual leave is paid? – I've heard it's less than normal.

Customs has chosen to retain the normal calculation for Annual Leave. This is calculated at:

- Either the 'Average Weekly Earnings or the Ordinary Weekly earnings, whichever is higher'.

This means that your Annual Leave pay rate will not drop below your normal hourly rate. This policy is of great benefit to you as this means that you can take Annual Leave in the year you return from Parental Leave and expect to receive a normal pay.

Reducing working hours – the effect on annual leave.

If you change from Full Time to Part time your existing annual leave entitlement and accrual will be pro-rated. You will continue to be eligible for 4 weeks or 4 weeks and 2 days of leave per year however the leave balance will now reflect the hours worked in a week - ie Pro-rated. This will be recalculated every time your working pattern changes to ensure that you are always paid a week or a portion of a week based on what your standard working hours are at the time you take annual leave.

Basic example of balance reduction:

1. Your accrued leave balance is 160 hours (4 weeks) and you work Full Time 40 hours per week.
2. You have chosen to reduce your working hours to 20 hours per week. (half the current hours);
3. If you reduce working hours to 20 the balance will be reduced to 80 hours (4 weeks x 20 hours = 80)
4. Your annual leave will accrue at half the rate it did when you were working full time.

Reducing hours worked before the start of parental leave:

If you reduce your hours before starting your parental leave you are able to take advantage of the Average Weekly Earnings calculation that is used to determine the rate at which the leave is paid.

Using the example above, when you worked Full Time you earned \$1400 per week (\$35/hr), now you earn \$700. You now have 80 hours of leave (not 160) however your AWE is \$1400 therefore the rate of pay for the leave is calculated as:

Simplified example calculation: After reducing working hours taking 1 week of leave

AWE divided by hours of leave taken = rate of pay

\$1400 (AWE) divided by 20 (hours per week) = \$70 (rate of pay for annual leave).

What will you see?

The balance of your leave will reduce but the initial value of the leave will be higher. Remember, AWE is the average weekly earnings over the previous 12 month period therefore if you are working part time, the AWE rate will gradually decrease as time passes.

How can I manage Leave to my greatest advantage?

Use your leave prior to or at the beginning of parental leave. Using the AWE principle your earnings over the previous 12 months will be higher at the beginning of PL rather than when you return.

Returning from parental leave on a part time basis:

Annual Leave accrued over the Parental Leave period will most likely be calculated as lower than your ordinary rate of pay therefore you will not be impacted by the averaged earning calculation until such time as you have been back for at least 12 months. The pro-rated entitlement and accrual will still be applied.

Parental leave and other leave

Long Service Leave (LSL)

If you return to work the period on parental leave accounts for long service leave accrual purposes.

LSL is given in weeks so when you take the LSL the absence is for the number of hours you are working per week (averaging per week if you work as required) at the time you take the leave not the hours you were working at the time you became eligible for the leave.

Alternate and/or TOIL Days

If you have untaken alternate or TOIL days when you go on parental leave they will be available as paid leave days when you return.

If you chose not to return, they will be paid out in your termination pay unless they are needed to offset any item such as anticipated leave you have taken.

Parental leave and superannuation

If you belong to a superannuation scheme and make the usual employee contribution to the scheme for the period of your parental leave you may be entitled to receive any employer contribution as well.

Other information

This guideline sets out general information related to Parental Leave that we think will be useful to you. More information is available through the Parental Leave Policy on the Longroom or via some of the Government Websites.

In most cases, discussing Parental Leave with your Manager will give you the information to understand Parental Leave at Customs and get the most out of the experience.

Flexible Working Policy

Owner : Group Manager People and Capability

Issue Date: March 2017

Principles

1. The New Zealand Customs Service is committed to providing an excellent working environment, and increasing employee engagement, productivity, recruitment and retention by supporting flexible employment requests where these are reasonably able to be accommodated in the working environment.
2. Flexible working requests are able to be made by everyone and are broad in scope; they can range from the more traditional reduced or changed hours' arrangements, through to specific short term arrangements that might facilitate caring for dependants.
3. In considering flexible working requests a Manager is required to consider the balance of delivering services to the business and providing reasonable opportunities to staff within their work area.
4. The Service wishes to ensure it can support a balance between work, family and personal life by providing flexible employment options that support this balance; managers must give appropriate and due consideration to:
 - 4.1. Business needs, ensuring that work can be managed appropriately within the work environment in a way that does not place additional work or burdens on others.
 - 4.2. Consistency, ensuring they are applying decision making in a consistent manner.
 - 4.3. The appropriate management and security of information and systems.
 - 4.4. Health and Safety, the impacts the request could have from a Health and Safety perspective and the management of these where appropriate.
5. Not every flexible working request will be able to be accommodated
6. This policy should be read in conjunction with the Flexible Working Guidelines and the Employment Agreement relevant to the employee.
7. All flexible working requests should be considered in consultation with an HR Advisor prior to a decision being made or confirmed.

Purpose and Scope

8. The purpose of this policy is to provide guidance to managers and employees on the application of flexible working requests in the workplace.
9. This policy ensures that all employees who request flexible working arrangements under Part 6AA of the Employment Relations Act (The Act) are genuinely considered.
10. These working requests, in relation to an employee, means one or more of the following:

- Hours of work
 - days of work
 - place of work (for example, at home or at the employee's place of work)
11. Flexible working can include both permanent and short-term arrangements and may include specific changes to terms and conditions that enable staff to work flexibly for either short or long term arrangements.

Procedures

The Act provides all employees the right to request a change to their working arrangements, from the first day of their employment and also provides employees the right to make as many requests as they wish in a year.

12. As an employer, we must deal with requests as soon as possible (no later than one month after receiving it). We must also notify the employee in writing of whether the request has been approved or declined.
13. Reasons for declining a flexible working arrangement can only be done so on the grounds listed in The Act. These grounds include:
- Inability to reorganise work among existing staff
 - Inability to recruit additional staff
 - Detrimental impact on quality
 - Detrimental impact on performance
 - Insufficiency of work during the periods the employee proposes to work
 - Planned structural changes
 - Burden of additional costs
 - Detrimental effect on ability to meet customer demand.
14. We are obligated to decline a request if it is from an employee who is bound by a Collective and the request they are making relates to working arrangements to which the Collective applies; and if by approving that request, the working arrangement would be inconsistent with the Collective.
15. When declining a flexible working request, the written notification must:
- State the request is refused because of a ground specified in section 69AAF(2) or (3); and
 - State the ground for refusal; and
 - Explain the reasons for the ground.
16. Under The Act, employees have the right to use dispute resolution processes if they do not believe The Service has followed the correct process in considering and responding to their request.

The following principles should apply when managers consider flexible working options:

17. Consistency - – managers need to ensure they are applying their decision making in a consistent manner.

18. Transparency – employees and managers understand the terms and conditions on which a request may be considered and trialled if necessary, before being accepted or declined.
19. Systems and technology – where the request is to work from home or similar, that the appropriate systems and technology are able to be provided to enable the employee to undertake their full range of duties
20. Security – where the security of The Service's property, (information, records or systems) cannot be guaranteed, an application to work from home may be declined.
21. Equity - employees who do have flexible working arrangements recognise that other employees may also wish to have requests considered. Managers may review existing arrangements from time to time in the context of new requests.
22. Recruitment and Retention – managers will consider the possibility that vacant or newly established positions can be advertised and filled on a flexible working basis.
23. Productivity and Engagement – a flexible working arrangement needs to ensure that business needs are maintained, including the quality of the work. It is expected that individuals will be able to maintain a high level of performance and productivity whilst in a flexible working arrangement.
24. Health and Safety – where a flexible working request includes working from home, managers must ensure an employee's workstation is ergonomically set-up and any health and safety hazards in their work area are identified and managed.
25. Wellbeing – employees working from home will be expected to self-manage their time and take appropriate rest breaks and use their annual leave entitlement. Managers will assist employees with self-managing their breaks and using their annual leave entitlement when working away from New Zealand Customs Service offices.
26. Review periods – review periods are necessary and appropriate to review and ensure a flexible working arrangement is working for both the employee and employer.
27. Reallocation of work – managers should consider the impact on other team members and mitigate any of these potential risks.
28. Discretionary – it will be at The Service's discretion to approve requests under The Act. Where a solution is available that balances the needs of the employee, the team and The Service, the solution should be considered.

Delegations for approving flexible working requests

29. All decisions associated with approving an employee's application for flexible working must be made in accordance with the appropriate level of delegated authority. Refer to the HR delegations for further information.

Internal Controls

30. Each Business Group will implement this policy and guidelines to enable it to provide assurance to People and Capability and others that the policy is being complied with on a fair and consistent basis.
31. Employees who identify any deficiency or discrepancies in the application of this policy can raise this with the HR Advisor for their Business Group. People and

Capability will keep a log of issues that arise. Any issue raised will be resolved with the relevant parties.

32. The Log will be audited periodically to establish if policies and guidelines are working as intended and whether any corrective actions are needed.

Responsibilities and Authorities

33. Managers are responsible for ensuring:

- 33.1. This policy is communicated with their employees
- 33.2. A flexible working culture where flexible working arrangement requests will be reasonably and fairly considered, consistently across The Service
- 33.3. They respond to requests within a month of receiving the request and do so in accordance with The Act.
- 33.4. They apply a fair, consistent and equitable application of this policy and associated guidelines when considering whether an application will be approved or declined under this policy.
- 33.5. They have the delegated authority to approve or decline flexible working applications.
- 33.6. They seek advice from People & Capability in advance of decisions being made to allow for consideration and advice to be given.
- 33.7. They have discussed the request with their reporting manager to ensure that the manager has oversight of requests within the group and impacts this may have (delegations sit with Level 4 managers).
- 33.8. They review flexible working arrangements at review periods.
- 33.9. They consider the health and safety aspects of working from home.
- 33.10. Monitoring of flexible working arrangements is undertaken.

34. Employees are responsible for:

- 34.1. Ensuring their application for a flexible working request is reasonable and appropriately documented.
- 34.2. Following and adhering to their flexible working arrangement approved by their manager.
- 34.3. Notifying their manager immediately of any changes to their approved flexible working arrangement.

35. People and Capability are responsible for:

- 35.1. Working alongside managers to provide advice on the flexible working policy, guidelines and associated policies, and to ensure consistency of application of the policy.
- 35.2. Supporting managers in ensuring appropriate employment documentation is completed for flexible working requests.
- 35.3. Maintaining and updating the policy as required.

Examples and reasons for flexible working requests

36. Flexible working requests may include, but are not limited to:

- Flexible start and finish times
- Changes to hours of work / part-time hours of work / reduced hours
- Working outside core hours
- Swapping Shifts
- Compressed working weeks / working a specific number of days in a rostered period or pay cycle
- Job Sharing
- Flexi year –i.e. term time working by working school terms and taking leave over school holidays
- Working from home

37. Reasons for flexible working requests may include but are not limited to:

- Dependent Care
- Parents may wish to spend more time with their family
- Medical Reasons – i.e. rehabilitating back into work after injury, or recovering from surgery or an illness
- Study Leave to study part time to gain qualifications
- Career Development
- Balance between work and other responsibilities
- Other lifestyle commitments
- Transition towards retirement – i.e. a planned and phased approach to leaving the workforce
- Attending cultural or sporting events and commitments
- Work around school hours
- Relocation
- Travel or commuting time to work
- Geographical location of home with office
- Buy extra leave – i.e. employee elects to take less salary in order to gain an extra weeks leave each year.

Other options

38. The Service also offers the following for staff with specific care for dependant requirements or similar:

- 38.1. The use of special leave arrangements including Parental leave, sickness at home/domestic leave and compassionate/bereavement leave.
- 38.2. Access to Leave Without Pay to provide support to dependants
- 38.3. Management of annual leave entitlements to facilitate care arrangements.
- 38.4. Scheduling of meetings and training to enable employees with specific dependent care responsibilities to attend.
- 38.5. Where possible providing access to emergency car parking or enabling children to be in the workplace for short durations due to unforeseen circumstances.

References

39. Related Policies and Procedures

- 39.1. Leave Policy and Procedures
- 39.2. Flexible Working Guidelines
- 39.3. Working off-site or at remote locations
- 39.4. Remote Access Token Request Form and Remote Access – NZ Custom's Laptop

40. Related Legislation

- 40.1. The State Sector Act (s 56 and 58) – Services commitment to the Good Employer and EEO principles.
- 40.2. The Employment Relations Act 2000
- 40.3. The Human Rights Act 1993

41. Useful links:

- 41.1. Work Life Balance in New Zealand
<http://www.dol.govt.nz/er/bestpractice/worklife/>
- 41.2. <http://www.dol.govt.nz/er/bestpractice/worklife/flexibleworkguide/flexi-work-generic-guidelines.pdf>
- 41.3. Ergonomic workstation set up <http://www.ergo-ot.co.nz/Default.aspx?page=1125>
- 41.4. Use the "Pocket Ergonomist" to provide advice on best practice set up for home working arrangements - <http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/pocket-ergonomist-keyboard-clerical-or-industrial-retail-1/pocket-ergonomist-keyboard-clerical.pdf>